Report 2013

Spotlight on EU Policy Coherence for Development

THE REAL LIFE IMPACT OF EU POLICIES ON THE POOR

European NGO confederation for relief and development

CONCORD

Confédération européenne des ONG d'urgence et de développement

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CONCORD is the European confederation of Relief and Development NGOs. It is the main NGO interlocutor with the EU institutions on development policy. It is made up of 27 national associations, 18 international networks and 2 associate members that represent over 1,800 NGOs, supported by millions of citizens across Europe. The main objective of the Confederation is to enhance the impact of European development NGOs vis-à-vis the European Institutions by combining expertise and accountability.

Acknowledgements

The Preface is written by Damien Hazard (ABONG).

The Introduction is written by Laust Leth Gregersen (Concord Denmark), chair of the PCD coordination group of CONCORD Europe.

The drafting of the Institutional Framework chapter was coordinated by Blandine Bouniol (CONCORD), with contributions from Blandine Bouniol, Suzan Cornelissen (Max van der Stoel Foundation), Pascal Erard (CFSI/Coordination Sud), Laust Leth Gregersen (Concord Denmark), Morten Emil Hansen (Policy Advice), Sara Jespersen (ActionAid), and Tiago Stichelmans (CONCORD).

The drafting of the Finance for Development chapter was coordinated by Sarah Kristine Johansen (Concord Denmark), with contributions from Tara Bedi (Trócaire), Sarah Kristine Johansen (Concord Denmark), Ana Kalin (Sloga) and Catherine Olier (Oxfam). ActionAid provided case story.

The drafting of the Food Security chapter was coordinated by Blandine Bouniol (CONCORD) with contributions from Aurèle Destrée (Glopolis/FORS), Alberta Guerra (IFSN/ActionAid), Sara Jespersen (ActionAid), Kerstin Lanje (Misereor/VENRO), Mathias Ljørring (Concord Denmark), Patrick Mulvany (UK Food Group/BOND), Jennifer Thompson (Concern/DOCHAS) and Karin Ulmer (Aprodev). ActionAid provided case story.

The drafting of the Natural Resources and Climate Change chapter was coordinated by Koen Warmenbol (11.11.11), with contributions from Suzan Cornelissen (Max van der Stoel Foundation), Lies Craeynest (Oxfam), Isabel Fernandez Sarabia (Caritas Europa), the Red Cross EU Office, Sally Nicholson (WWF) and Frédéric Triest (Justice et Paix). Oxfam and 11.11.11 provided case stories.

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Images are from: Simone Dovigo, Jason Larkin/Panos Pictures/ActionAid, Tom Pietrasik/ActionAid, Oxfam International, AFP.

This report was coordinated by Blandine Bouniol (CONCORD), with the support of Sarah Kristine Johansen and Tiago Stichelmans (CONCORD).

We would like to warmly thank all the above-listed drafters, as well as all others commenters and contributors to the report.

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Executive Director
ABONG - Associação Brasileira de ONGs

From the World Social Forum in Belém in 2009 to the People's Summit at Rio+20 in June 2012, representatives of indigenous peoples from the pan-Amazonian and Andean regions have continued to denounce the evils perpetrated by economic and financial globalisation, against Mother Earth and against the lives of both traditional peoples and humankind as a whole. They demand a different development model: one that could be summed up in the slogan "live well".

"Living well" (bien viver), an expression that originates with indigenous Bolivian communities, reflects an ultimate goal for humanity: the search for harmony and balance between people and nature, with mutual respect, a knowledge of one another's history and an awareness of our interdependence. In this sense, living well is more than just a concept: it reflects a new development paradigm for the planet. This new paradigm contrasts starkly with the "live better" urging of the current Western model, which is based on the accumulation and endless exploitation of natural resources, on individualism and competition, on growing inequality and on violations of human rights. It is about learning to live well with one another and without power imbalances – consuming and producing without excess, taking care of each another and of our planet.

When thinking about the impact and coherence of Europe's development policies, serious consideration should be given to the Amerindian peoples' "live well" concept (which has been incorporated into the constitutions of Ecuador and Bolivia). Why? First, because it comes from the heirs to a civilisation of undisputed legitimacy, whose assessment of the role of Europe and the Western world is of unquestionable value. Amerindian people view the development debate from a historical perspective on the world and its peoples and civilisations. They point out that most of the world has been dominated by a colonial, Eurocentric model of development since the invasion (not discovery) of the Americas, right up until the present context of neoliberal capitalism and economic and financial globalisation. In contemporary societies, not only gender but also ethnic and racial differences must be recognised and understood as factors that have shaped history and determined the existing inequalities.

Amerindian peoples also denounce the anthropocentrism of the Western model of development, whereby the interests of humans prevail over those of the environment. The planet is slowing down. Natural resources are gradually disappearing, pollution is increasing, climate changes are intensifying and natural disasters are on the rise. Natural resources in developing countries are often exploited at the expense of the poor, who suffer from hunger. Inequalities are deepened, boosted by a global financial system that allows tax dodging by multinational companies and the world's wealthiest. Some EU policies, and the Eurocentric development model, are currently part of this problem, not the solution.

Policy coherence for development involves being able to distinguish between development and economic growth. And learning, ultimately, to adopt new development paradigms, as suggested by the indigenous peoples of Latin America. Can the objective of poverty eradication be dissociated from the fight against inequality and the eradication of extreme wealth? Do the so-called "green economy" policies – which aim to preserve the environment by strengthening the role and social responsibility of private companies – mean no more than a further deepening of capitalism and the commodification of nature? Is there not quite an urgent need to improve the regulation of the market and finance, and to contain their power? And, in particular, to change the financial system, and the negative impact of tax havens and of tax evasion by multinational companies?
These are all important questions, which call for urgent answers – answers that the European Union will have the chance to supply, if only it will equip itself to do so.

POLICY COHERENCE FOR DEVELOPMENT INVOLVES BEING ABLE TO DISTINGUISH BETWEEN DEVELOPMENT AND ECONOMIC GROWTH. AND LEARNING, ULTIMATELY, TO ADOPT NEW DEVELOPMENT PARADIGMS, AS SUGGESTED BY THE INDIGENOUS PEOPLE OF LATIN AMERICA

AFP

Executive Summary

In this report, the third in the Spotlight series, CONCORD's aim is to draw the attention of European decision-makers to current cases of injustice, calling on them to prevent, detect and correct some harmful policies by genuinely implementing the principle of policy coherence for development (PCD) throughout the policymaking cycle. Under Article 208 of the Lisbon Treaty, PCD is a legal obligation on the EU. The article implies that, all EU policies must support the development of developing countries, or at least not conflict with the EU's objectives for international development, centred on the eradication of poverty.

CONCORD applauds the EU for being the only region in the world to date to have taken on a binding obligation to be accountable for how all its policies affect the world's poorest. Putting this commitment into practice, however, requires determined political leadership and a sustained effort to create a different, more just international order, and it also needs active CSOs to be continuously reminding decision-makers to turn this political commitment into a real impact on peoples' lives. Unfortunately, European decision-makers have not yet demonstrated the political courage needed to make fair policies a reality.

CONCORD recognises the progress made over the years, but emphasises the need for proper, more solid implementation of PCD in all EU policies. The discussions on the design of a new, post-2015 framework for global development represent a unique opportunity to transform PCD into a universal standard for making all countries' policies conducive to global poverty eradication. CONCORD urges the EU to seize it. The current global system lacks the basic capacity to prevent, detect or redress incoherent policies, but change must begin with the EU itself, building on its existing legal obligation. The appointment of a new European Commission and the election of a new European Parliament in spring 2014 is a tremendous opportunity for Europe to reinvest in PCD and to ensure that EU policies are changed when they are shown to be damaging the rights and welfare of citizens of developing countries.

This report presents a series of personal stories illustrating the devastating repercussions that incoherent political choices made in Europe have on citizens of developing countries and their communities. It makes a number of recommendations to the EU institutions for what they can do, concretely, to help these people and to ensure the proper implementation of the EU's PCD commitments – as a matter of justice, credibility and accountability towards the citizens of both European and developing countries.

The report contains a chapter on the institutional framework for PCD, while three thematic chapters focus on incoherence between development objectives and EU policies relating to financing for development, food security and natural resources and climate change. All the chapters give a detailed examination of current EU policies and tools that promote or undermine efforts to bring about the effective delivery of PCD.

PCD IS A POLITICAL COMMITMENT, AND TRANSLATING IT INTO PRACTICE REQUIRES CONTINUED POLITICAL WILL

Institutional mechanisms for delivering PCD: How the EU can make fairer, more coherent decisions for the well-being of all

This chapter shows that ensuring PCD is first and foremost a matter of political choice. It is therefore crucial to make relevant development-related information, data and evidence available to policymakers, to guide them so they will choose the most development-friendly policy options, in compliance with PCD. All too often, a lack of information on development impacts, and insufficient analyses of the clear causal relationship between an EU policy and its observed impacts on the ground, are put forward to justify the EU's failure to review its positions and take more progressive decisions in favour of development.

PCD is a political commitment, and translating it into practice requires continued political will. This chapter shows that, in both the EU's institutions and its Member States, PCD needs to be backed by an implementation strategy with clear political objectives, and also by well-defined institutional mechanisms: these would include both tools and inter-institutional and cross-sectoral set-ups allowing

FINANCING FOR DEVELOPMENT REQUIRES THE EU TO ENSURE THAT ITS POLICIES DO NOT UNDERMINE OTHER FINANCIAL RESOURCES AVAILABLE TO DEVELOPING COUNTRIES

policy impacts to be monitored, assessed and discussed. Crucially, these PCD mechanisms need to take into account the voices of people in developing countries when they are negatively affected by decisions taken in the EU.

This chapter examines EU PCD mechanisms and set-ups such as impact assessment, impact monitoring, multi-stakeholder dialogue – including at the level of EU delegations – and a complaints mechanism, some of which already exist and some of which should be created in order to prevent, detect and redress incoherencies. Moreover, as the chapter reveals, there is currently no policy review process, designed to revise incoherent aspects of policies from a PCD perspective, and no institutionalised way of forcing a policy review. Putting such a redress mechanism in place is crucial in order to enforce PCD properly within the EU.

Overall, in accordance with the PCD obligation under the Lisbon Treaty, and in implementation of the EU development ministers' PCD strategy of May 2012, greater efforts must be made to ensure an evidence-based EU policymaking process for the purpose of delivering effectively on PCD and dramatically improving the EU's currently weak record.

Financing for Development: How the EU can stop the illicit financial flows that deprive Caroline Muchanga, her family in Zambia and other citizens of developing countries of their fundamental social rights

The starting point for this chapter is the story of Caroline Muchanga, who sells a European sugar company's product at her local market in Zambia. Caroline pays 90 times more income tax than the company which has benefited from the sales from her stall. The company has anannual revenue of US$ 200 million while Caroline Muchanga cannot effort to send her children to school. A major reason for the injustice being done to Caroline Muchanga is that the EU's policies, and international regulation, allow tax dodging by multinational companies – causing billions of euros to be lost to developing countries, in so-called illicit financial flows. If taxed, these flows would increase the domestic resources available to the Zambian government for financing universal access to fundamental social rights, such as basic education and health care for its citizens.

In order to stop illicit financial flows from depriving Caroline Muchanga, her family in Zambia and other poor people of their basic social rights, the EU should recognise that several of its policies are having a negative impact on developing countries' ability to finance their own development – and it should review them accordingly, in compliance with its PCD obligations. Financing for development is not just a matter of aid. It also requires the EU to ensure that its policies do not undermine other financial resources available to developing countries – so it is also a matter of PCD. By changing policies, and taking the necessary steps to prevent illicit financial flows from escaping developing countries, the EU would be supporting the mobilisation of financing for development, with a positive impact on the world's poorest.

The momentum behind the EU urging it to do this has never been so strong. European citizens are increasingly challenging the lack of more stringent regulation on the management of financial flows, and questioning the impacts of the financial system on Europe's own development too.

This chapter focuses on the changes needed in the implementation of the May 2013 European Council Conclusions on taxation, and the draft of the fourth EU Anti-Money Laundering Directive, in order for the EU to clamp down effectively on tax evasion and tax havens.

Food security: How the EU can ensure that Halima Ally from Tanzania, and others like her, benefit from EU investment in agriculture

This chapter takes as its starting point the story of Halima Ally from Tanzania, who lives in the area targeted in 2006 by Sun Biofuels, a European-based company, to establish a jatropha plantation the size of 11,000 football pitches to meet the European demand for biofuels. Halima Ally and the other residents of the eleven villages surrounding the plantation saw the land they had been working on for generations grabbed, receiving little or no compensation while the promises of social investment were never kept and access to wells was lost. The plantation has since been shut down, but the impacts are still felt: the rights and food security of poor communities have been undermined.

This chapter shows that, in a world where some 870 million people already suffer from hunger, the EU's own or induced investment in agriculture sometimes results in negative impacts on food and nutrition security in developing countries, as they do for Halima Ally, her family and other poor and vulnerable communities in Tanzania. Throughout the chapter, special attention is paid to the impacts on the

FOR AGRICULTURAL INVESTMENT TO PRODUCE POSITIVE OUTCOMES IN TERMS OF FOOD AND NUTRITION SECURITY, THE EU MUST IMPLEMENT PCD CONSISTENTLY

capacity of smallholder farmers in developing countries, who have been recognised by the EU itself as the single most effective channel for guaranteeing food security.

The chapter shows that in order for agricultural investment to produce positive outcomes in terms of food and nutrition security, the EU must implement PCD consistently in key policy areas. In particular, it must adapt its renewable energy policy, research policy and trade and investment policies accordingly.

Climate change and natural resources: How the EU can help Adoaga Ousmane in Chad, Máxima Acuña Atalaya in Peru and communities in other developing countries to benefit from the environment they live in and its natural resources

This chapter takes its starting point in the stories of Adoaga Ousmane from Chad and Máxima Acuña Atalaya from Peru.

Adoaga Ousmane depends on the fertility of the soil, and on the weather. In 2012, together with over 18 million people in the Sahel region of West Africa, he was affected by a severe food crisis caused by drought, desertification and the resulting rises in food prices. This chapter shows that the stark situation of food insecurity in the Sahel is part of a bigger picture, in which climate change and the impacts of EU policies on climate and energy are playing a negative role.

On the other side of the planet, in Peru, Máxima Acuña Atalaya has become the symbol of the movement of farmers struggling to protect the wetlands in the Andes by refusing to sell her family's house and land to companies behind the Conga mining project – a project that was adopted despite several reports of environmental problems connected to mining and protests by the local communities. This chapter shows that stronger EU requirements for companies to report on their social, environmental and human rights impacts, and the adoption of appropriate EU legislation on conflict minerals, would help communities like Máxima Acuña Atalaya's to claim their rights.

This chapter argues that the EU's economic development model – which generates pollution and exacerbates the fierce global competition for the natural resources and raw materials available in developing countries – has grave consequences for livelihoods, and for the ability of Adoaga Ousmane in Chad, Maxima Acuña Atalaya in Peru and communities in other developing countries to benefit from the environment they live in and depend on.

In order to stop this and prevent future damage, the EU must adapt its policies on climate and energy, on non-financial reporting by European companies, and on conflict minerals.

Main findings of the report:

• The EU's institutional mechanisms and tools for preventing, detecting and correcting incoherent policies are still ineffective and inadequate to deliver PCD, especially as the EU lacks appropriate systems for gathering its own data on the impacts of its policies on the lives of people in developing countries. Only 19 per cent of development-relevant impact assessments carried out by the European Commission acknowledged a potential impact on development, while dialogue on EU policy impacts with stakeholders, including CSOs in developing countries, is lacking, and there are still no redress mechanisms to force changes in policies proven to be incoherent.

• Several EU Member States have set up national PCD institutional systems of various kinds. There are good and interesting practices, but no Member State can yet claim to combine the decisive factors for effective PCD delivery: namely, political commitment at the highest level, an implementation strategy with clear political objectives against which to measure progress, and appropriate coordination, monitoring and assessment mechanisms.

• This report shows incoherencies between the EU's development objectives and its policies addressing issues of illicit financial flows, food security and natural resources and climate change. Alternative solutions are possible and clear recommendations for changes to EU policies that will benefit the world's poorest, and will show that the EU is taking its PCD obligations seriously, are to be found throughout the report.

THE EU'S ECONOMIC DEVELOPMENT MODEL HAS GRAVE CONSEQUENCES ON LIVELIHOOD AND FOR THE ABILITY FOR COMMUNITIES IN DEVELOPING COUNTRIES TO BENEFIT FROM THE ENVIRONMENT THEY LIVE IN AND DEPEND ON

Flour Production in Pemba, Mozambique, 2010

Introduction

In today's densely interconnected world, letting your right hand undermine what your left hand is doing is a very counterproductive approach to decision-making. This is witnessed at first hand by CONCORD's members working with partner Civil Society Organisations (CSOs) and communities in the field, in developing countries. Our partners know from experience the vital difference European development aid makes to millions of poor people across the planet. But they also witness the devastating consequences inflicted by incoherent political choices, made in Europe, on local communities in developing countries.

Today, in 2013, five years after the outbreak of the financial crisis, it absolutely clear that business as usual is no longer an option. We need to rethink the principles on which our global economy and governance system are founded.

As revealed in this report, one woman, Caroline Muchanga, who sells a European sugar company's product at her local market in Zambia, pays 90 times more income tax than the company (with a revenue of US$ 200 million) which has benefited from the sales at her stall.[1] One factor in the injustice being done to Caroline Muchanga is the failure of EU and international regulation to stop tax dodging by transnational companies: this practice causes billions of euros to be lost to developing countries, and has real consequences for people like Caroline, who cannot afford to send her children to school.

And European citizens find themselves in a similar situation. According to the European Commission, tax evasion costs the EU itself one trillion euros every year, thanks to the loopholes in the very same regulatory regime.[2] This example – among many others – shows that setting Europe's interests in opposition to those of developing countries does not make sense. Political change must be global in scope, and all major challenges must be addressed in a holistic way – which is exactly what sensible policy coherence for development (PCD) is all about.

CONCORD applauds the EU for being the only region in the world to date to have taken on a binding obligation to be accountable for how all its policies affect the world's poorest. Under Article 208 of the Lisbon Treaty, PCD is a legal obligation on the EU. This is a formidable step, complementing the EU's position as the largest aid donor in the world and reflecting its commitment to fighting global poverty.

In setting the standard so high, the EU has staked its credibility and accountability vis-à-vis the citizens of both Europe and developing countries, who now expect to see the promised results.

But no quick fixes can do the trick. To turn this political commitment into a real impact on people's lives requires determined political leadership and a sustained effort to bring about a different, more just international order. CSOs have a fundamental role to play in this, by constantly reminding decision-makers of their PCD commitments and supplying them with new data and evidence. This is work that needs to be more strongly supported.

Unfortunately, the conclusion so far is that European leaders have not yet demonstrated the political courage needed to make fair policies a reality. CONCORD's aim with this report is to draw the attention of European decision-makers to current cases of injustice, calling on them to prevent, detect and correct their harmful policies. We also analyse the current institutional system, providing concrete suggestions for revising procedures so that the EU can live up to its treaty-based obligations to PCD and give Europe a fairer role in the world. It is thus our hope that our report will help build a long-term vision for PCD.

In fact, PCD still plays a very marginal part in the EU's decision-making processes. The potential and actual development impacts of the EU's policy choices are still largely unexplored. For instance, this report reveals that between 2009 and June 2013, out of the 177 impact assessments made by the Commission with potential relevance to developing countries, only 19 per cent actually analysed the potential impact on development objectives. This is an unsatisfactory record.[3]

Even when there are both awareness and (sometimes very well-founded) indications that certain EU polices are having direct or indirect negative repercussions on poor people in developing countries, there is no robust redress mechanism to trigger the revision of harmful policies. Far too often, moreover, we observe confusion around what PCD really means, and a tendency by some to drop the

1 ActionAid (2013) report: Sweet Nothings. *The human cost of a British sugar giant avoiding taxes in southern Africa*

2 http://ec.europa.eu/news/economy/121211_en.htm

3 http://www.concorddanmark.dk/?type=page&id=448&itemid=1919

"D" and focus merely on the coordination of departments and policies, rather than specifically addressing the question of how policies are impacting on development goals.

The PCD principle builds on the Union's own founding values of solidarity, equality and respect for human rights, which enabled European nations and citizens to raise their living standards. By removing the obstacles posed by wealthier nations, PCD is a formidable enabler for development, creating an environment in which developing countries themselves can lead their own development. Clearly, this also means that leaders of developing countries must themselves take responsibility for making development a constant priority.

In CONCORD's view, a human rights-based approach (HRBA) must be taken to PCD, building on the belief that all human beings have certain inalienable rights that entitle them to make claims on others when their rights are being denied or violated. Concretely, making PCD a reality must involve channelling the voices of poor people living beyond Europe's borders into EU policy-making, and ensuring that the EU's actual policies undergo the revision necessary to ensure that they respect people's rights.

The international community recently celebrated the 20th anniversary of the 1992 Earth Summit in Rio. As a result, discussions in 2013 on a new, post 2015-framework for global development have engaged citizens in countries right across the world. This offers the EU a unique opportunity to transform PCD into a universal standard for how all countries can really help to eradicate poverty globally. In the meantime, the EU should not simply pass the buck on to a higher level, or use other players' current inertia, or lack of interest in PCD, as an excuse for not making more progress on PCD itself. Change can and should begin with Europe "simply" doing what it has already committed to doing under the Lisbon Treaty.

In 2014 the citizens of Europe will elect a new European Parliament, and new Commissioners will be appointed. This is a tremendous opportunity for Europe to reinvest in policy coherence for development by firmly anchoring PCD in the mandates of these new political leaders.

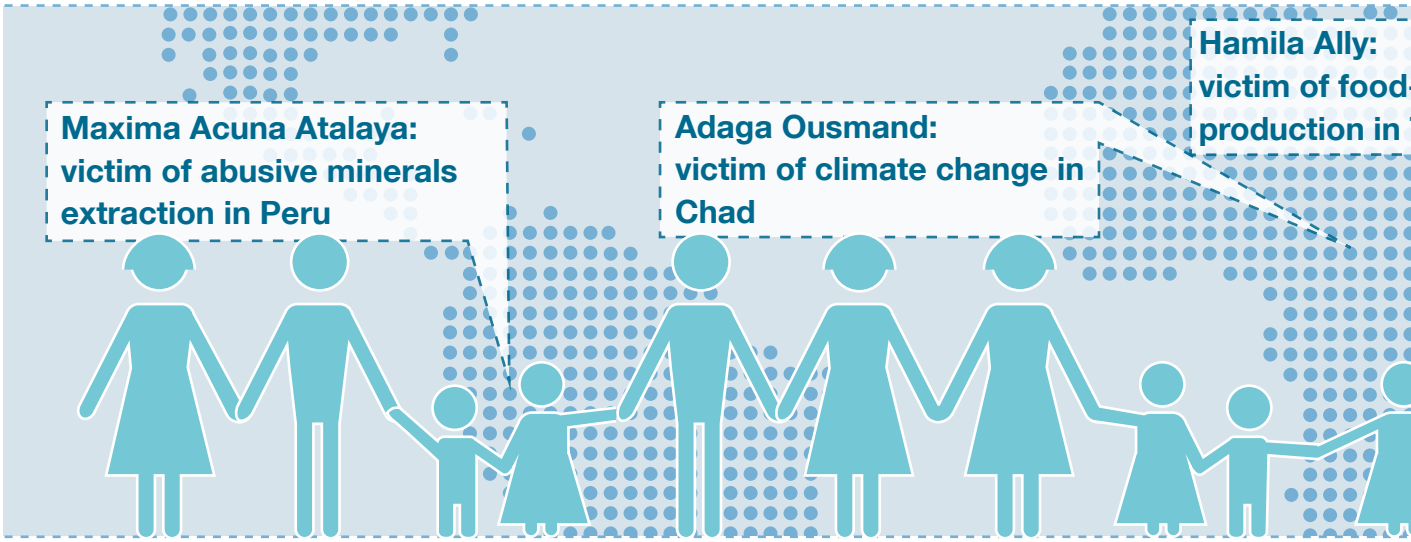
The Commission President, as the guardian of the Treaty, the High Representative for Foreign Affairs and Security Policy, as the EU's face to the outside world and manager of EU Delegations,[4] and the Development Commissioner, as the person in charge of developing tools to promote PCD, must create a fresh vision of PCD, building on the fundamental recognition that safeguarding Europe's prosperity does not mean preventing people in developing countries from exercising their rights. The fact is, neither of these aspirations can be achieved without the other.

PCD IS A FORMIDABLE ENABLER FOR DEVELOPMENT, CREATING AN ENVIRONMENT IN WHICH DEVELOPING COUNTRIES CAN LEAD THEIR OWN DEVELOPMENT

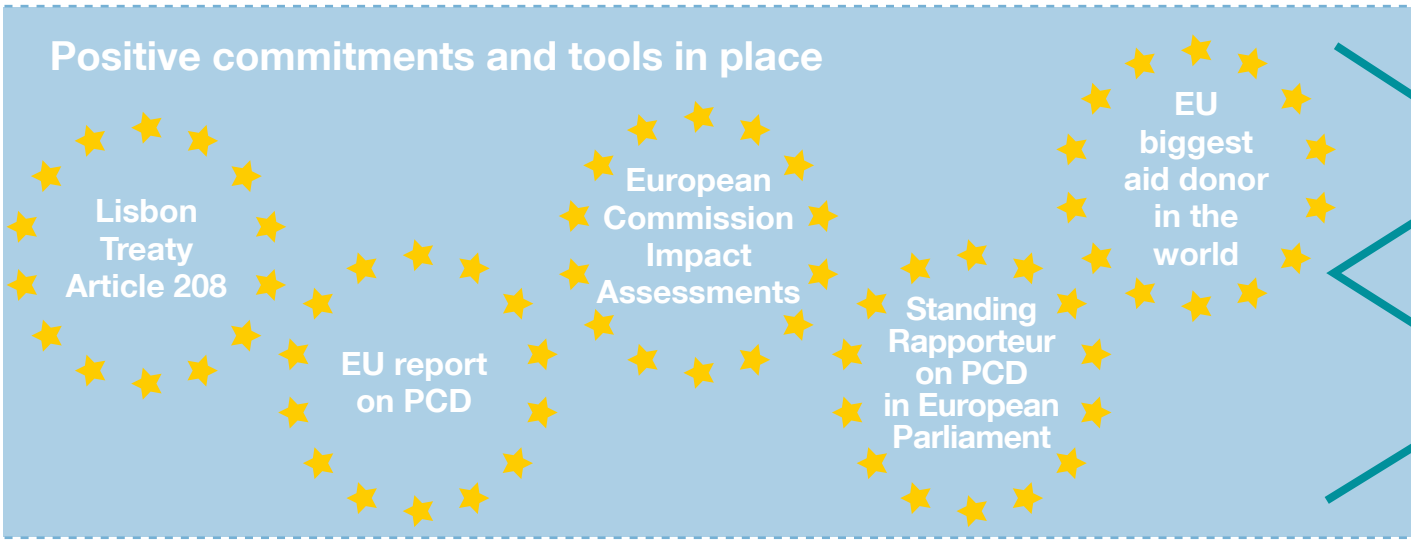
Chicken farm in Pemba, Mozambique, 2010

EU POLICIES CAN HAVE MAJOR NEG
ON POOR PEOPLES' LIVES ACROSS

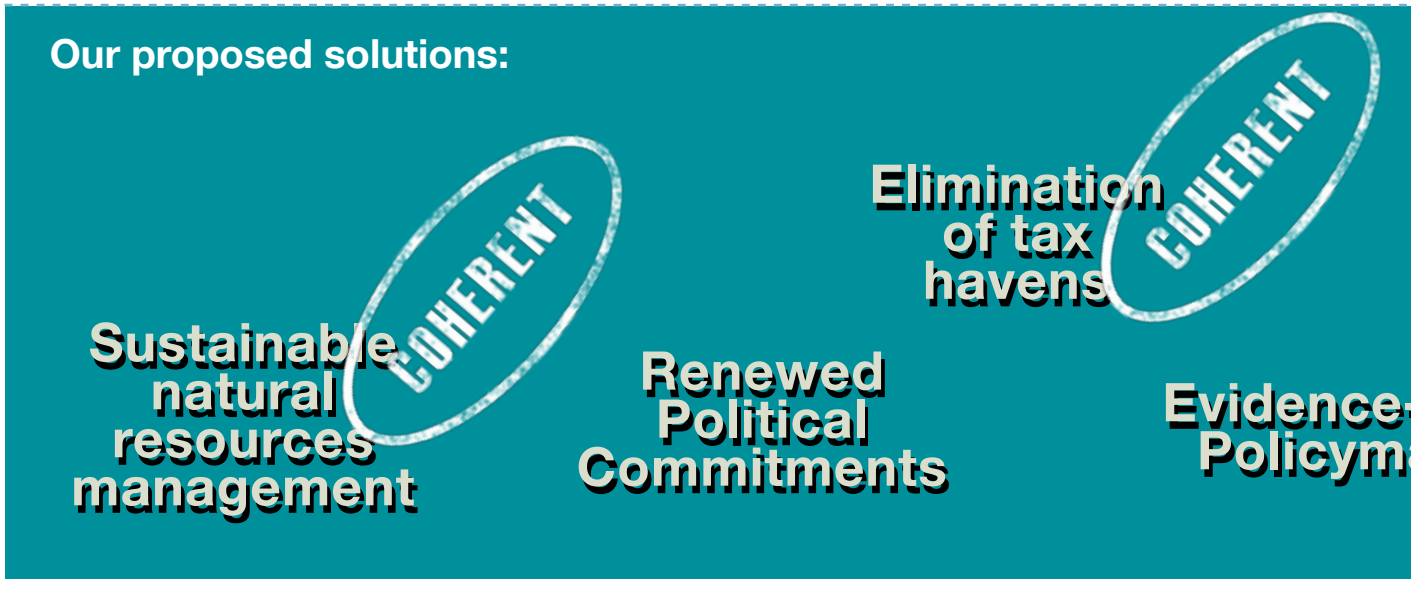
IN 2010 1.22 BILLION PEOPLE SUFFER FROM POVERTY



THE EUROPEAN UNION IS COMMITTED TO ERADICATE POVERTY IN THE WO

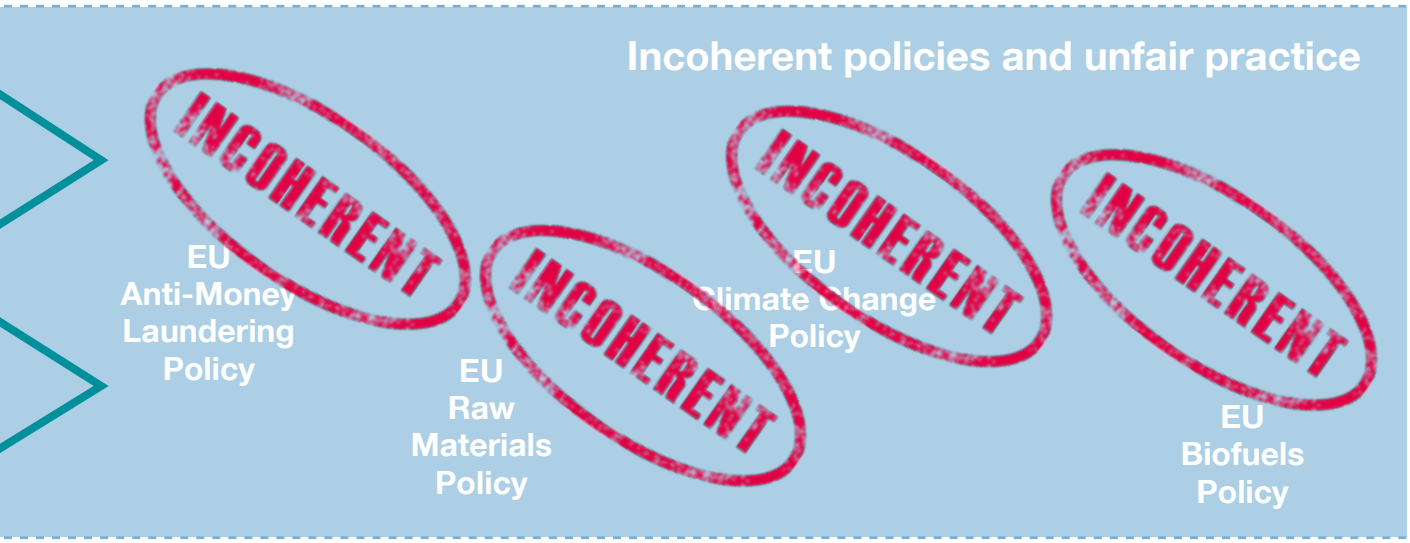


IT'S TIME THE EU MAKE POLICY CHANGES THAT DON'T HOLD BACK DE

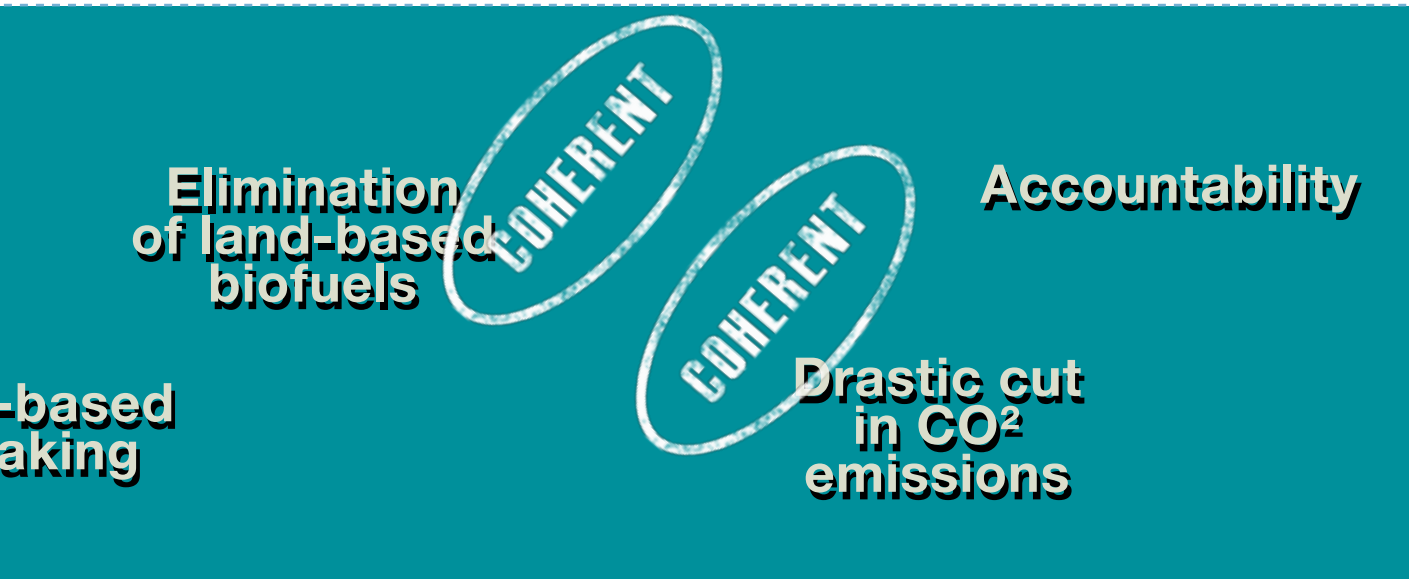


GATIVE IMPACTS THE WORLD

ORLD BUT TO SUCCEED ITS POLICIES NEED TO BE FAIRER AND COHERENT



EVELOPMENT!




chapter
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How the EU can make fairer, more coherent decisions for the well-being of all

1.0

The time has come for the EU to face up to the global impact of its policies and make policy coherence for development (PCD) a reality. The PCD principle builds on the Union's founding values of solidarity, equality and respect for human rights, and under Article 208 of the Lisbon Treaty PCD is a legal obligation on the EU.

> "THE UNION SHALL TAKE ACCOUNT OF THE OBJECTIVES OF DEVELOPMENT COOPERATION IN THE POLICIES THAT IT IMPLEMENTS WHICH ARE LIKELY TO AFFECT DEVELOPING COUNTRIES"
> LISBON TREATY, ARTICLE 208

While progress has been made over the years in PCD rhetoric, we have yet to see the positive words and policy documents make a real difference. Adopting fair and coherent policies is first and foremost a political choice. All too often, European decision-makers put narrow, short-term Eurocentric interests before the longer-term interests of both its own citizens and people in developing countries. Decisions in favour of development require a rethink of Europe's domestic (economic, political, commercial and geopolitical) interests, and its role in global affairs, including how these affect people's welfare, human rights and poverty eradication.

The voices of the people whose lives are affected by EU policies need to be taken into account. All too often, inadequate impact analyses, and information that is insufficient to establish a clear causal relationship between EU policies and their impact on the ground, are quoted as a justification for the EU not taking more progressive decisions in favour of development. Only by systematically looking at potential and existing impacts can PCD become a useful tool for thinking policies through properly, and adapting policymaking. Article 208 of the Lisbon Treaty calls for this type of "due diligence". To comply with this treaty obligation, EU policymakers must demonstrate that they have taken the necessary steps to gather all the relevant information on the development impacts of their policies, throughout the policymaking cycle.

Explicit political commitments to these tools and mechanisms, entered into at a high level, will enable the EU to advance towards more responsible, evidence-based policymaking. By taking a precautionary approach, this more effective kind of policymaking will prevent potential incoherencies. Where they exist, it will detect them and – through policy review and revision – it will correct any measures that have proven to be incoherent. Thus the tools and mechanisms not only make PCD operational – they also ensure that EU policymakers can be held accountable for their PCD obligation.

Since CONCORD last reported on PCD issues, in its 2011 Spotlight report, there has been patchy progress in operationalising PCD. The EU's last report on PCD, also published in 2011, provided no analysis of the actual impacts on developing countries, nor did it make any recommendations for how to advance towards taking these issues into consideration.

In May 2012, however, the EU's development ministers reiterated their commitment to PCD at the Foreign Affairs Council,[5] emphasising the need for a more evidence-based approach and for enhanced dialogue with stakeholders in developing countries. This gave fresh impetus to the issue, thanks to the support of the Danish presidency – which might have been the reason why in 2013 the European Commission (EC)'s development directorate (DG DEVCO) pressed ahead with the first detailed development impact study, for which the chosen topic was biofuels. That said, the study did not focus on the impact of the EU's biofuels policy, but adopted a more general approach, and it played no part in the formal inter-service consultation.

For its part, the European Parliament (EP) has for the second time appointed a Standing Rapporteur on PCD and has played a decisive role in gathering support for a more development-friendly outcome from the revision of EU legislations on combating illicit financial outflows from poor countries.

Furthermore, the reform of the Common European Fisheries Policy and the Commission's proposal to cap the EU's biofuels targets (so as not "to interfere with global food systems") give the first glimpses of political will, on the part of EU institutions, to take the rights of poor people living beyond the EU's borders into account in major policy reforms.

Nevertheless, the overall picture shows that EU policymakers active in non-development sectors (in all three EU institutions) still have a poor record of delivering PCD. Examples include notably the Common Agricultural Policy (CAP), where both the Commission and Parliament rejected the proposal put forward by civil society organisations (CSOs) that they should – "at the very minimum" – commit to monitoring the CAP's external impacts on developing countries (and, implicitly, food insecurity).

5 Resolución del Parlamento Europeo del 18 de mayo del 2010 sobre la Coherencia de Políticas de la UE para el Desarrollo EU y el concepto de 'Ayuda Oficial para el Desarrollo plus' para 83 (2009/2218(INI))

> "WE NEED CLEARER LEADERSHIP WHEN IT COMES TO STRIVING FOR GREATER POLICY COHERENCE FOR DEVELOPMENT."
> MEP CHARLES GOERENS

EU mechanisms for gathering evidence

Institutional mechanisms do matter, but they are nothing without the political will to acknowledge research findings and act on them.

PCD offers a new "thinking matrix" for policy analysis: it is a fresh way of looking at old issues. In order to succeed in this, ways to gather knowledge systematically need to be established. In terms of institutional mechanisms, this means tools that enable policymakers to make more informed choices, which will in turn result in development-friendly policies.

It is important that PCD is not perceived as an extra burden, or something that would necessarily require heavy investment. Rather, many existing mechanisms within the EU policymaking cycle can be adapted to play a valuable role in preventing, detecting or correcting incoherencies. By doing this, the EU can demonstrate compliance with its treaty obligations (see graph).

We shall now look in more detail at possibilities for ensuring PCD in EU policymaking. The focus of this chapter will be on some of the mechanisms that have the greatest potential to contribute to information gathering about development impacts, in order to prevent and detect incoherencies.

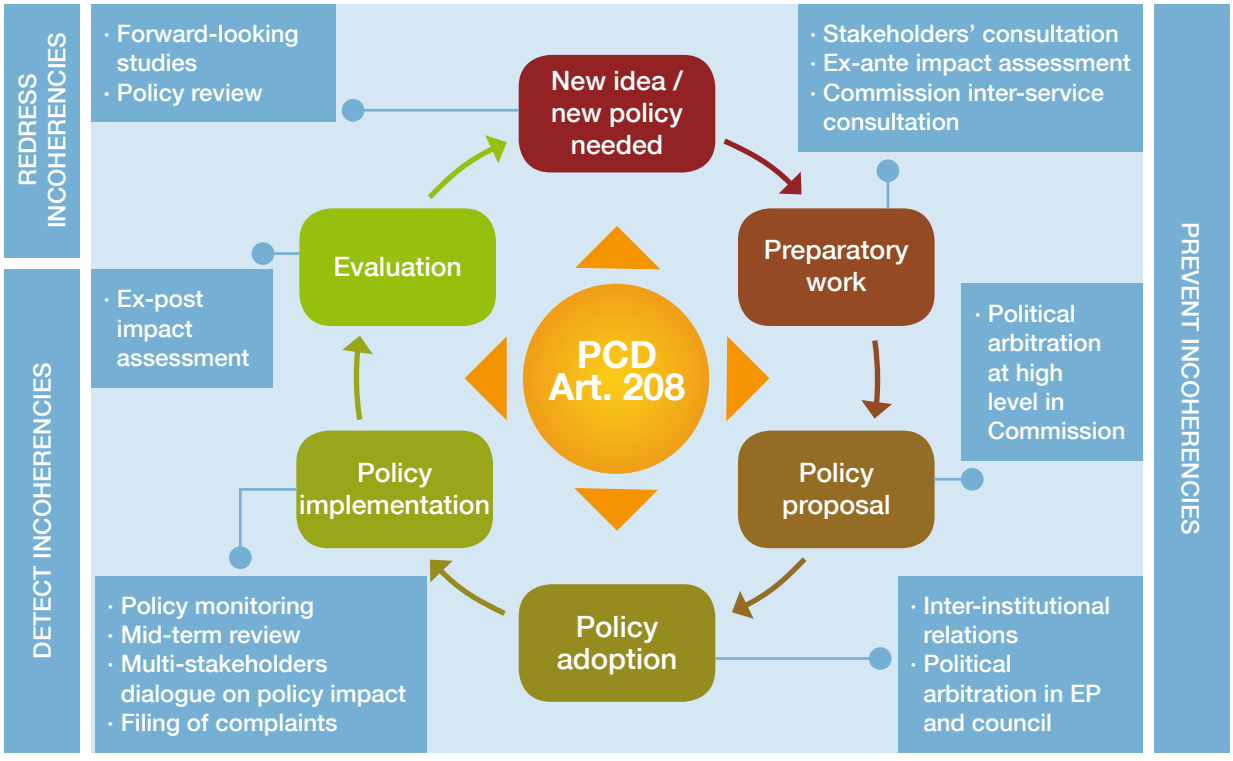
1. Prevent incoherencies: Ex-ante impact assessment

One of the pivotal instruments for evidenced-based policymaking and for preventing – at the earliest possible stage – the adoption of incoherent, development-unfriendly policies within the EU system, is the so-called Impact Assessment (IA).

IAs are an obligation for all new major legislative or policy proposals such as regulations, directives, major strategies and mandates for negotiations with third countries. According to the Commission guidelines for impact assessment, as revised in 2009, all IAs "[…] should establish whether proposed policy options have an impact on relations with third countries. In particular they should look at: […] impacts on developing countries – initiatives that may affect developing countries should be analysed for their coherence with the objectives of the EU development policy. This includes an analysis of consequences (or spill-overs) in the longer run in areas such as economic, environmental, social or security policy".[6]

Why are impact assessments in their current form not working for PCD purposes? In practice, IAs are carried out by the lead Directorate-General (DG) in the European Commission, sometimes drawing on external expertise for specific studies, and are released together with the policy proposal assessed. No dedicated support is provided to help the IA drafters to address development issues in their analysis. A

PCD mechanisms in EU policymaking cycle



ONLY 19% OF DEVELOPMENT-RELEVANT IMPACT ASSESSMENTS CARRIED OUT BY THE EUROPEAN COMMISSION ACKNOWLEDGED A POTENTIAL IMPACT ON DEVELOPMENT.

quality check of all IAs is carried out by a Board composed of high-level civil servants appointed by the Commission president, acting in their own name. The members' development expertise is rather limited (none of the members come from DG DEVCO). It is not surprising that no IA has ever been rejected and sent back for improvement on the sole ground of inadequate assessment of development impact.

This is borne out by an IA screening carried out by Concord Denmark, which showed that in the period from 2009 to June 2011, out of 77 IAs that were relevant from a development perspective, only seven – a mere 9% – actually assessed or even mentioned the impacts on developing countries. In the entire period since the introduction of the new IA guidelines in 2009, up to June 2013, the ratio rises to 19%. with 33 relevant IAs out of 177 actually acknowledging a potential impact on development.[7] This remains a very unsatisfactory record.

The IA guidelines are to be revised again during 2013, which presents an important opportunity for the Commission to bring the IA process into line with the ambitions of Article 208 of the Lisbon Treaty. Interestingly, since 2012 the European Parliament has had its own IA unit, whose main responsibility is to review the Commission's IAs for the benefit of debate in the Parliament, and possibly to carry out alternative IAs. Overall its capacity is limited, but it does hold great potential for the advancement of PCD as it can help bring development concerns back onto the discussion table.

Civil society participation in the IA process is extremely limited. For example, CONCORD was involved very sporadically in the IA of the proposal on the future CAP published in 2011. In its 2010 report the EU Court of Auditors formally criticised the lack of systematic consultation of external stakeholders, stating that "the IA process should be transparent and draw on the expertise and views of others. Public scrutiny is as an effective verification mechanism to ensure that IAs address the most relevant issues, include all feasible policy options, and provide a balanced view. Consultations enable the Commission to gather the opinions of interested parties and to take into account various points of view".[8]

CONCORD therefore recommends that:

- the new IA guidelines should make explicit reference to the PCD obligation, and that development impacts should be made a key section of the assessments, alongside the present economic, social and environmental assessments;

- CSOs' inputs – both qualitative and quantitative – should be systematically included in all stages of the IA process;

- among the high-ranking EC officials, a development specialist should be appointed to the IA Board, in order to increase the development expertise on that body;

- the capacity of DG DEVCO to give input and support to other DGs in assessing development impacts should be strengthened institutionally – e.g. by establishing a DEVCO help desk on IA matters;[9]

- the EP's IA unit should pay special attention to development impact issues, and strengthen its capacity to address loopholes in the Commission's IAs where development is concerned.

Interview: Member of the European Parliament Charles Goerens, standing rapporteur on PCD

Charles Goerens is a Member of the European Parliament for the ALDE Group (Liberals and Democrats). Since September 2012 he has been the EP's second standing rapporteur for policy coherence for development. This means that he plays a catalysing role in putting PCD on the Parliament's agenda. He is also automatically the rapporteur for its biennial PCD report.

What motivated you to take up the position of standing rapporteur for PCD in the European Parliament?
For me it's a fascinating job, it's a challenge to see how policy coherence can be achieved. There's a great need to consider, in the European Parliament, the impact of European policies on development. We cannot allow a policy in one area to have the opposite effect on other areas.

What would you say is your most challenging task as the standing rapporteur for PCD?
The most challenging task is definitely to find an audience in the European Parliament that is willing to step up and strive for change – this might also be due to the lack of effective working methods when it comes to PCD. This is on the agenda of different workshops I am organising.

When it comes to striving for greater PCD, there often seems to be a lack of political will. How can more political will be generated, in your view?
It is essential to involve the national level. In April 2013 we invited members of national parliaments to the European Parliament to discuss PCD and how it is being implemented at the national level. It was a good opportunity, I think it was a very useful meeting and we must continue acting in this way.

Do you think the current institutional mechanisms for PCD are sufficient for addressing incoherent policies?
I think it is necessary to have an arbitration mechanism. In my view, this should be the President of the European Commission: he or she should be committed to defending and supporting PCD. When there are diverging views between the Commission's different DGs, for instance between Trade and Development, it is Barroso who should act on the PCD commitments. In the European Parliament's PCD report I will emphasise that we need clearer leadership when it comes to striving for greater policy coherence for development.

6 European Commission, Impact Assessment Guidelines, 15 January 2009

7 http://www.concorddanmark.dk/?type=page&id=448&itemid=1919

8 European Court of Auditors, Special Report No. 3 on Impact Assessments, 2010

9 A helpdesk of this kind already exists in DG Environment, to help other DGs address environmental impact issues properly

2. Detect incoherencies: dialogue on policy impacts with stakeholders in developing countries

Making PCD happen means involving those who have a stake in the issue concerned.

Public consultation on major policy proposals is an obligation on the Commission[10] and often takes place through a public questionnaire.[11] There are also more informal or selective ways of consulting stakeholders. How questions relating to PCD are included in these consultations varies a good deal, while it is also the responsibility of stakeholders to bring forward PCD-related issues in their responses if they wish.

Policy dialogue is additional to these above-mentioned consultations, and entails a longer-term approach and a broader agenda. The system of advisory boards set up by DG Agriculture and Rural Development (DG AGRI), such as the one on the external impacts of the CAP, is an example of a form of institutionalised policy dialogue involving diverse stakeholders – CONCORD, for example, has been participating in it. A recurrent criticism has been that it is hard for stakeholders to influence the agenda, which is set by the Commission alone. As a result, like for the above-mentioned public consultation, the ability of such fora to address the development impacts of non-development policies (which is at the heart of PCD) is very limited, while direct participation by stakeholders from developing countries is often not envisaged.

Focus 1: Dialogue on EU policy impacts in developing countries: the role of EU Delegations

The May 2012 Council Conclusions on PCD stresses the need for a more evidence-based approach to PCD which include baselines, indicators and targets to measure the impact of PCD. A study carried out by CONCORD based on interviews with EEAS and DG DEVCO and surveys from some EU Delegations shows that no action has yet been taken to implement the May 2012 Council Conclusions. 14 months after the adoption of the Council Conclusions, a joint EEAS-DEVCO letter is still being prepared asking EU Delegations to assess their capacity to work on PCD and identify relevant PCD themes before the end of January 2014. EEAS and DG DEVCO explain the delay with other urgent priorities and reluctance to impose new structures and reporting requirements on already overburdened EU Delegations.

Still, EEAS and DG DEVCO confirm that they will encourage EU Delegations to engage in multi-stakeholder dialogue with all relevant stakeholders, including civil society and EU Member States, but within existing frameworks and without a prescribed methodology. EU Delegation are encouraged to report on incoherencies, but no formal PCD reporting requirements and mechanisms are envisaged. PCD issues will rather be integrated in the EU Delegations annual reporting, included in EU biennial report on PCD or used to identify 'hot issues' that could be the subject for further investigation (e.g. impact assessments by DG DEVCO's PCD unit).

The EU Delegations that responded to CONCORD survey are generally aware of EU's commitment to PCD, including the Council Conclusions and the 2010-2013 PCD Work Programme and its five priority areas. But PCD is one among many priorities at EU Delegations and is not given high priority. None of the EU Delegations have taken specific action to implement the May 2012 Council Conclusions. PCD is being treated ad-hoc and discussed in existing dialogue forums when relevant. In a CONCORD survey on civil society engagement with EU Delegations, less than 1/4 of the civil society organizations consulted, has been invited to discuss the impacts and effects of EU policies with EU Delegations[12].

Head of Delegations (HoD) are responsible for PCD, but have full autonomy to organize at country level and PCD is therefore dependent on individual interest. In consequences, PCD is prioritized differently at country level - both organizational and politically. While some EU Delegations have appointed a PCD focal point, others have assigned the responsibility to the Head of Section (HoS) or the Head of Cooperation (HoC).

The CONCORD survey shows that EU Delegations need support from EEAS and DG DEVCO, e.g. instructions, help desk, tool boxes and best practices on how to ensure policy coherence between DEVCO and the other DG's activities at Delegation level. DG DEVCO does provide regular PCD training in Brussels for EU Delegation staff, while e-training on PCD is being developed. PCD will potentially be included in the 2013 annual Head of Delegations seminar in Brussels, but not as a separate agenda item.

CONCORD finds that the commitment of EEAS and DEVCO to operationalise the May 2012 Council Conclusions is clearly insufficient. It takes much stronger political leadership in the EEAS, DEVCO and the EU Delegations to ensure that a multi-stakeholder dialogue on PCD at country level is delivering evidence-based results.

10 EU 2011 Report on Policy Coherence for Development, Commission Staff Working Paper, SEC(2011) 1627 final, p. 14

11 http://ec.europa.eu/yourvoice/about/index_en.htm#legalnotice

12 CONCORD survey on the involvement of civil society organisations in the aid programming process (due in September 2013) – available on CONCORD website

13 *"The Council stresses in particular the need to include the issues of PCD systematically in the regular dialogue with partner countries to better assess the impact of EU policies at country level and the interaction with partner countries' policies. EU Delegations have a crucial role in this regard."* Council Conclusions on Policy Coherence for Development, 14 May 2012

14 See CONCORD (2013): *EEAS Review 2013* and the forthcoming CONCORD survey on the involvement of civil society organisations in the aid programming process (due in September 2013)

For CONCORD, the primary stakeholders to involve in any policy dialogue that could raise issues relating either directly or indirectly to development are the women and men directly affected by the impacts of EU policies. In May 2012 European development ministers took a major step forward by deciding that the EU must organise formal dialogues on policy impacts, in developing countries, with the local stakeholders, including local civil society organisations and parliaments. The Council underlined that the EU Delegations had a "crucial role" to play in this.[12]

In the implementation of this decision there is great potential for gathering first-hand information on the likely impacts of planned policies and also for detecting negative impacts, and therefore incoherencies, while a policy is being implemented. The information collected through these in-country multi-stakeholder policy dialogues could thus be a major resource for improving the analysis of the usual ex-ante impact assessments and policy evaluations carried out by the Commission.

Nevertheless, a year after the adoption of the Council Conclusions, the ministers' demands had not been followed by any instructions to the EU Delegations from the European External Action Service (EEAS) or the Commission (see focus box 1). In 2013 an opportunity was missed, as the EU Delegations organised consultations for the aid programming process – in some instances local civil society was consulted.[13] Clearly, linking up PCD and aid dialogues is essential for ensuring that the full development and anti-development footprint of the EU in a country is assessed.
To make progress on country-level dialogue in PCD, important issues must be addressed. For one thing, the EU Delegations' mandate on PCD is vague; PCD is part of a long list of responsibilities of the EU Delegation Head, and there is no such thing as a "template" job description. Delegation staff are still largely undertrained on PCD, in spite of recent efforts. More importantly, major questions still need to be answered: what are the objectives of such a dialogue? Who will be invited to take part? How will topics be selected? Who will prepare the agenda? And, key to the process: what will be done with the information collected?

CONCORD recommends that:

• the Commission should mainstream PCD in public consultations and policy dialogues that focus on questions relevant to development;

• the Commission and EEAS should take urgent action to implement the Council Conclusions regarding PCD. This includes setting in motion a process that will answer the outstanding questions, which relate inter alia to the consultation of relevant stakeholders such as the local communities, CSOs, and local policymakers and representatives in developing countries;

• a system should be set up for feeding the information and evidence collected into the policymaking cycle, leading ultimately to the correction of incoherencies where they occur, and a commitment to do this should be given.

3. Detect incoherencies: development impact monitoring

All EU policies include provision for monitoring, review and evaluation systems. As explained in the case of EU biofuels policies, in this report's chapter on food security, some EU policies already have a built-in requirement to report on development impacts. This is especially appropriate when the ex-ante analysis has been able to establish that there is a risk of adverse impacts on development objectives. The explicit obligation to monitor and report on development impacts as part of the policymaking cycle is very important and very welcome, as it provides a key safety valve to prevent the risks from materialising.

The proof, however, is in the pudding, and so far the number of instances of implementation of this reporting requirement at EU level has been far below expectations. The level of knowledge of development impacts is insufficient to enable a lead (non-development) Commission service to draw up terms of reference for reports or studies that would include the relevant development aspects. Nor are there any guidelines that explicitly state how to bring in development expertise when development impacts are involved. This is unacceptable, and it discredits the EU's commitment to PCD. There is a need for far better incorporation of PCD into existing guidelines (where they exist), and far wider use of this monitoring tool, together with a broader recognition of its usefulness for potentially correcting incoherent policies once sufficient analysis has been provided.

Specifically, CONCORD recommends:

• improved impact assessment (see above) to see whether or not a policy should be adopted in the first place, and whether there is a need for a monitoring clause. In all cases where an EU policy is in danger of having an adverse impact, development impact monitoring should be introduced as a precautionary measure;

• the drawing up of guidelines for participatory monitoring involving local stakeholders, with a particular focus on civil society and the people affected;

• a control of the quality of the monitoring process outcomes by independent experts, which may include alternative policy options and possible corrective action;

• timely public access to the outcomes of the monitoring process, and consultation on alternative policy options and possible corrective action.

TODAY, INDIVIDUALS AND COMMUNITIES IN DEVELOPING COUNTRIES WHO ARE NEGATIVELY AFFECTED BY EU POLICIES STILL HAVE NO INSTITUTIONAL CHANNEL THROUGH WHICH TO APPEAL TO EU DECISION-MAKERS AND SEEK REDRESS

4. Detect incoherencies: complaints mechanism

Two possible types of complaint could be envisaged in relation to PCD:

- complaints about the effectiveness of the policymaking process in studying the development impacts of policies;

- complaints that the policies themselves either undermine or are in danger of undermining development objectives.

In the case of the former, the complaint would be based on a violation of the obligation of conduct enshrined in Article 208 of the Lisbon Treaty. This is the obligation on EU policymakers to show that they have considered development objectives when adopting a course of action, and have adequately monitored and assessed the effects of their policies on development on an ongoing basis.

While a suitable judicial remedy is lacking, these complaints would fall squarely within the jurisdiction of the European Ombudsman.[14] The potential here is limited, however, because the Ombudsman has no actual power to require the EU institutions to act – merely to recommend reporting the matter to the European Parliament.

For complaints about policies that are incoherent with development objectives (type 2 above), there is no recourse. Indeed, today, individuals and communities in developing

Focus 2: Trends in institutional PCD systems in EU Member States

Over the past decade several EU Member States have made progress with developing systems to promote policy coherence for development. However, the situation remains very different from one country to another. To be effective, a system promoting PCD needs policy commitments, an implementation strategy with clear political objectives, institutional and administrative mechanisms, and monitoring and assessment mechanisms. This system is affected by the political background in each country and, in particular, its political culture and the degree of influence of civil society.

Policy commitments
The political commitment to PCD is strong in some countries (Belgium, Denmark, Finland, Lithuania, Luxembourg, the Netherlands, Sweden and the United Kingdom), and weak in others (Czech Republic, France, Germany, Hungary, Poland, Romania and Slovakia), while some have none at all (Bulgaria and Slovenia). In some countries, however, PCD tends to be confused at times with policy coherence in general (Belgium, Bulgaria, Luxembourg and Slovakia). Except in the Netherlands, no country has set clear political objectives which could be used to assess and monitor progress made towards PCD in relevant non-development policies.

Coordination mechanisms
Some countries have no institutional mechanisms for promoting PCD (Bulgaria, and France) while in some (Denmark) they are in the making. Some have specific mechanisms for PCD, such as inter-ministerial structures (Czech Republic, Lithuania, Luxembourg, Poland, Sweden, United Kingdom), PCD working groups (Finland, Sweden) or PCD focal points in ministries (Finland and Sweden). Some have overall national policy coordination and coherence mechanisms, either formal (Belgium, Hungary, Germany, Romania and Slovenia) and/or informal (Belgium, Hungary, the Netherlands), but these mechanisms are failing to mainstream PCD. It must be emphasised that Belgium and Denmark are currently working on institutional set-ups – in the case of Denmark, it is unclear whether this will include monitoring and assessment mechanisms.

Monitoring and assessment mechanisms
Most countries have no mechanisms for assessing the impact of their policies (Belgium, Bulgaria, Czech Republic, Denmark, France, Germany, Hungary, Lithuania, Luxembourg, Poland, Romania, Slovakia or Slovenia), while some do require reports on the implementation of PCD (Luxembourg, the Netherlands and Sweden). Finland produces reports in which PCD is monitored along with other issues. Belgium is currently working to set up an impact assessment mechanism.

It appears that although a growing number of countries have made commitments to PCD, its actual implementation often remains problematic. The form of implementation will differ from one country to another, owing to political culture: in each case it will depend largely on the political context (the personal ambition of the development minister, for instance) and on the level of pressure exerted by civil society.

Recommendations
There is no one way to implement policy coherence for development properly. A good mix of commitments and institutional mechanisms is required, however.

This mix should always include the following:

- A clear political commitment in favour of PCD at the highest level of the State (where PCD is clearly defined);
- An implementation strategy for this commitment that includes clear political objectives;
- Coordination mechanisms in decision-making processes where PCD is efficiently mainstreamed;
- Ex-ante assessment mechanisms to make sure that every policy with a potential impact in a developing country takes PCD into consideration;
- Ex-post assessment mechanisms to ensure that existing policies do not conflict with PCD;
- The monitoring of PCD commitments and institutional set-ups, with participation by stakeholders.

This is the summary of a longer study by CONCORD "Overview of PCD systems in some EU Member States" available on CONCORD website.

countries who are negatively affected by EU policies (and whose testimonies can be found in the subsequent chapters of this report) still have no institutional channel through which to appeal to EU decision-makers and seek redress.

The redress sought is not primarily about compensating the victims for the harm done to them, but rather about addressing the issue and introducing fair policies. Giving a voice to the victims of incoherencies would be a significant move towards more responsible and higher-quality policymaking, as it would provide useful feedback on policy impact. It is also a question of human rights.

This has been a constant demand from CSOs, but no progress can be reported.[15] Some encouraging signals came from the European Parliament during the recent debate on CAP reform, where amendments to introduce a PCD-based complaints mechanism did receive a significant, if insufficient, level of support from MEPs. Whilst this was well intended, the CAP result ultimately came out against a pro-development outcome.

As with many other aspects of PCD, in the particular area of a recourse/complaints mechanism, stronger political will is needed to make a difference and enforce PCD properly within the EU.

CONCORD recommends that the EU should set up a recourse mechanism open to citizens of developing countries who wish to challenge the negative consequences of EU policies on their development, where a violation of PCD can be demonstrated. The objective of such recourse will not be to gain individual compensation for the damage done, but to trigger an investigation into the impacts of the policy, and a policy review. This will give decision-makers a chance to consider alternative, more development-friendly, policy options.

5. Redress incoherencies: the missing link

In CONCORD's view, the outcomes of the above mechanisms (impact assessment, impact monitoring, multi-stakeholder dialogue, complaints mechanism) should feed into an evidence-based policymaking process, so the data and evidence collected in these ways should be passed on to policymakers in Brussels.

Where there is serious evidence of damage, policymakers should investigate the matter in more depth and then start a policy review process, with the intention of revising the incoherent aspects of the policy, from a PCD perspective.

Astonishingly, no such mechanism exists at present and there is no institutional way of forcing a policy review. It all depends on political will, linked to the level of sensitivity of high-level policymakers to development issues and the extent to which they feel accountable for the impacts of EU policies on citizens outside EU borders.

Focus 3: Human rights and development: how can we reduce the negative impact of EU policies on developing countries?

The European Union and its Member States have an obligation to ensure that their policies are coherent with development objectives (PCD), and with extraterritorial obligations (ETOs) to respect human rights in third countries. The first obligation is based on Article 208 of the Treaty of Lisbon, the second on the International Covenant on Economic, Social and Cultural Rights. Are these two types of obligation interchangeable? The answer is no, because the extraterritorial obligations on States to respect human rights are more restrictive. They are complementary, however, and can support each other.

Primacy of international law on human rights
States are obliged to respect human rights. If a State takes a political decision that results in a human rights violation in a third country, it must (in theory) cancel that decision. Human rights have a higher legal value than other policies, such as the CAP, for example. In terms of PCD, a legalistic interpretation of the treaty obligation means that the EU needs only "take account of" the objectives of EU development when working on the CAP, with no actual obligation to respect development objectives. This means that, in the CAP, the objectives of EU development have a value equivalent to its agricultural objectives. In the event of a conflict between objectives, the EU will seek to reconcile them. Disappointingly, experience shows that the EU development objectives remain dominated by stronger vested interests, as is shown by the proposed CAP reform for 2014-2020.

ETOs are obligations of result, not only of conduct
ETOs are obligations of result (respect for human rights), while the PCD obligations arising from Article 208 of the Lisbon Treaty are only obligations of conduct (take development objectives into account). The EU could, for example, conduct assessments of how its policies have an impact on development, and if incoherencies are identified, it is not obliged to correct them. Developing a rights-based approach to PCD is therefore essential, and will add considerable weight to arguments in favour of development in the event of arbitration between interests that are perceived to be conflicting.

14 A representative from the Ombudsman's office affirmed this in a meeting on 22 February 2010: see Niels Keijzer (2010): *EU Policy Coherence for Development: from moving the goalposts to result-based management?*, ECDPM Discussion Paper 101, page 25, note 38.

15 *See CONCORD Spotlight Reports 2009 and 2011 (http://www.concordeurope.org/coherent-policies)*

chapter 2

Caroline Muchanga showing her receipt for the market stall tax she has to pay (Jason Larkin/Panos Pictures/ActionAid)

How the EU can stop illicit financial flows that deprive Caroline Muchanga, her family in Zambia and other citizens of developing countries of their fundamental social rights

2.0

How the EU is impacting people's lives

Caroline Muchanga[16] works seven days a week from 5.45 a.m. to 9 p.m. in Nakambala market in Mazabuka, a town in southern Zambia. At her small kantemba (market stall) she sells drinks, toiletries and foodstuffs, including bags of the 'White Spoon' sugar that is produced on Zambia Sugar's vast plantation and in the factory less than a kilometre away. On a good day, Caroline makes ZK 20,000 (about US$ 4).

At 7 a.m. Caroline's two daughters leave for their volunteer-run community school, where Caroline says the teaching is not always reliable. "We take our children there out of desperation, as we mostly want to prevent their staying at home," she says. Government schools in Zambia have professional, paid teachers, and usually better facilities, but despite her 15-hour workdays Caroline cannot consistently afford to pay the cost of the books and uniforms. The Zambian government has pledged to make primary education free, but its education budget can still only provide around ZK 32,000 (US$ 6.50) per child per month, so most schools still charge additional parent-teacher association fees to cover the cost of books, teaching materials and school maintenance. Keeping up with these payments is simply beyond the means of some parents. Only 53% of Zambian school children complete their primary education, one-fifth fewer than a decade ago.

Every day, though, Caroline pays her business taxes. Indeed, she has no choice: each evening a council official comes around to collect a market levy of ZK 1,000 (US$ 0.20), whether Caroline has made any money that day or not.

Now, meet Zambia Sugar Plc, a subsidiary of UK food giant Associated British Foods and part of its Illovo group of companies – Africa's largest sugar producer. Its factory just outside Mazabuka is the biggest sugar mill in Africa. Zambia Sugar makes nine-tenths of all the sugar produced in Zambia, both for the country's growing consumer market and for export to the UK and elsewhere in Europe. Over the past five years the company has had record annual revenues of over ZK 1 trillion (US$ 200 million), and healthy profits of over ZK 83 billion (US$ 18 million) a year.

Who pays more tax: Zambia Sugar, or Caroline Muchanga who sells the company's product? The answer is surprising. From 2008 to 2010, Caroline paid more income tax in absolute terms than the company whose US$ 200 million revenues have benefited from her sales. In these three years, while Caroline has duly paid tax on her income, Zambia Sugar has managed to pay no corporate income tax at all on theirs. In the fiscal years 2010/11 and 2011/12 the company did pay some income tax, but even then at a rate of just 0.5% of its income: 90 times less than Caroline, relative to her income.

Financing for development, as agreed in the Monterrey Consensus, covers many different flows: domestic financial resources, international resources such as development assistance, innovative sources of financing, foreign direct investment and other private flows, external debt, etc. For developing and developed countries alike, domestic resources, such as taxation, are by far the largest source of revenue for financing economic and social development, including public services.[17] Furthermore, public sources of financing in general (including official development assistance (ODA), government borrowing and tax revenues) tend to be more predictable and stable. Most importantly, however, public resources have the potential to be more "pro-poor" by targeting the poorest and most vulnerable in society in a way that private flows cannot,[18] and taxation has proved to be crucial for reaching the Millennium Development Goals: for example, a higher tax-to-GDP ratio allows for the provision of free primary education.[19] In addition, the mobilisation of domestic resources also represents a step forward in implementing the country ownership principle.

WHO PAYS MORE TAX: ZAMBIA SUGAR, OR CAROLINE MUCHANGA WHO SELLS THE COMPANY'S PRODUCT?
THE ANSWER IS SURPRISING. FROM 2008 TO 2010, CAROLINE PAID MORE INCOME TAX IN ABSOLUTE TERMS THAN THE COMPANY WHOSE US$ 200 MILLION REVENUES HAVE BENEFITED FROM HER SALES.

16 This case is an example taken directly from the ActionAid (2013) report: *Sweet Nothings. The human cost of a British sugar giant avoiding taxes in southern Africa*, p. 5

17 Moreover, domestic resources have been growing as a share of GDP over the last decade. CONCORD's AidWatch publication (2013): *Global financial flows, aid and development*

18 See note 17

19 EADI (2011): *Linking Taxation to the Realisation of the Millennium Development Goals in Africa*

Yet taxation is not a shortcut to development. Success depends on political leaders making a long-term commitment to expanding the tax base and developing transparent fiscal systems that ensure progressive collection and redistribution and a focus on gender-responsive policies – even if this means challenging powerful political interests.[20] Indeed political leaders should do this anyway, not least because, if it is not devoting the "maximum of its available resources" to upholding the economic, social and cultural rights of its citizens, a country is violating these rights.[21]

In mobilising enough resources to finance their development, however, developing counties often face a number of barriers, largely because of tax dodging by transnational companies that take advantage of inadequate international regulation. Effective levels of taxation in relation to GDP are far lower in developing countries than in the developed world (18% average in sub-Saharan Africa, compared to around 38% in Europe).[22] To make matters worse, between US$ 859 billion and US$ 1,138 billion[23] escaped developing countries as illicit financial flows in 2010 alone. Approximately half this money (US$ 429.5 to US$ 569 billion) represents profit-shifting by transnationals, resulting in a loss to developing countries of at least US$ 100 billion a year in tax revenue.[24] Recent research also shows that just under one in every two dollars of large corporate investment in developing countries is now being routed from or through a tax haven.[25]

If these illicit financial flows were taxed, instead of escaping developing countries, they would generate at least as many resources for a country as the aid it receives. This resource loss leaves countries unable to finance universal access to essential social rights for their citizens – rights such as a basic education, as in Caroline's case, but also social protection and health care.

In addition to domestic resources, a developing country has a range of different types of external financial resources potentially available for development. These include (but are not limited to): foreign direct investment (FDI), remittances (see focus box 1), ODA and government borrowing.

Worryingly, the above diagram shows that the size of the illicit outflows of resources from developing countries – caused for at least half of them by companies' tax dodging – is about the same as that of all the external inflows combined.

A number of EU policies have a positive or negative impact on the financial flows to and from developing countries. In fact, the EU has a direct or indirect influence over policies that allow tax havens and tax dodging by companies and cause billions of euros in revenue to be lost to developing countries. While on the one hand EU aid plays a crucial role in supporting developing countries,[27] directly affecting the lives of the poorest and most marginalised people, at the same time there are a number of other EU policies, not related to development, that actually facilitate this illicit financial flight. The result of this incoherence between development objectives and certain EU policies is that developing countries are unable to raise sufficient domestic resources to finance their development.

This chapter looks into EU fiscal policies that are currently not coherent with EU development objectives because they allow massive illicit financial flows to escape developing countries and to remain hidden in tax havens, thereby undermining developing countries' capacity to mobilise domestic tax revenues. The focus on the outflows of developing countries is chosen because in the coming years the EU will have clear opportunities to change policies that are currently having a harmful effect in this area.

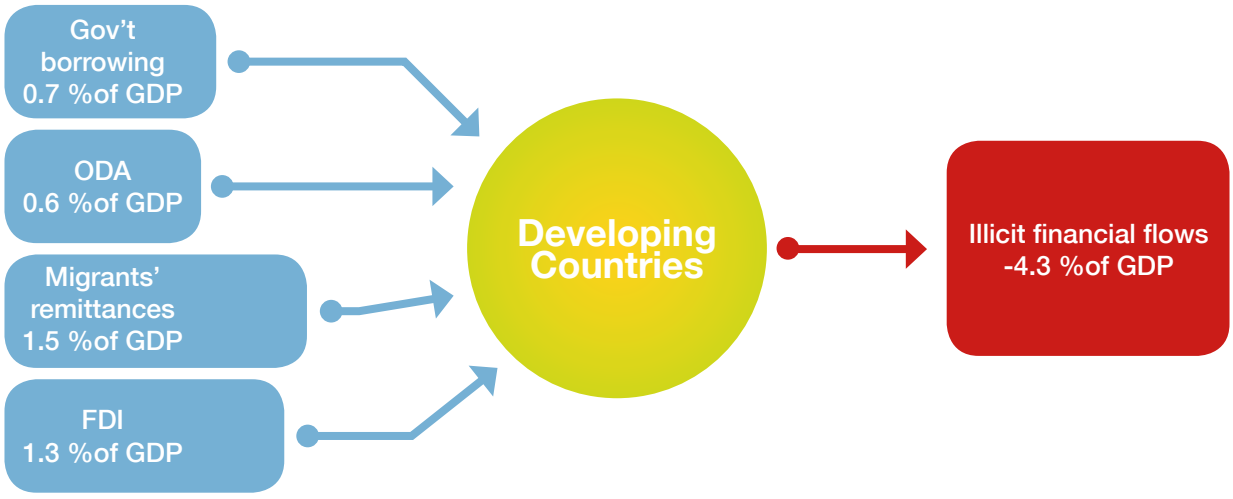
20 European Report on Development (2013), pp. 114-115

21 Tax Justice Network Germany (2013): Taxes and human rights – Social Watch

22 Oxfam (2011): *Owning Development: Taxation to fight poverty*

23 Global Financial Integrity (2012): *Illicit Financial Flows from Developing Countries 2000-2010*

Illustration of key external resource inflows and outflows of developing countries, compared by size [26]



How the EU can make its policies coherent for people's development

1. Implementation of the May 2013 European Council Conclusions on taxation

Tax is the price every citizen and company must pay for the public services and goods we all need, be they roads, justice, health or education. More often than not, it is those best placed to contribute in this way – the wealthiest – who fail to do so, by using "offshore" bank accounts, by making deliberate attempts to manipulate the rules, or simply as a result of under-resourced tax administrations. Tax havens and harmful tax practices are detrimental to both developed and developing countries, as they not only deprive them of much-needed revenue, but they also undermine good governance, institutional development and democratic accountability between governments and citizens.

Up to now the EU has adopted only a few measures to combat tax evasion and tackle tax havens – measures that unfortunately do not benefit developing countries in any way. It has thus clearly allowed major inconsistencies to exist between its fiscal policies and its development objectives. Recently, however, EU has made a promising move. In 2013 several EU leaders made strong public statements calling for vigorous action to fight tax evasion and tax avoidance – as also called for by former UN Secretary General Kofi Annan (see quote box). At the European Summit in May 2013, Heads of State and Government called for "effective steps to fight tax evasion and tax fraud"[28] and, in particular, the implementation of the European Commission's Action Plan and its two recommendations, published in December 2012.[29] Now, therefore, is the time for the EU to be serious about fighting tax dodging and fulfilling its PCD obligations. In properly implementing the measures necessary for clamping down on tax havens and tax evasion, the EU institutions must incorporate developing countries' needs into their new fiscal policies to a much greater extent than they have done with current policies.

24 Raymond Baker (2005): *Capitalism's Achilles Heel*; Global Financial Integrity (2010): *The Implied Tax Revenue Loss from Trade* and Christian Aid (2008): *Death and Taxes: The True Toll of Tax Dodging*

25 ActionAid (2013): *How Tax Havens Plunder the Poor*

26 Numbers taken from CONCORD's AidWatch publication (2013): *Global financial flows, aid and development*

27 CONCORD's AidWatch Report 2013. Available at www.concordeurope.org after launch in October 2013

28 Council Conclusions on Taxation, 22 May 2013

29 European Action Plan and recommendations Commission Communication on strengthen the fight against tax fraud and tax evasion COM(2012) 722 final, COM(2012) 8805 final and COM(2012) 8806 final, 06.12.2012

Focus 1: Migrants' remittances and poverty reduction

Remittances have become an increasingly interesting subject of study and debate. To a large degree, this can be attributed to their substantial growth over recent decades: according to World Bank data, since 1988 there has been a 20-fold increase in remittances to developing countries, which reached approximately US$ 401 billion in 2012.[30] The World Bank estimates that by 2015 this number will have grown to about US$ 515 billion.[31] This gives remittances a prominent place in the overall external resource inflows to developing countries, as they come second only to foreign direct investment, and represent approximately three times the size of ODA. At the same time, compared to some other external financial flows, remittances are more stable, predictable and counter-cyclical, thereby safeguarding against economic shocks.[32]

There are two main reasons why migrants send remittances: family ties, to provide support for relatives, and self-interest, when they invest in their home country. Most studies[33] come out in favour of altruism-based remittances, which directly increase the income of recipient households, smoothing consumption and thus offsetting poor economic performance. A World Bank study[34] shows that a 10 per cent increase in per capita international remittances leads to an average 3.5 per cent fall in the number of those living in poverty.

Despite empirical evidence indicating that remittances can reduce poverty, it is not clear how this translates into reality. Until clear conclusions are drawn, either confirming or refuting positive causality, CONCORD recommends keeping in mind the following points[35]: first, that remittances are largely private transactions from migrants to their friends and families, and are not a substitute for foreign direct investment or ODA. Secondly, because of the many different – and often poorly understood – aspects of remittances, it is important to create a favourable environment in which they can work for the poor. This means that countries of origin and destination need to accept that migration is a win-win situation, and that they should strengthen the nexus between migration and development.

30 World Bank (2013): Migration and Development Brief

31 See note 28

32 United Nations Development Programme (2011): *Towards Human Resilience: Sustaining MDG Progress in an Age of Economic Uncertainty*

33 M.N.V. Seriona and D. Kim (2011): *How do International Remittances Affect Poverty in Developing Countries? A Quantile Regression Analysis (Journal of Economic Development*, Vol. 36, No. 4), p. 25

34 R. Adams and J. Page (2003): *Poverty, Inequality and Growth in Selected Middle East and North Africa Countries, 1980-2000* (World Development, 31(12), pp. 2027-2048

35 CONCORD (2009): *Spotlight on Policy Coherence for Development*, pp.22-23

CONCORD therefore makes the following recommendations:

The EU should support a global regime of multilateral automatic information exchange

The European Council's decision to make the automatic exchange of tax information the new European and international standard shows the EU's willingness to play a leading role in the OECD, G8 and G20 discussions on this matter. However, to be consistent with its development policy on good governance in tax matters, the EU should extend this system beyond Europe, to the developing world. This is the only way to promote lasting change, because it is the poorest who suffer most from tax evasion, and it is their governments who need this information in order to fight for the money and resources that are rightfully theirs.

The EU should support a multilateral regime for the automatic exchange of tax information that sets the highest standard, and that allows developing countries – such as Zambia, in the case of Caroline – to be included and to access the fiscal information they desperately need. This should go hand in hand with assistance to strengthen developing countries' tax authorities and enable them to implement this regime efficiently, while, in the meantime, developing countries should be permitted to access the information stream without a requirement for full immediate reciprocation. Importantly, tax havens need to sign up to this multilateral system, and the EU should decide on counter measures for responding to any jurisdictions that do not join.

The EU should make it mandatory for transnational companies in all sectors to adopt country-by-country reporting based on the model already adopted for the EU's banking industry

Building on the progress made with the Accounting Directive (for the forestry and extractive sectors) and the Capital Requirements Directive (for the banking sector),[36] the EU should extend country-by-country reporting, and make it mandatory for all large companies operating within the EU in all sectors, by including it in all relevant Directives, e.g. the Non-Financial Reporting Directive (see climate change and natural resources chapter).

This will require companies to give a full picture of their actual economic performance, including figures for all of their subsidiaries, for every country in which they trade. This full global picture of a company's cross-border operations would allow revenue authorities in both developed and developing countries to detect suspicious transactions, and would help them collect more revenue to finance their public services, such as health and education, for the benefit of poor people like Caroline in Zambia.

Country-by-country reporting based on the model already adopted for the EU banking sector should require a company to disclose, publicly, specific data for every country, in each of the following areas:

- global overview of the group: a list of every country in which the company operates, and the names of all its subsidiary companies operating in each of these countries;

- financial performance in every country in which the company works, publishing key information such as turnover (incomes or sales), profits (difference between turnover and costs), number of employees, and labour costs;

- assets: all the property the company owns in each country, its value, and what it costs to maintain it;

- tax information: for each particular tax, full details of the amounts owed and those actually paid.

This information would allow governments to make a company responsible for paying a fair share of its profits, and for civil society to make governments responsible for spending the gains on the most impoverished citizens in their country.

The EU should introduce a binding definition of tax havens, and impose effective sanctions for non-compliance

An essential step, in order to help clamp down on the global system of tax havens, is to agree on common EU criteria for identifying tax havens, as proposed by the Commission.[37] These criteria must be binding and comprehensive, combining – at a minimum – secrecy features of banks and legal entities, non-cooperation and harmful tax measures such as:

- fiscal advantages granted only to non-resident individuals or legal entities, without requiring substantial economic activity to be carried out in the country or dependency;

- a significantly lower effective level of taxation, including zero taxation for natural or legal persons;

- laws or administrative practices that prevent the automatic exchange of information with other governments for tax purposes;

- legislative, legal or administrative provisions that allow the non-disclosure of the corporate structure of legal entities (including trusts, charities, foundations, etc.) or their ownership of assets or rights.

To be effective, EU leaders should publish a European blacklist of any non-cooperative jurisdictions based on the objective use of these criteria, thereby ensuring greater coordination of sanctions. Non-cooperative jurisdictions should face automatic countermeasures applied by all EU Member States. Sanctions should also apply to companies that do not comply with EU tax standards. They

36 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, and Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms

37 See note 35

would include being banned from accessing aid or public procurement, as called for by the European Economic and Social Committee.[38] This would be an important step towards ending tax havens, making it much harder for companies to avoid paying taxes in developing countries like Zambia.

In conclusion, CONCORD recommends that the EU should:

- support a global regime of multilateral automatic information exchange
- make country-by-country reporting – based on the model already adopted for the EU banking industry – mandatory for transnational companies in all sectors
- introduce a binding definition of tax havens, and impose effective sanctions for non-compliance

The EU urgently needs to come up with a way to take these measures forward, in order to meet its obligations on policy coherence for development and to clamp down effectively on tax evasion and tax havens, for the benefit of the people living in both developed and developing countries.[39]

Focus 2: Financing the Post-2015 International Development Framework: Financing the Change, Changing the Finance

The coming year will be crucial for international negotiations to match shared global ambitions with binding commitments on financing for development. Discussions will create a new global sustainable development framework including post-2015 development goals, the post-Rio sustainability goals, and climate change financing.

The transformative changes needed for a just, equitable and sustainable world with universal enjoyment of human rights require reliable and effective sources of financing. Given the necessarily more comprehensive nature of a future framework – in terms of thematic and geographical scope, the structural changes involved, the multiplicity of actors and its non-discriminatory nature[40] – financing it will be complex, requiring a combination of complementary mechanisms and resources.

The EU is a key actor in financing for development. It is home to many transnationals with a globally significant financial sector. It is the biggest provider of ODA in the world, and a major exporter and importer from the global south. On July 16, the Commission released a Communication on post-2015 financing[41], but recognizes that this "does not propose new actions or commitments for the EU". However, the EU's credibility and reliability as a global actor will be determined by what it will bring to the table and the specific new commitments it is willing to make and deliver. The European Commissioner for Development, Andris Piebalgs, is a member of the international High-Level Panel on the Post-2015 Development Agenda, which further raises the importance of the EU's ambitions in this area.

CONCORD, Eurodad et al. strongly encourage the EU to base its financing for development approach on the following four principles:
- Take action in the EU – put our own house in order, in particular by introducing measures that increase domestic revenues by clamping down on tax havens and tax evasion globally, and that comply with the EU's treaty obligation on PCD.
- Stop undermining the policy space partner countries need to lead their own development.
- Increase and improve external public financing.
- Help prevent future finance and debt crises.

The Council Conclusions on the Commission's Communication on post-2015 financing are expected to be adopted at the Foreign Affair Council on 16 December 2013. CONCORD, Eurodad et al. have drawn up a list of twelve specific EU actions that – if adopted as part of these Council Conclusions - would make concrete, vital, and realistic changes[42]. These twelve actions serve as an initial test of the EU's ambition and credibility in the global negotiations on financing for development, and urge the EU to go beyond restating old commitments and adopt the proactive, positive and powerful measures.

38 EESC (2013): Civil society urges the Council to end tax evasion, 22 May 2013

39 For more on specific recommendations, see Concord Denmark (2013): *What the EU should do to make taxes work for the poor*

40 CONCORD - Beyond 2015 European Task Force position on a post-2015 framework (2013): *Putting people and planet first*

41 European Commission Communication on Beyond 2015: towards a comprehensive and integrated approach to financing poverty eradication and sustainable development, COM(2013) 531 final, 16.07.2013

42 CONCORD, Eurodad et al. (2013): Financing for development negotiations – what should the EU bring to the table? European civil society scorecard for EU action. Available at www.concordeurope.org

2. The EU Anti-Money Laundering Directive

Another important element for the EU in the global fight against tax evasion and tax havens is to know who the real owners of a company are. In this area too, EU policies can have a direct impact on developing countries' ability to curb illicit financial flows.

The objective of money laundering is to "clean" money that is illegal because of its origin (such as drugs), its use (such as terrorism financing), or its transfer (such as tax evasion, which is when money is transferred to avoid paying taxes to public authorities).

Internationally agreed rules to prevent money laundering already exist, drafted by the Financial Action Task Force (FATF), an inter-governmental body. Based on the new FATF recommendations published in February 2012,[43] the EU is now preparing its fourth Anti-Money Laundering (AML) Directive. This process presents the EU with a good opportunity to play a central role in the global fight against tax evasion and provide greater coherence between its development objectives and its financial policies, which at present do not sufficiently hinder European banks or other financial institutions from receiving dirty money from anonymous companies and wealthy individuals, who often shift money from developing countries to avoid paying taxes there.

CONCORD therefore makes the following recommendations:

The EU should ensure greater transparency of "beneficial owners" through centralised public registries
The current EU Directive contains loopholes that allow criminals to hide behind anonymously owned corporate structures. According to AML rules, banks and other financial intermediaries (like lawyers and other professionals) are obliged to carry out checks to find out who their customers are. But the fact that banks do not have to really investigate who the real human owners of companies and other corporate vehicles are makes it easy for illegal money to be moved around the global banking system, and out of the reach of tax collectors. Companies, trusts and foundations can hide the real person – or "beneficial owner" – behind a bank account, and in that way they can facilitate the laundering of the proceeds of crimes such as tax evasion, corruption, drugs, and human trafficking. Tax evaders and avoiders use many of the same mechanisms as international criminals – so, shining a light on these anonymous structures would make tax dodging far more difficult.

Under the current EU Directive, every bank is supposed to identify the beneficial owner of each company for itself, regardless of whether another bank has already done so. For carrying out due diligence on each company, therefore, creating centralised, publicly accessible registries is a more efficient and less costly solution, and one that will prevent the excuse that the beneficial owner cannot be found.

- Having such registries will enable tax authorities to access information on beneficial ownership very quickly, and without companies knowing when they are being checked. The current Directive gives companies carrying out an illegal activity plenty of time to move their dodgy business elsewhere, before responding to the authorities' investigation with (now) nothing to declare.

- Making sure that these registries can be publicly consulted by a wide range of actors will make it possible to spot inaccurate information – and more difficult for criminals to lie about their beneficial ownership. It will also dramatically increase the deterrent effect, ensuring a far higher rate of compliance. Increased transparency and public debate can give EU Member States the public support they need to clamp down on tax fraud.

The EU should make tax crime a serious offence connected to money laundering
Money laundering is by its very nature a secondary crime. It is the process of concealing and using the proceeds of a "predicate offence", i.e., a serious primary crime such as drug smuggling or corruption. FATF provides guidance on how to tackle the most serious crimes by suggesting a list of specific offences that should automatically be regarded as predicate offences.

The current EU Directive contains both a list of five specific crimes that are always predicate offences (drug smuggling, corruption, terrorism financing, organised crime and fraud affecting the Union's financial interests), and a more general catch-all threshold for serious crimes. For the first time, the international anti-money-laundering standards from FATF explicitly recommend that tax crimes be specifically listed as a predicate offence.

43 FATF (2012): International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - the FATF Recommendations

It is vitally important for the EU to comply fully with this new standard and to list tax crime as a predicate offence for money laundering.

- This will send out a strong political signal, showing that tax evasion is a crime as serious as other international offences like drug trafficking, corruption or the financing of terrorism. While corruption and drug trafficking have international conventions to provide comprehensive measures against them and a framework for international cooperation, this is not (yet) the case for tax evasion.

- Clearly listing tax crimes among the list of predicate offences in the future EU Directive will boost the fight against tax havens, which do not usually regard tax evasion as a predicate offence.

- Making tax crime a predicate offence for money laundering will mean that all financial professionals (such as banks, accountants, etc.) will have to consider and report on a greater range of risk factors in their due diligence, such as transactions with tax havens. Improved due diligence will make it harder for tax evaders, whether from another Member State or a developing country like Zambia, to get their money into the EU's banking system. To avoid falling foul of the rules, professionals will be much more likely to report those they suspect of tax evasion, while planners will also be deterred from dreaming up illegal tax evasion schemes.

In conclusion, CONCORD recommends that, in the fourth Anti-Money-Laundering Directive, the EU should:

• ensure greater transparency of "beneficial owners" through centralised public registries

• make tax crime a serious offence connected to money laundering

In order to stop illicit financial flows from depriving Caroline Muchanga, her family in Zambia and other poor people of their basic social rights, the EU should be aware that several of its policies are having a negative impact on developing countries' ability to finance their own development – and should act accordingly. Financing for development is not just a matter of aid: it also involves policy coherence for development. By changing policies and – by clamping down on tax dodging and tax havens – taking steps that make it harder for illicit financial flows to escape developing countries, the EU would be supporting the mobilisation of financing for development that has a positive impact on the poorest of the poor. Never before has the EU had such great momentum behind it for doing so.

Quote: Kofi Annan, former Secretary-General of the United Nations and Chair of the Africa Progress Panel

"Tax avoidance and evasion are global issues that affect us all. The impact for G8 governments is a loss of revenue. But in Africa, it has a direct impact on the lives of mothers and children... It is unconscionable that some companies are using unethical tax avoidance, transfer pricing and anonymous company ownership to maximize their profits, while millions of Africans go without adequate nutrition, health and education. Africa loses twice as much money through these loopholes as it gets from donors.

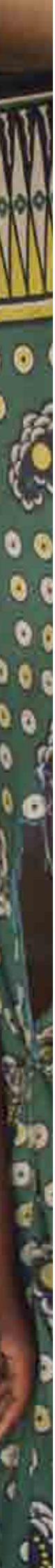
African governments must rise to the challenges posed by fiscal policy, tax reform and the development of industrial policies. They must manage their countries' oil, gas and mining resources efficiently and share revenues fairly... The international community must also shoulder responsibility. When foreign investors make extensive use of offshore companies, shell companies and tax havens, they weaken disclosure standards and undermine the efforts of reformers in Africa to promote transparency. Such practices also facilitate tax evasion and, in some countries, corruption, draining Africa of revenues that should be deployed against poverty and vulnerability.

Throughout the world, millions of citizens now need their leaders to step up to the mark and lead. Fortunately, momentum for change appears to be accelerating."[44]

44 Africa Progress Panel (2013): Africa Progress report 2013: Equity in Extractives. Stewarding Africa's natural resources for all, pp. 6-7

chapter 3

Halima Ali, with son Hamsa Shabani, 6, and Mariam Shabani, 13, at home in Mhaga village, Tanzania. Biofuel land grab in Tanzania., Tom Pietrasik/ActionAid



How the EU can ensure that Halima Ally from Tanzania, and others like her, benefit from EU investment in agriculture

3.0

How the EU is impacting people's lives

Halima Ally, the mother of three children, lives in Kisarawe District, Tanzania.[45] She and her community have been affected by a European (UK) company that sought to produce biofuels for export to Europe.

In 2006, Sun Biofuels arrived in Halima's area and acquired land with an area the size of 11,000 football pitches, to set up a jatropha plantation. Land was grabbed with little or no compensation, promises of investment in social services such as schools, clinics and wells were not kept, and people lost access to wells and to the graves of their ancestors. Residents of the eleven villages surrounding the plantation in Kisarawe are angry at how they have been treated. "All the promises are fake, the promises are air" is how Halima Ally sums it up.

The plantation came about in response to the EU's biofuels policy – a policy that promises a secure market for biofuels and is driving many private companies like Sun Biofuels to look for land and invest in plantations. The EU renewable energy policy, with its incentives and supporting measures, is encouraging investment in biofuel production at the expense of the rights and food security of poor communities. The same policy is driving investment in biofuels production to unsustainable levels, without safeguarding the rights of the people affected in developing countries. Unfortunately, many of these private investors have little regard, if any, for the impact on local communities.

In August 2011 Sun Biofuels went into administration and was taken over by a new owner. The plantation was shut down and most of the workers were fired, which meant that even the promise of jobs was lost. Today the plantation is still shut, but its impacts have already been felt. In 2013, after four years of community mobilisation, some of the local people's demands have still not been met (better wages, the social amenities promised by the company). There has been major progress on one of their key demands, however: compensation. In 2012 the government officially recognised the challenges that the eleven communities are facing. It ordered the investor to compensate them for communal land that was lost, and the investor has accepted the need to do this. With these successful moves, the communities are now in a much stronger position.

Sun Biofuels is just one example of a trend in land investment that has devastating impacts on the poorest and most marginalised communities, especially in terms of their food and nutrition security and their exercise of their right to food.

Despite some progress, and the fact that there is enough food for everyone, one of the biggest challenges that is crippling the economic and social potential of almost a billion people is food and nutrition insecurity. Every night, 870 million people go to bed hungry. In addition, malnutrition causes the death of 3.1 million children every year, accounting for 45% of all deaths among children under the age of five, while stunting causes permanent damage to the future potential of 165 million more children.[46]

Huge tracts of land are diverted from food to energy production; 30 to 50% of food is wasted globally while governments still fail to live up their commitment to agriculture.

Despite this, much of the current debate on food and nutrition security generated by the FAO, the EU and others focuses on the supply side. The argument runs that, to feed over nine billion people – the world's projected population by 2050[47] – productivity has to increase. But would we have to increase it so much if we were challenging and changing our current unsustainable production and consumption patterns, and the resulting policies that create more demand for food products, such as the EU biofuels policy?

A PERSISTENT TREND IN NEW INVESTMENT, INVOLVING EU PUBLIC MONEY, AIMS TO SUPPORT AGRIBUSINESS AT THE EXPENSE OF SMALLHOLDERS.

45 http://www.actionaid.org.uk/stop-biofuels-causing-hunger/video-stories-the-biofuels-land-grab

46 FAO (2012): *The State of Food Insecurity in the World 2012*; Lancet Series on maternal and child nutrition, 6 June 2013

47 UN/FAO estimates

In this debate, special attention must be paid to the situation of – and the role played by – the half a billion smallholder farmers who cultivate 400 million farms of less than two hectares, and manage more than 80 per cent of farmland (and similar proportions of other natural resources) in Asia and Africa.[48] The majority of smallholders are women, who face particular challenges, including access to credit and extension services. It is estimated that if women had equal access to productive resources, yields on farms could increase by 20 to 30 per cent in low-income countries.[49]

Smallholders are recognised, including by the EU, as the single most efficient channel for increasing the availability of food while preserving the environment in developing countries.[50] They represent the largest group of investors in the agriculture sector, and the FAO estimates that on-farm investment by farmers themselves dwarfs foreign direct investment and official development assistance, and also significantly exceeds investment by governments.[51] Yet smallholders remain neglected by current public and investment policies.

Meanwhile, the food sector is increasingly dominated by large corporations, with five companies controlling 90% of the world's grain trade and three controlling 85% of the tea market,[52] thanks notably to favourable government policies and benefits. Increased investment by big agri-food companies is depicted by some as the solution to the problem of hunger, with a hidden move to delegate to the private sector what governments are failing to do owing to a lack of political will.

Agricultural investment in small-scale farming has the potential either to exacerbate the above situation or to create a favourable environment in which smallholder farmers can play a more central and effective part in food and nutrition security.

Agricultural investment is high on the agenda of several international fora and processes in which the EU or groups of Member States are involved, including the G8 and the Committee on World Food Security (see focus box 1), with a special focus on biofuels, smallholder investment and the process of defining principles for responsible agricultural investment (rai). This presents an opportunity to make policies that impact on agricultural investment more coherent with food security and fighting hunger.

The EU's recent political prioritisation of food and nutrition security, as one of its international development objectives, is encouraging, and welcome. A positive aspect is that one of the four priorities of the EU's 2010 Food Security Policy Framework[53] (FSPF) is to improve smallholders' resilience and their livelihoods as a means of improving food security in developing countries. In the implementation plan adopted by the Council in May 2013 to translate the policy commitments into concrete actions, the EU has detailed the initiatives that will comply with the FSPF commitments. CONCORD has welcomed this. Moreover, the EU Communication on nutrition[54] adopted in March 2013 contains strong commitments both to ensuring coherence between EU policies that have an impact on food and nutrition security (by tackling nutrition through a multi-sectoral approach), and to supporting smallholder agriculture.

During the 2012 Hunger Summit in London, Commissioner Piebalgs announced the commitment to support partner countries in reducing in the number of stunted children under five by at least seven million by 2025.[55] A year later, at the Nutrition for Growth meeting in London in June 2013, the Commission's pledge of €3.5 billion holds the immense promise of greater EU action in the fight against hunger and stunting.[56]
In contrast, many EU policies, commitments and agreements relating to investment in agriculture are not consistent with the declared food and nutrition security objectives. Their impacts undermine the development potential of many communities in developing countries, and have negative impacts on rights and food security as they promote investments that fail to protect these.

The EU has become the biggest exporter and importer of agricultural goods. Looking at where the EU is currently investing, it emerges that it is now using a total of approximately 36 million hectares of land in developing countries, including 20 million hectares for its own intensive livestock production,[57] with the acreage of transnational land acquisitions having risen from 15-20m hectares in 2009 to more than 70m in 2012.[58]

In CONCORD's view, a coherent model of agricultural investment should be about:

- healthy, nutritious and affordable food for all

- access to and control over productive resources such as land, water, seeds and traditional knowledge by local smallholder farmers/producers

- benefits for local producers, and sustainable livelihoods

- a sustainable model of production and consumption

Such benefits will be achieved by implementing PCD consistently in key policy sectors, and notably by reforming the current biofuel policies, agreeing supportive, fair, trading instruments and following demand-led research agendas.

48 FAO (2011): *Save and Grow, A policymaker's guide to the sustainable intensification of smallholder crop production*; IFAD (2011): *Rural poverty Report 2011*

49 FAO (2011): *The State of Food Insecurity in the World 2011*

50 European Commission Communication on an EU policy framework to assist developing countries in addressing food security challenges, COM(2010)127 final, 31.03.2010; IAASTD (2009): *Agriculture at a Crossroads*. Global Report

51 See note 46

52 Irish President Michael D. Higgins in its Official Opening Remarks at the Hunger-Nutrition-Climate Justice Conference, Dublin Castle, 15 April 2013 (http://www.president.ie/speeches/official-opening-remarks-by-president-michael-d-higgins-at-hunger-nutrition-climate-justice-conference-dublin-castle-15-april-2013/)

53 European Commission Communication on an EU policy framework to assist developing countries in addressing food security challenges, COM(2010)127 final, 31.03.2010

Focus 1: Debate on responsible agricultural investment at the Committee on World Food Security

In June 2012 the Committee on World Food Security (CFS) began to develop principles for responsible agricultural investment (rai). A central part of this process is a multistakeholder consultation phase in 2013, during which civil society can gather statements, demands and proposals on agricultural investment. The principles drafted are to be discussed in regional multistakeholder consultations throughout 2013, and then negotiated at global level in 2014 in a process that will culminate with their endorsement by the CFS in its 41st session (CFS 41).

The CFS principles should guide all actors to promote investment in agriculture that contributes to food security and nutrition, and to support the gradual exercise of the right to adequate food in the context of national food security. Social movements, unions and CSOs, involved in the Civil Society Mechanism (CSM) of the CFS, aim to secure strong outcomes from the negotiating process. They want strong rai principles to become an international framework in which to push for policies to stop the various forms of land- and resource-grabbing, and to refocus national policies in support of small-scale food producers and providers.[59] These principles could also help to limit the scope of undemocratic agribusiness and corporate food industry initiatives, such as the G8 New Alliance. Weak rai principles, on the other hand, would result in the creation of a tool to support large-scale investment, false solutions to the food crisis designed by the agri-food industry, and the legitimisation of public policies and policy reforms that facilitate market concentration and resource-grabbing by large corporations.

CSOs have already clearly expressed their concern that the CFS principles developed may be aimed at mitigating the negative effects of private investment in agriculture: instead, they should promote responsible investment that focuses not just on economic returns but on contributing to food security, in particular by supporting and strengthening smallholders. UN Rapporteur on the Right to Food, Olivier De Schutter, emphasizes also the need to address adequately the gender-related aspects of rai (see interview).

54 European Commission Communication on enhancing maternal and child nutrition in external assistance, COM(2013) 141 final, 12.03.2013

55 http://europa.eu/rapid/press-release_SPEECH-12-575_en.htm

56 http://europa.eu/rapid/press-release_IP-13-516_en.htm

57 Harald Witzke and Steffen Noleppa (2010): *EU agricultural production and trade: Can more production efficiency prevent increasing 'land-grabbing' outside of Europe?*, Humboldt University Berlin, p. 14

58 UN (2012): *World Water Development Report 4, Volume 1: Managing Water under Uncertainty and Risk*

59 See more on the consultation process and CSM contributions on http://www.csm4cfs.org/policy_issues-6/agricultural_investment-7/

How the EU can make its policies coherent for people's development

1. EU biofuels policy

It has been increasingly evident to CONCORD and its members that the EU's biofuels policy is a serious driver of land grabs and food-price volatility, leading to further food insecurity in developing countries.[60]

In 2009 the EU adopted the Renewable Energy Directive, setting a 10% target for renewable energy use in transport by 2020, accompanied by financial subsidies to support biofuel consumption.[61] This was an attempt to move towards decarbonisation, where the transport sector poses a significant challenge for the EU. Even at the launch of the policy, however, scientists were already questioning the real contribution of conventional biofuels grown on land, often from food crops. It quickly became clear that Member States were planning to meet the 10% target almost entirely by using conventional biofuels (88% according to EU Member State plans). Moreover, given the competing uses for land, it was also clear that biofuels targets could not be met from within the EU. Altogether, this has created a huge incentive for European companies to invest and acquire huge tracts of land in countries where it can be cheaply and easily obtained – i.e., mostly, developing countries.

It is a simple economic fact that removing food from the food consumption market and diverting it into energy markets affects food prices. At a time of rising hunger, sourcing this much energy with a clear impact on food prices, for a sector with increasing demand, is not tenable. Land grabs and food-price volatility are two clear impacts of the EU biofuels policy that are undermining the food and nutrition security of the poorest and most marginalised people in the world, and restricting their potential to develop.[62]

Yet when the directive was being drafted, no real safeguards were put in place to prevent biofuels from having a negative impact on food security. Only a reporting requirement to assess the social impacts on developing countries was included.

60 See CONCORD Spotlight Reports on Policy Coherence for Development 2009 and 2011 (http://www.concordeurope.org/coherent-policies)

61 Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009 on the promotion of the use of energy from renewable sources

62 http://www.actionaid.org/eu/publications/fuel-thought-addressing-social-impacts-eu-biofuels-policies

> "BY PROMOTING LARGE-SCALE INDUSTRIAL FARMING MODELS THAT THREATEN THE RIGHT TO FOOD, EU BIOFUEL MANDATES CLEARLY CONTRADICT PCD AND THE EU FOOD SECURITY POLICY FRAMEWORK PLEDGE TO SUPPORT SMALLHOLDERS."
> OLIVIER DE SCHUTTER, UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

Encouragingly, in October 2012 the European Commission proposed to cap at 5% the use of biofuels from food crop sources that counts in reaching the EU Directive objectives.[63] Speaking on the decision, Commissioner for Climate Action Hedegaard said that "we must invest in biofuels that achieve real emission cuts and do not compete with food".[64] Beyond the 5% food-for-fuel cap, the EC has proposed phasing out financial support to first-generation crop-grown biofuels from 2020, thereby sending a clear signal to the market.

The cap is an attempt to halt the production of biofuels at existing levels. Serious questions remain, however, about whether that is an adequate measure, and also whether the cap as proposed can actually do this, without being strengthened significantly.
Remarkably, the United Nations Special Rapporteur on the Right to Food, Olivier De Schutter, has also raised serious concerns about the impacts of the EU's biofuel consumption on the right to food (see interview). He recommends, as does CONCORD, that the binding targets – which are in effect biofuels targets – should be reduced and eventually removed.[65]

Throughout 2013, the proposal will be debated by the Council of Ministers and the European Parliament.

Meanwhile, in March 2013 the European Commission also produced its first report on social impacts in third countries.[66] This report contains significant flaws, however,[67] and is far from meeting minimum standards for a methodological approach appropriate for assessing impacts on development. As it stands, the report constitutes a breach of the obligation to ensure PCD, as it does not even ensure a thorough assessment on which suggestions for appropriate corrective action could be based.[68]

Furthermore, a High-Level Panel of Experts commissioned by the CFS has released in June 2013 a report on biofuel and food security, providing a science-based comparative analysis of the positive and negative effects of biofuels on food security, with a view to guiding governments on how to review their biofuel policies[69]. The report confirms that biofuels have played a key role in food-price increases and in transforming land use in many developing countries. The only disputed points have to do with the degree to which biofuels production has contributed to rises in food prices and has been a driver of large-scale domestic and foreign investment in land. The CFS recommendations are expected in October 2013. These recommendations should follow up on the thus far ignored calls by several civil society organisations,[70] and ten international organisations – mandated in 2011 by the G20 to report on food-price volatility – for a global end to mandates and subsidies for biofuels.[71]

In order to ensure PCD and safeguard against further negative impacts of the EU biofuels policy in developing countries, CONCORD recommends:

- that the cap on biofuels use should cover all biofuels produced using land and from crops grown on land (edible or non-edible) competing with food

- that the cap should be reduced to the level of biofuel consumption in the EU before the EU law was introduced

- the introduction of a complete phase-out of policies supporting land-based biofuel production or consumption

- that the cap should be also reflected in the public financial subsidies system and in all relevant directives driving the consumption of biofuels (the Renewable Energy Directive and the Fuel Quality Directive)

- that the EC should produce a completely new report looking at the social impacts of the EU biofuels mandate in developing countries. This implies ensuring development expertise from the phase of preparing the report's terms of reference to the analysis of its findings, as well as carrying out country visits and consultations with affected communities in developing countries

- that the new EC report on social impacts should reflect the principle that biofuel production must not compromise food or nutrition security and therefore be managed so that food access and the resources necessary for the production of food – i.e., chiefly land, biodiversity, water and labour – are not put at risk.

63 Proposal for a Directive amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources, COM(2012) 595 final, 17.10.2012

64 http://ec.europa.eu/clima/news/articles/news_2012101701_en.htm

65 Olivier de Schutter (2013): Note on the impacts of the EU biofuels policy on the right to food, 23 April 2013

66 European Commission DG Development and Cooperation (2013): *Assessing the impact of biofuels production on developing countries from the point of view of Policy Coherence for Development*, February 2013

67 http://www.actionaid.org/eu/publications/research-report-land-rights-ec-report-biofuels-2013

68 http://www.actionaid.org/eu/publications/actionaid-expose-breach-policy-coherence-development-obligation-european-commission

69 High-Level Panel of Experts on Food Security and Nutrition (2013): *Biofuels and Food Security*, Report 5, June 2013

70 http://www.actionaid.org/sites/files/actionaid/2013.06.17_cs_open_letter_to_meps_signatories.pdf

71 http://www.fao.org/fileadmin/templates/est/Volatility/Interagency_Report_to_the_G20_on_Food_Price_Volatility.pdf

Interview: Olivier De Schutter, United Nations Special Rapporteur on the Right to Food

What do you think are the areas with the most severe potential clashes between the EU's food and nutrition security policies and other EU policies and practices?
The Common Agricultural Policy (CAP), as a major policy framework with a considerable budget, has some of the biggest impacts on developing countries. Despite the current reform process, the CAP remains at odds with the EU's stated development and food security goals, the requirements of the human right to food and PCD.

Specific measures that would help to ensure this coherence would be for the EU to commit to detailed monitoring of the impacts of EU farm exports and imports on developing countries, to consult developing world farmer organizations, and to conduct a proper assessment of the impacts on the right to food. These elements are notably absent from the latest CAP reform plans.

Meanwhile the EU biofuels policy, in its current form, also risks clashing with food security imperatives. The EU's agriculture and energy policies have huge impacts – positive and negative – on developing countries whose markets are interlinked with those of the EU. The EU public biofuel mandates can trigger or exacerbate commercial pressures on land in developing countries and increase price volatility. By promoting large-scale industrial farming models that threaten the right to food, EU biofuel mandates clearly contradict PCD and the EU Food Security Policy Framework pledge to support smallholders.

What is the most hopeful sign of policy coherence in EU policies since the adoption of this framework?
Conversely, it is on biofuels policy that the EU is showing some positive signs in terms of taking policy coherence into account. The European Commission's proposed five per cent cap is a step in the right direction, and is an encouraging sign that development impacts are sometimes being taken into account.

A more comprehensive, rights-based approach to development impacts is wholly necessary, for what is most problematic about EU biofuels incentives is the general signal they send: namely that speculation on farmland is bound to continue and that investments in energy crops are worth pursuing.

Within the process of consultation and negotiation on the principles for responsible agricultural investment (rai) in the CFS, what should EU governments call for?
States should ensure that the rai principles are adequately grounded in human rights so as to clearly set out the human rights obligations of both investor and recipient States, and the human rights responsibilities of non-State actors. Grounding the principles in human rights is an element of the CFS terms of references for the rai.

The principles should include a clear indication of the roles and responsibilities of the various actors concerned for each of the principles, and, where appropriate, references to relevant existing instruments.

The proposed principles would be weakened and less coherent if they failed to explicitly address, as the right to food requires, the need to identify and target marginalized and vulnerable groups, the need to ensure that investment has no discriminatory impacts, the need to put in place accountability and monitoring mechanisms, and the need to transition to sustainable and resilient agri-food systems.

States should also ensure that the proposed principles address the gender-related aspects of responsible agricultural investment, and the particular obstacles faced by women and girls. The importance of ensuring that investment benefits women is underlined in the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which guarantees the rights of women to equal treatment, in particular, in access to productive resources such as land and agrarian reform as well as in land resettlement schemes.

Given the gendered nature of the agrarian transition, and considering the large number of women who depend on agriculture, it is both vital and urgent to improve their opportunities to thrive as producers. We must design explicitly gender-sensitive agricultural policies.

How do you assess the participation of EU Member States and the European Commission in the G8 New Alliance for Food Security and Nutrition, and what do you think about the leading role envisaged for foreign direct investment by corporations?
There is a strong tendency to rely increasingly upon (large) private investments to strengthen agri-food chains in food-insecure countries, given that these States have scarce resources for national food security strategies, and that a large number of donors have slashed their development aid budgets since the 2008 financial crisis. The role of States is vital in order to ensure that investment is channelled towards the right goals, and contributes to the reduction of poverty. Investors can and should be incentivized to invest where needed, yet States must ensure that living wages are paid, that taxes are collected, that land users' rights are respected, that farmers receive a fair price for the food they produce, etc. This requires autonomy, and distance, from globalized agri-food companies. It is therefore crucial that the commitments made in the national cooperation frameworks signed by the various countries reflect national priorities, after a consultation with the relevant affected communities; that they are grounded in the normative framework of the right to food; and that civil society is consulted at all stages of the process, including implementation monitoring. It is also important to ensure full coherence between the CFS recommendations and the orientations developed within the New Alliance.

2. EU trade and investment policies

The EU can also influence its agricultural investment with impacts in developing countries through trade policies and agreements. The link between trade liberalisation and poverty reduction (trickle-down effect) is not automatic, and market opening can drive economic and human development growth only if and when the right conditions – specific to the unique context of the countries concerned – are in place.[72] EU trade policies, agreements and instruments have a differentiated impact on the food security and livelihoods of poor people and farmers in developing countries.[73] Current EU trade policies towards developing countries lack clearly defined development objectives, and are therefore liable to destroy local production and increase an unhealthy dependence on commodity exports.

The EU depends on cheap, stable imports of primary agricultural commodities for its high value-added processing industry. Through free trade agreements (FTAs), the EU aims to secure agricultural market access, and to affirm the roles of the EU as a standard setter and developing countries as standard takers. To achieve this, reduced technical barriers to trade and reduced export restrictions are pushed forward while investment chapters are included in FTAs in order to protect investors' rights. The EU's FTAs also provide for various export competition tools (e.g. export subsidies, export credits, export promotion and marketing services) that remain unregulated under the WTO. On the other hand, no public interest clause is included in these agreements. This leaves gross imbalances and flaws in the global agricultural trade regime at the expense of developing countries. The practice of agro-dumping thus continues unchallenged, ruining small-scale farmers faced with cut-throat competition and surges in the imports of cheap agricultural products.

Existing specific trade tools or rules that could potentially help to reconcile trade and development objectives are either not sufficiently applied (e.g. human rights clause, sustainability impact assessment, human rights impact assessment, monitoring and surveillance mechanism), or are limited in scope and flexibility (e.g. safeguards, standstill clause, community levy, asymmetry in market access, interpretation of WTO compatibility), or are designed to benefit the EU directly and unilaterally (e.g. prohibition of export taxes on raw materials and primary agricultural or forestry commodities, such as timber).

A particular concern is the EU's reluctance to make use of the human rights clauses in its trade agreements. The case of EU sugar imports under the Everything But Arms (EBA) trade preference given to Cambodia is an example. Despite ongoing widespread and serious human rights violations in this country, including land evictions, the Commission has declined to activate the human rights clause that allows and "triggers" a formal investigation into human rights abuses.[74]

Economic Partnership Agreements (EPAs) are free trade agreements that the EU negotiates with countries from Africa, the Caribbean and the Pacific (ACP). They are presented as development instruments – but this is clearly a case of power imbalances. For example, ACP countries entering into an EPA are completely unable to challenge the EU on its subsidies regime under the Common Agricultural Policy. They find themselves with increased liberalisation commitments, including the fixing of low tariffs on agricultural products, following their earlier commitments to a common external tariff in their own custom unions without recourse to a special safeguard mechanism. Export taxes are prohibited, which is a "behind the border measure" imposed by the EU and seen by the ACP countries as an intrusion into their domestic policies, limiting their space to incentivise economic diversification, to add value to (agricultural) raw materials and to create jobs in their country.

A list of contentious issues is still on the negotiating table.[75] The newly imposed EU deadline for signing the EPAs – now set for 1 October 2014, with the consent of the EP but against the advice of its Development Committee – puts African parties under pressure without indicating how the current deadlock could be resolved or how ill-defined liberalisation schedules could be reviewed to ensure that they foster development objectives. What is needed are detailed cost-benefit analyses of the liberalisation schedules (as done, for example, by Nigeria in 2009),[76] which should be replicated for all ECOWAS countries and should become the basis for broad-based consultations with domestic and regional stakeholders.

In terms of EU aid for food security, while some funding measures – such as the EU Thematic Programme on Food Security – focus on improving small-scale farming, other provisions, such as aid for trade and technical assistance, tend to support export-oriented agricultural development and often fail to empower poor producers, small business owners and women farmers to benefit from trading in local and regional markets.[77]

It is worrying to observe that a persistent trend in new investment, involving EU public money, aims to support agribusiness at the expense of smallholders. A proliferation of agricultural funds and public-private partnerships (PPPs) makes it difficult to track and monitor money flows in the agricultural sector. Increasingly, also, European Development Finance Institutions invest in agribusiness projects without any safeguards against the risk of land grabbing.[78] PPPs often fail to clarify conflicts of interest, and they become an entry point for strategic business interests, ending up substituting for local SMEs and micro-business rather than strengthening them.[79] In response, African farmers' movements and civil society organisations are calling for trust and investment in poor people first.[80]

A telling example of PPPs is the Alliance for a Green Revolution – Africa (AGRA), which is primarily funded by the Gates and Rockefeller Foundations and the UK Department for Foreign International Development (DFID), with contributions from – amongst others – the Danish International Development Agency (DANIDA) and the Swedish Foreign Ministry. AGRA is embedded in the G8's New Alliance on

Focus 2: Reform of the EU's Common Agricultural Policy: a missed opportunity

The agreement on the future EU Common Agricultural Policy (CAP) on 26 June 2013 has strongly disappointed CONCORD's members as it fails to deliver on policy coherence for development[82] also confirmed by Olivier De Schutter (see interview). In fact, it even betrays the European Commission's original ambitions of greener European agriculture, and now leaves it to Member States to opt for more social and environmental measures when they design their national implementation plans.

Despite visible divisions between Members of the European Parliament (MEPs) on the future of agriculture, at the time of voting the reform ended up being mainly about supporting the competitiveness of the EU's agribusiness sector, to the detriment of food security, environmental protection and respect for the rights of the poor in developing countries.

Key sources of incoherence remain:

- The reformed CAP will continue the practice of substantive direct payments that the EU will notify under the rules for WTO "green box" subsidies, which allow for unlimited spending. This remains unchallenged in most of the EU's bilateral free-trade agreements, including the Economic Partnership Agreements with the ACP countries.

- Moreover, the EU's promise to abolish all export refunds by the end of 2013 (made in the 2005 Hong Kong Ministerial Declaration) has been put on hold. Export refunds remain a tool ready to be used under the new CAP. A G20 non-paper that recalled the deadline in May 2013 was rejected jointly by the EU and the US, which argued that they will oppose any move to abolish export refunds before the successful conclusion of the WTO's Doha Development Round.

- It is left up to Member States to work at reducing the strong dependence on protein imports for feedstuffs by promoting leguminous crop production in the EU. Mass soy production has negative environmental and social impacts in exporting developing countries such as Brazil, Argentina, Bolivia, Paraguay and Uruguay.

- Finally, there has been little explicit reference to the obligation to ensure coherence between the CAP and development objectives, and the proposal by some MEPs, backed up by CSOs, to set up a system to monitor the CAP's impact on developing countries was rejected. Here, CONCORD has been advocating for the setting up of an effective ex-post monitoring system and a formal complaints mechanism, which would allow small-scale farmers and other groups to challenge the EU formally when their rights or livelihoods are negatively impacted by the CAP.

The positive aspect of the CAP reform, however, is the mobilisation of the public and CSOs it generated. Like never before, the public rallied en masse across several EU countries, calling for fundamental changes in the way we deal with the environment, food and people in developing countries. On the European level, for example, the Good Food Good Farming campaign[82] was formed by hundreds of organisations of farmers, consumers, and development and environmental organisations. The ARC 2020 (Agricultural and Rural Convention) network organised a Good Food March across 15 countries with more than 50 events.[83] Go M.A.D – Go Meet A Deputy! called on citizens to interact directly with their local MEPs and ask them how they would vote on the CAP reform in plenary in March 2013. These public appeals to policymakers should not be forgotten by national governments when the time comes to decide on national implementation plans.

72 This is confirmed by the European Parliament resolution of 16 April 2013 on Advancing Development through Trade (2012/2224 (INI))

73 Unfortunately, this is not thoroughly analysed in the European Communication on Trade and Development COM (2012) 22 final, 27.1.2012

74 See www.cleansugarcampaign.net and www.aprodev.eu/files/Trade

75 African Trade Network (2011): Key areas of divergence between the EU and Africa EPA regions, 8 July 2011

76 Federal Ministry of Commerce and Industry of Nigeria (2009): Impact of EPA Market Access Offer on Nigeria: An updated analysis, co-published by the University of Ibadan, Ahmadu Bello University and the Manufacturers Association of Nigeria

77 CAFOD (2011): *Thinking Small: Why poor producers and small business owners may hold the key to a sustainable recovery*

78 APRODEV (2013): Policy Brief: The role of DFIs in Land Grabs, May 2013

79 See UK Hunger Alliance (2013): Small Scale, Big Impact. Smallholder agriculture's contribution to better nutrition. Briefing Paper, which makes the case for investing in farmer-centred empowerment schemes that improve "homegrown nutritious food" rather than in substitution by fortified imported foodstuffs

80 Statement by African civil society (2013): Modernising African Agriculture: Who Benefits?, May 2013 (http://www.acbio.org.za/activist/index.php?m=u&f=dsp&petitionID=3)

81 See CONCORD's positions on CAP reform at http://www.concordeurope.org/15-food-security

82 http://www.goodfoodgoodfarming.eu

83 http://www.arc2020.eu/front/the-good-food-march-2012/

Food Security and Nutrition announced in 2012, which is a partnership of the G8, the African Union and 45 multinational companies[84] and aims to invest over US$ 3 billion in some countries in Africa.[85] The EU has agreed to take the lead on G8 pilot country Malawi.

Of particular concern is the push by AGRA and the G8 New Alliance to harmonise plant breeders' rights with a view to facilitating the trading and importing of hybrid (and genetically modified) seed.[86] This could jeopardise the right of smallholder farmers to continue to save, use and exchange their own seeds freely.

It remains to be seen whether, in these international instances in particular, the EU will continue to support its food security objectives as outlined in the 2010 EU Food Security Policy Framework, including smallholder empowerment – or whether the expansion of agribusiness and the commercialisation and incorporation of smallholder famers into formal markets will become the driving force.[87]

CONCORD recommends that the EU should:

• systematically refer to and use the EU Food Security Policy Framework and Implementation Plan, and the future Action Plan on Nutrition, as the overarching guidelines for all EU investment in agriculture, with a view to prioritising the empowerment of smallholders and their access to and control of productive resources;

• insert public interest clauses in EU investment deals;

• activate and use product-specific investigations into HR violations under the EU trade regime;

• refocus on development in the EPA negotiations, on the basis of the ACP proposal for a liberalisation schedule and outstanding contentious issues;

• address conflicts of interest publicly and systematically in public-private partnerships;
• promote a bottom-up approach to improving regional market integration, starting with investing in infrastructure-building at local level and prioritising support for women farmers, domestic micro-business and SMEs, as economic actors;

• work towards making the Voluntary Guidelines on Land Tenure a binding EU Directive to prevent EU investment from resulting in land grabs.

3. EU Research Policy

The focus of research processes reveals a good deal about a funding institution's interests and priorities for the future. Boosting research and innovation is part of the EU's plan for being more competitive, as set out in the Lisbon Agenda and the Europe 2020 Strategy.[88]

In terms of research on food and agriculture, the EU's efforts have intensified, including in the areas of life sciences,[89] "sustainable intensification approaches",[90] nutrition,[91] cloning and genetically modified animals for human food.[92] Initiatives have also been taken to strengthen intellectual property regulations and related legal systems, for example through the proposed Unified Patent Court[93] and the consolidation of laws and regulations relating to seeds.[94]

The new European Innovation Programme, administered by the Commission's Directorate-General for Research and Innovation (DG Research), has 4.5 billion euros for research into agriculture and the bioeconomy as part of the proposed 80 billion euros for the Horizon 2020 research programmes. Part of this money will be administrated by DG Agriculture with the explicit aim of extending the programme to developing countries for research on food security and sustainable agriculture issues.[95] On the other hand, DG DEVCO has a small budget (<€10m) to invest in programmes designed to improve links between European and African researchers, e.g. the Platform for African-European Partnership on Agricultural Research for Development (PAEPARD), and to support an NGO project, Including Smallholders in Agricultural Research for Development (INSARD).

84 Including Monsanto, Syngenta, Du Pont, Cargill, Unilever, Yara International, United Phosphorous, Vodafone, SABMiller and others, see http://www.sourcewatch.org/index.php?title=New_Alliance_for_Food_Security_and_Nutrition

85 Current focus countries for investment are Ethiopia, Tanzania, Ghana, Ivory Coast, Burkina Faso, Mozambique, and possibly Rwanda, Nigeria, Kenya and Malawi

86 http://www.twnside.org.sg/title2/intellectual_property/info.service/2013/ipr.info.130404/1729776128515bf1f085d3f.pdf ; http://www.twnside.org.sg/title2/susagri/2013/susagri255.htm

87 African Centre for Biosafety (2012): *AGRA – Laying the groundwork for the commercialisation of agriculture in Africa*; Ecumenical Advocacy Alliance and CIDSE (2013): Whose Alliance? The G8 and the Emergence of a Global Corporate Regime for Agriculture. Recommendations

88 European Commission Communication on Europe 2020. A strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final, 03.03.2010. The target is for 3% of the EU's GDP to be invested in research & development. See more on: http://ec.europa.eu/europe2020/index_en.htm

89 Geoff Tansey, "Challenges for food security: creating just, healthy, sustainable food systems globally in a changing world", speech at a conference on Food and Nutrition in the 21st century, Warsaw, 8-9 September 2011

90 Montpellier panel report 2013 http://www3.imperial.ac.uk/africanagriculturaldevelopment/themontpellierpanel/themontpellierpanelreport2013

91 Reports from the London Nutrition for Growth Summit and priorities of the New Alliance for Food Security and Nutrition / WEF agriculture forum, 2013. The EU pledged 410 million euro to nutrition-specific, and a further 3.1 billion euro to nutrition-sensitive intervention

THE FOOD SECTOR IS INCREASINGLY DOMINATED BY LARGE CORPORATIONS, WITH FIVE COMPANIES CONTROLLING 90% OF THE WORLD'S GRAIN TRADE AND THREE CONTROLLING 85% OF THE TEA MARKET.

Innovation is far more than technology and, as highlighted by African farmers' organisations, it includes traditional and indigenous knowledge.[96] This is confirmed in the EU Policy Framework on Food Security, which also emphasises the need for research to suit the needs of farmers and to benefit smallholders.[97]

Despite this, DG Research, advised by Technology Platforms,[98] is prioritising research on biotechnology. The chosen approach favours the delivery of technology products that are not grounded in local knowledge. This has the potential to undermine the food systems that feed most people, particularly in developing countries, through the promotion of proprietary technologies designed for industrial commodity production. Moreover, the support for the G8's New Alliance for Food Security and Nutrition by the Development Commissioner and several Member States, together with the emphasis of many of the largest allied agribusinesses on promoting genetically modified commodity crops and foods, will also preclude equitable participatory research from developing resilient local varieties of food crops for local nutrition security. In reaction to this, an Opinion by the European Parliament's development committee on HORIZON 2020 argues for a more inclusive approach to research in response to societal challenges in other regions.[99]

Those who provide most food – small-scale food providers – need to be able to decide which innovations and technologies are needed, when, where and under what conditions. This involves both opening up the decision-making bodies and governance structures of the current research establishment, and strengthening the spaces and institutions of farmers' organisations, and wider communities, to debate and agree priorities for research and to develop their own knowledge. This is a counter-position to that of the formal R&D sector, the dominant paradigm funded by the EC, Member States and corporate food and agribusinesses in Europe.

Small-scale farmers are innovative, are constantly using their knowledge and skills to produce appropriate technologies, and are keen to adopt and adapt other innovations that benefit them.[102] Support from more formally trained scientists should assist them.[103]

CONCORD, in support of Africa's family farmers,[104] calls for research in food, nutrition and agriculture to be:

· coherent with the goals of the EU's Food Security Policy Framework which promotes, inter alia, more ecological and multifunctional approaches to food provision;

· guided by the findings of IAASTD;

· favourable to researching issues identified by and in support of small-scale food providers;

· genuinely participatory, valuing the existing knowledge, skills and innovations of small-scale food providers;

· integrated into publicly-funded national research strategies in which small-scale food providers have decisive involvement;

· accountable to the organisations of small-scale food providers and not subject to corporations' control of research agendas;

· shared through farmer-to-farmer extension and other knowledge- and skill-sharing programmes between small-scale food providers;

· the basis of training for young farmers, fishers and pastoralists in developing resilient food-production systems.

In a world with almost one billion people suffering hunger, the EU's own or induced agriculture-related investment sometimes results in negative impacts on food and nutrition security in developing countries, as for Halima Ally, her family and other poor and vulnerable communities in Tanzania. For agricultural investment to have positive effects in terms of food and nutrition security, the EU must implement PCD consistently in key policy sectors and, notably, must adapt its renewable energy policy, research policy and trade and investment policies accordingly.

92 European Commission Standing Committee on Agriculture Research (SCAR) (2011): *Sustainable food consumption and production in a resource-constrained world*. The 3rd SCAR foresight exercise

93 www.epo.org/law-practice/unitary/patent-court.html

94 http://ec.europa.eu/dgs/health_consumer/pressroom/animal-plant-health_en.htm

95 APRODEV (2012): Policy Brief: EU HORIZON 2020. Agricultural research for sustainable agiculture and global food security, October

96 ROPPA, PROPAC, EAFF (2013): *Family Farmers for Sustainable Food Systems. A synthesis of reports by African farmers' regional networks on models of food production, consumption and markets*

97 European Commission Communication on an EU policy framework to assist developing countries in addressing food security challenges, COM(2010)127 final, 31.03.2010

98 European Technology Platforms (ETPs) are industry-led stakeholder fora charged with defining research priorities in a broad range of technological areas. http://cordis.europa.eu/technology-platforms/

99 European Parliament Development Committee Opinion on Horizon 2020 - Framework Programme for Research and Innovation 2014-2020: rules for participation and dissemination, 5 September 2012

100 APRODEV and PELUM Association (2012): Agricultural Research in Africa: Why CAADP should follow IAASTD, May

101 See note 96. Also quoting Michel Pimbert (2007): *Transforming knowledge and ways of knowing for food sovereignty*, International Institute for Environment and Development

102 See, for example, Ecumenical Advocacy Alliance (2012): *Nourishing the World: scaling up agroecology*

103 IAASTD (2009): *Agriculture at a Crossroads*. Global Report : Authors call for increased recognition of multifunctionality: *"The concept of multifunctionality recognizes agriculture as a multi-output activity producing not only commodities (food, feed, fibres, agrofuels, medicinal products and ornamentals), but also non-commodity outputs such as environmental services, landscape amenities and cultural heritages"*, p.4; and *"An increase and strengthening of agricultural knowledge, science and technology towards agroecological sciences will contribute to addressing environmental issues while maintaining and increasing productivity."*, finding 7

104 See note 96

chapter 4

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4.0

To live and develop, human beings are heavily dependent on the planet's natural resources, including land, water, forests and minerals. Paradoxically, many of these resources have been gravely endangered and neglected for decades, and their use by local communities has been undermined. Fierce competition for access to these resources, and the maximisation of short-term returns from them, have aggravated the situation.

By using its present production and consumption model to sustain its economic development and growth objectives, Europe is made highly dependent on natural resources from outside, largely from developing countries. At the same time, it continues to be one of the major contributors to climate change, even taking into account the emerging economies' recent ascent in the carbon emitters' league. This has major impacts on people in other parts of the world, on their environment, and on their opportunities for development.

In terms of its ecological footprint, Europe requires 2.6 planets to support its current consumption pattern,[105] which is unsustainable from the point of view of global demand or fair sharing within planetary boundaries. As dependence on imports increases, the environmental, climatic, social and human rights-issues relating to extraction and processing have been effectively outsourced from Europe to other countries, where environmental and social safeguards may be less stringent or where the challenges may be those of conflict and fragility. The direct and indirect consequences of this include climate change, human rights violations, conflicts, and corruption. And the heaviest price is paid by poor and vulnerable communities in many developing countries.

Despite commitments to greater "resource efficiency" in the Europe 2020 strategy,[106] today's policies lack ambition, and they continue to have negative impacts on the use, management and availability of natural resources by local communities in developing countries. In this chapter we will examine some incoherencies between development objectives and EU policies on climate change and natural resources.

SECTION 1.
Climate Change

How the EU is impacting people's lives

One of climate change's most brutal impacts on humanity is likely to be increased hunger. Rising greenhouse gas emissions are driving up temperatures, shifting rainfall patterns and making extreme weather events more likely, with devastating consequences for food production. The impacts of climate change on global food security can already be seen in the livelihoods of the poorest people, who spend the majority of their income on food. Climate change typically magnifies existing problems of poverty, reduces access to productive resources and services and increases power inequalities, multiplying the risks for poor people.

Adoaga Ousmane is 45 and lives in Louga, a small village in Chad. She spends hours chewing on fruit stones, a common way of trying to kill hunger even though there is no fruit left on them.[107] Adoaga depends on the fertility of the soil and on the weather: *"When it rains a lot, the situation is good"*, she says. *"It's when the rain doesn't come or when it comes at the wrong time that problems start. If the rains are good, I ask my friends to lend me seeds. I grow sorghum and other vegetables. This year is really the worst because of the lack of rain."*

> "WE WILL HAVE TO INVENT A WAY TO HAVE EUROPEAN COMPANIES BOTH ACTING IN A RESPONSIBLE MANNER AND MEETING THEIR FIRST OBJECTIVE: TO MAKE A PROFIT"
>
> ERIC KAJEMBA, OBSERVATOIRE GOUVERNANCE ET PAIX, DEMOCRATIC REPUBLIC OF CONGO

105 WWF (2012), *Living Planet Report*

106 European Commission Communication on a resource-efficient Europe – Flagship initiative under the Europe 2020 Strategy, COM(2011) 21, 26.0.2011

107 'Oxfam interview, May 2012. Unpublished

How the EU can help Adoaga Ousmane in Chad, Máxima Acuña Atalaya in Peru and communities in other developing countries to benefit from the environment they live in and its natural resources

CLIMATE CHANGE TYPICALLY MAGNIFIES EXISTING PROBLEMS OF POVERTY

In 2012, over 18 million people in the Sahel region of West Africa were affected by a severe food crisis caused by drought, desertification, and consequent rises in food prices. Normally, a food crisis in the Sahel used to come once in a decade, but in the last 10 years three food crises have hit, leaving little time for people to recover before the next one arrives. Rainfall patterns in the region are highly variable, but there has been a significant drying trend since the 1950s. Droughts have become longer, and more intense.

Adoaga used to have meat once a week, on a Monday, but it has become too expensive to buy at the market. Extreme weather events in a single year can bring about price spikes comparable in magnitude to two decades of long-run price rises: in Chad, food prices in 2012 increased by an average of 40% more than in the pre-crisis period. Like many women in the village, Adoaga has had to resort to looking for seeds in anthills, an important sign of serious food insecurity. On foot, it is a five-hour round trip from Louga to the anthills. *"When I dig the anthills, I search for the grains of wild grass that the ants have collected and stored away. I collect them and boil them in a pot for a long time until the dirt goes to the bottom and the grains are left floating on top."*

The stark situation of food insecurity in the Sahel is part of a bigger picture in which climate change and extreme weather events are jeopardising the lives of the most vulnerable people around the world. A 2011 report from UNEP, OCHA and others[108] indicates that temperatures in the Sahel already rose by up to 1.3°C in the 20th century, and it warns that climatic conditions in Africa will continue to worsen as a consequence of climate change. Both of Africa's staple crops, corn and sorghum, are expected to be badly hit by increasingly severe weather, and it is small-scale farmers who will bear the brunt of these negative impacts.

Adoaga and her daughter looking for seeds in anthills, Chad 2012/Oxfam International

The EU spends millions of euros on food security and climate change adaptation programmes, and humanitarian crises, in the Sahel. But if the EU does not meet its PCD obligations, and shoulder the responsibility it shares with other polluting States to slash emissions drastically and stop causing runaway climate change, these commitments will not be enough to shield people in the Sahel from increasing climate impacts. Global greenhouse gas emissions continue to climb every year, with the result that the concentration of CO2 in the atmosphere has reached the milestone of 400 parts per million – the highest it has been for at least 800,000 years.[109] Without urgent action, at current growth rates we will exceed – within the next few decades – the 2°C limit for acceptable global warming that world leaders set themselves in 2010.[110]

How the EU can make its policies coherent for people's development

The EU Climate and Energy Package

The 2009 Climate and Energy Package (CEP) marked the start of a comprehensive EU climate policy by setting three key climate targets for 2020: on greenhouse gas emissions, renewable energy and energy efficiency. At the Copenhagen Summit in 2009, where there was a commitment to mobilise US$ 100 billion annually by 2020, to help developing countries adapt to climate change and develop in low-carbon ways, the EU also agreed to pay its fair share. Among the problems with the 2009 EU climate deal are the fact that the emissions reductions target was inadequate, and that targets for transport fuels resulted in severely negative impacts on climate and people (see the section on biofuels in the food security chapter of this report).

Meanwhile, debates on the EU's climate-related ambitions for 2030 have started. The outcome matters enormously, as it will determine whether the EU moves towards sustainable resource use (in this case, greenhouse gas emissions) and adopt carbon reduction goals in line with a fair share of the global carbon budget needed to keep global warming below 1.5-2°C. At the end of 2013 the European Commission (EC) will publish a Communication on a vision for climate policies for 2030, and European Heads of State have agreed to discuss their level of ambition in March 2014, in advance of a high-level UN summit later that year, called for by UN Secretary-General Ban Ki-moon to ramp up climate action globally. Discussions on the EU's contribution to the US$ 100 billion commitments are taking place in parallel, but have so far not yielded the results that are needed to give developing countries confidence that this will be delivered. Both strands will influence the outcome of the international climate agreement to be concluded in Paris at the end of 2015.

The situation today is more complex than in 2008, when the first climate and energy package was negotiated. Today the economic and financial crises dominate, and energy security concerns are at the top of the political agenda. Climate finance is not being scaled up in line with expectations or needs,

and the majority of climate finance is being met through aid promised from within the commitment to deliver 0.7% of GNI as aid.[111]

Carbon-heavy industries try to exploit the situation by arguing for a reversal of climate policies. But this is short-sighted and dangerous, and ultimately even against Europe's own interest. Failing to come up with ambitious goals for 2030 and scaled-up climate finance for developing countries will go against the principle of PCD, reduce Europe's contribution to tackling climate change, and cause increased suffering and hunger across the globe. It will also reduce ambitions globally, as the EU's climate commitments set the tone for the international climate ambitions due to be negotiated by 2015. If the EU does not deliver its fair share of emissions reductions and climate finance, it is unlikely that other major economies, which are now being asked to step up action, will deliver theirs. Finally, by not moving fast to a low-carbon economy Europe would be making a serious policy mistake. Tackling the social, economic and environmental crisis together will not only pay major dividends in terms of job creation, health and well-being, as well as weaning ourselves off volatile energy imports (all of which are major concerns of our and future generations): it is also a vital safeguard in order to prevent any negative effects outside of Europe. This is where the EU's domestic interests meet its development objectives.

To help Adoaga Ousmane in Chad, and others, the world urgently needs to come together to reverse the climate crisis and stop exacerbating hunger and poverty. The EU has to play a key role in making the transition to a more sustainable economy: by delivering the post-2020 climate package on emissions targets, renewable energy (which does not rely on unsustainable first-generation biofuels, and meets social and environmental sustainability criteria that are strong and binding) and energy efficiency, as well as climate finance, in good time for the Conference of Parties in 2015.

CONCORD, together with Climate Action Network Europe (CAN), calls upon the EU to raise the current inadequate 2020 target for greenhouse gas reduction to at least 30%, and to develop a set of ambitious post-2020 policies. These should include:

• agreement on an ambitious and comprehensive climate and energy package in time for the UN summit in autumn 2014, with a domestic emissions reduction target substantially higher than the low 40% target proposed by the Commission as part of the 2050 Low Carbon Roadmap. The package should also include two further complementary targets: a renewable energy target with a strong, binding social and environmental sustainability framework, and an energy efficiency target;

• agreement on EU climate finance targets which by 2020 lead to scaled-up, additional finance for developing countries, in particular the most vulnerable nations, in line with the Copenhagen climate finance commitments. This should be complemented by innovative public finance, additional to existing ODA commitments, from the EU's emissions trading system, financial transaction taxes, and a future carbon tax on international transport which should be automatically paid into the Green Climate Fund.

Focus 1: Climate change and displacement: missing protection framework

One of the most problematic challenges emerging from climate and environmental change is the impact on population mobility.

As reported by the Red Cross[112], in a warmer, wetter world, millions of people living near sea level, in drought-affected regions where extreme weather events have become the norm, are increasingly vulnerable and at risk of displacement. Growing evidence links environmental change (in particular climate change) and migration. However, these changes are rarely unique drivers of population displacement. They are one – significant – determinant, operating in conjunction with economic, social and political factors, and linked to existing vulnerabilities. This means that direct causal links can only be proved in exceptional cases. It is conceptually difficult to establish a precise category of environmental or climate migrant: the extent to which migration is "forced" is open to debate, and prudence is needed when estimating the likely numbers who will be displaced. Certainly, doomsday predictions of hundreds of millions forced to migrate are wide of the mark, and the populist term "climate refugees" is profoundly misleading.

While most people at risk of climate-induced displacement will remain in their own countries, for those who do cross international borders there are significant legal and normative "protection gaps" in international human rights and humanitarian law. In fact, there is no existing framework, legislation, agency or institution specifically mandated to protect or assist them. A new multilateral legal instrument is required to address specifically the needs and protection of people fleeing environmental degradation and climate change.

108 UNEP, CILSS, OCHA, IOM, UNU (2011): *Livelihood Security. Climate Change, Migration and Conflict in the Sahel*

109 The Guardian (2013) http://www.guardian.co.uk/environment/2013/may/14/record-400ppm-co2-carbon-emissions

110 UNFCCC webpage: The international response to climate change

111 CONCORD's AidWatch Report (2012): *Aid We Can: invest more in global development*

112 This contribution is based on the International Federation of the Red Cross and Red Crescent Societies (2012): *World Disasters Report 2012 – Focus on forced migration and displacement*, edited by Roger Zetter, p. 231.

SECTION 2.
Natural Resources

How the EU is impacting people's lives

Máxima Acuña Atalaya,[113] a 42-year-old Quechua woman, lives in the small Andean mountain village of Tragadero Grande in the Cajamarca district in northern Peru. She is a spinner and weaver, the mother of four children, and her husband – Jaime Chaupe Lozano – is a farmer. Their house is the only one left in the community. All the other families sold their houses and land to the Conga mining project, but Máxima resists selling the family's "chacra" and house. Máxima has become the symbol of the farmers' movement that struggles protect the El Perol and Azul lakes which form part of a typical – and fragile – highland ecosystem in the Andes: the wetlands.

The Conga mining project is owned by Minera Yanacocha SRL, a joint venture between the American Newmont Mining Corporation and the Peruvian Compañía de Minas Buenaventura. The Conga mine, which consists of two giant pits, 1.5 km wide and 600 m deep, is an extension of the Yanacocha mine, the largest goldmine in Latin America and the second biggest worldwide. Developing the project infrastructure will entail destroying several lakes, which will be drained either to give access to the ore-bearing rock, for use as waste pits, or to provide water for the mine's operations. The site will affect 32 communities of small farmers.

In 20 years of exploitation the Yanacocha mine produced more the 20 million ounces of gold. In 2011 it produced an astonishing 1.3 million ounces, worth US$ 2 billion. The Conga mine is expected to yield almost 12 million ounces of gold and 3.1 billion pounds of copper over its projected 17-year lifespan. Mining companies in Peru pay 30% tax on their profits, and although a large proportion of this tax is redistributed to the producing communities, the department of Cajamarca remains one of the poorest in Peru, with 56% of the population in living poverty, a number considerably higher than the country's average (35%).

Many problems have been linked to Yanacocha in the last 20 years, most dramatically a mercury spill in 2000 leading to the poisoning of more than 900 people in a village. Shortly after the incident an internal audit showed 20 serious environmental violations at the mine. In 2004 more than 10,000 people protested against the extension of the Yanacocha mine, and the project was forced to suspend its activities. An environmental impact assessment (EIA) was carried out by Newmont, and in spite of controversies over the quality of the analysis[114] a new Conga project was approved in 2010. An estimated 80% of the population of Cajamarca and the neighbouring communities oppose the new project. At least five people have died during protests in recent years, and several farmers and social leaders have been charged with causing disturbances and are awaiting trial.

Although the Conga project has recently been adapted, local farmers are continuing to protest against it. The local community argues that it has not been adequately informed about the project's environmental impact: the consultation process has been confined to just one meeting, and the basic requirements of consultation based on the principles of "free, prior and informed consent"[115] have not been met. On several occasions Máxima and her family have been intimidated and abused by members of the security forces contracted by the company.

This case of Máxima Acuña Atalaya, her community and the Conga mining is just one example of a trend of private sector investments in extraction of natural resources that has devastating impacts on the livelihoods and development potential of local communities. To curb this trend, strengthening corporate social responsibility and accountability will be paramount. With regard to European companies, the EU must ensure that its approaches to reporting requirements on EU-listed companies, and to conflict minerals, are fully coherent with development objectives.

Peruvians protesting against the Conga mining project

113 La Republica (2013): http://www.larepublica.pe/09-03-2013/la-mujer-del-agua-cronica-de-una-visita-la-familia-chaupe

114 Robert E. Moran (2012): *The Conga Mine, Peru: Comments on the Environmental Impact Assessment (EIA) and Related Issues*. Environmental Defender Law Center

115 United Nations, Department of Economic and Social Affairs (2005): *International Workshop on Methodologies Regarding Free Prior and Informed Consent and Indigenous Peoples*, 17-19 January 2005, PFII/2005/WS.2/10

How the EU can make its policies coherent for people's development

1. EU non-financial reporting requirements

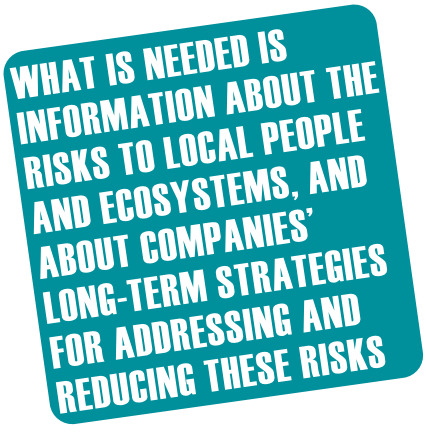
A clear opportunity for the EU to demonstrate greater policy coherence for development (PCD), and to improve its impact on climate change and on the natural resources of developing countries, is presented by the reporting of the non-financial impacts of private companies.

For developing countries that are rich in them, natural resources offer both an opportunity and a challenge. World Bank scenarios anticipate that, until 2025, real prices for most metals and energy resources will remain well above those of the 1990s,[116] and according to the 2013 Africa Progress Report commodity prices have contributed considerably to the recent growth surge of African economies.[117] Resource-rich countries in the South have the potential to boost their development, as their resources are poised to provide large revenue flows that will dramatically change the level of domestic resources available to them and will give governments opportunities to put in place the necessary investment in human development. Unfortunately, this potential is seldom fulfilled, thanks to tax dodging by transnational companies, as shown in this report in the chapter on financing for development.

Good governance of the extractive sector and of revenues is crucial for attaining the anticipated social and economic goals. In 2012, by approving disclosure requirements for all kinds of payments to governments for stock listed, and for all large companies operating in the extractive sector around the world,[118] the European Union sent out a strong message that it is willing to help create the environment needed for better governance in this sector. Improving transparency is a good example of how different EU policy areas can contribute to greater PCD.

In addition to their economic potential, however, extractive industry operations come with significant social and environmental impacts, as in the case of Máxima Acuña Atalaya and her community. Through the work of the United Nations Special Representative for Business and Human Rights from 2005-2011, John Ruggie, the requirement of human rights due diligence for the private sector has been firmly established.[119] Due diligence means that businesses are expected to identify and address the human rights impacts of their operations and supply chains proactively. In practice, however, human rights due diligence analyses and reporting are still often weak or non-existent. On the environmental side, although companies have to submit environmental impact assessments before their projects are approved, these studies often contain serious loopholes, and the actual impact may differ considerably from what is expected or presented. Even more importantly, there are governmental obstacles to putting in place appropriate regulations and enforcing the implementation of measures to mitigate adverse social, human rights and environmental impacts. As a result, conflicts relating to extractive industries are increasing at disturbing speed, and in several countries they are the main source of social discontent and human rights violations. In countries affected by armed conflict, the risk that extractive industries may exacerbate those conflicts is an issue increasingly highlighted. There are tools, however, that companies can use to analyse and mitigate their potentially negative impact on conflict – e.g. consulting local people on the social and economic effects of the exploitation project, fair compensation for forced displacement, and significant returns that improve the local economy and people's livelihoods.

More action is needed to hold companies to account for the social, human rights, conflict and environmental impacts they produce. In April 2013 the Commission launched a revision of the requirements on companies to report non-financial information, with an emphasis on their social and environmental impacts.[120] This is an opportunity to make significant progress with corporate social responsibility and accountability, bearing in mind that at present only 10% of European companies actually disclose information on sustainability aspects, and that these reports are all too often both inconsistent and lacking in information relevant to those affected by the companies' activities. The Commission's legislative proposal includes a requirement for companies listed on European stock exchanges, and other big non-listed European enterprises, to publish additional information in their annual reports on (at least) environmental, social and employee-related matters, human rights, anti-corruption and anti-bribery aspects. Within these areas the reporting has to include a description of the companies' policies, the results of these policies and risk-related aspects.



116 World Bank, Development Prospects Group (20013): Commodity Price Forecast Update Released: January 15, 2013

117 Africa Progress Panel (2013): *Africa Progress report 2013: Equity in Extractives. Stewarding Africa's natural resources for all*

118 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings

119 John Ruggie (2011): *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy"*

120 Proposal for a Directive amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups, COM/2013/0207 final

Nevertheless, the proposal contains serious weaknesses: by taking a "comply or explain" approach, it gives companies excessive flexibility in choosing which aspects to report on and which existing international, European or national framework to use. Such weak requirements are liable to produce the same shortcomings as the sustainability reports currently published on a voluntary basis by a number of companies. Moreover, information will remain oriented primarily to investors' needs – focusing on the risks to companies rather than those that could affect people or the planet – with a tendency to "green washing". Another critical loophole in the proposal is the lack of a mechanism for enforcing compliance with the new regulation, or checking the veracity of the information published.

What is needed is information about the risks to local people and ecosystems, and about companies' long-term strategies for addressing and reducing these risks and contributing to sustainable development. Disclosure has to be robust, and cannot be left to discretion of the companies. More guidance is needed from the Commission on what has to be reported, and how.

Taking into account the (considerable) specific risks that extractive industries cause to the ecosystems, livelihoods and social relations of local communities, and in particular indigenous people, under EU legislation the reporting requirements for this sector should also be specific. Reports should include detailed information on environmental and human rights matters, risk management, policies implemented and results obtained. For the protection of communities like that of Máxima Acuña Atalaya, guidance should be provided on reporting within the extractive sector, and should be based on a combination of specific guidance standards and principles relating to business in highly vulnerable environments such as conflict areas and countries with failing governance.

CONCORD calls on the EU to use the revision of the non-financial reporting directive to ensure:

- more stringent reporting requirements for companies in general, including country-by-country reporting on tax payments, production volumes and values, and number of employees (for details, see chapter on financing for development);

- reliable information provided by companies, with mechanisms for independent verification and sanctions;

- specific, stringent reporting requirements for the extractive industries sector. These requirements should be based on the standards for the environmental impact assessments for mining and oil exploitation, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

2. Towards an EU initiative on conflict minerals

The EU also has an opportunity to improve the impact its consumption of minerals has on security issues in developing countries, thereby addressing a current incoherency within EU policies. As a follow-up to its Communication on Trade, Growth and Development[121] the Commission, together with the European External Action Service (EEAS) and other relevant departments, is expected to put forward a legislative proposal before May 2014 addressing the "conflict mineral" issue in developing countries.

For nearly 20 years events on the African continent have turned the spotlight on the link between the exploitation of minerals and the dynamics of conflict (civil wars, armed rebellions, etc.), the case of "blood diamonds" in Sierra Leona and Liberia being one of the most relevant.[122] Today the focus is on the so-called "three T's" (tin, tantalum and tungsten) and gold illegally traded by armed groups based in eastern Democratic Republic of Congo (DRC). But some evidence suggests that Africa is not the only continent to be concerned about: Latin America (Colombia) and Asia (Myanmar) are also affected by the "conflict minerals" phenomenon. For years, CONCORD and several other European NGOs have advocated for more responsible trade policies on the supply of minerals, targeting in particular the EU Raw Materials Initiative.[123]

In April 2013 the Commission launched a public consultation on a possible EU initiative on the responsible sourcing of minerals originating in conflict-affected and high-risk areas. In CONCORD's view, the initiative must take the form of legislation (a regulation or directive), so that due diligence in mineral supply chains becomes mandatory for companies. Business strongly opposes the mandatory scenario, arguing that it does not need a legal incentive to act. The Commission remains divided on the mandatory nature of the EU initiative, with opponents fearing negative effects on the security of mineral supplies for EU companies, in the context of competition with emerging economies, such as China, that at the moment do not look too closely into the origin of the minerals. These arguments do not, however, counteract the EU treaty obligation to ensure PCD, the States' duty to protect, or the companies' duty to respect human rights.

121 European Commission Communication on Trade, growth and development, Tailoring trade and investment policy for those countries most in need, COM(2012) 22 final, 27.1.2012

122 International Crisis Group (2004): *Liberia and Sierra Leone: Rebuilding Failed States*. Crisis Group Africa Report n°87, 08.12.2004

123 European Commission Communication on the Raw Materials Initiative "Meeting our critical needs for growth and jobs in Europe", COM(2008) 699 final, 04.11.2008; and European Commission Communication on commodity markets and raw materials, COM(2011) 25 final, 02.02.2011

How the EU can help Adoaga Ousmane in Chad, Máxima Acuña Atalaya in Peru and communities in other developing countries to benefit from the environment they live in and its natural resources

Interview:
Eric Kajemba, founder and director of Observatoire Gouvernance et Paix (OGP),
in Bukavu, Democratic Republic of Congo

What is the current situation in the DRC in relation to the ongoing conflict and trade in minerals?
In the provinces of Maniema and Katanga, minerals are sold and certified as "conflict-free" through a system of traceability labelling. But two years ago, North and South Kivu were placed under a de facto embargo and the legal mineral trade is almost nonexistent now. In South Kivu, a pilot traceability chain began in October 2012, and so far it has exported only 500 tons. But with a single site and credible legal trade in operation, there has been massive fraud and counterfeiting of minerals extracted from other sites. A step towards unlocking the situation lies in the launch of the regional certificate in July 2013.

The US has already implemented legislation, namely the Dodd-Frank Act – how do you view it?
Dodd-Frank has not really helped us because it is what got us into this embargo, without taking into consideration its negative impact on the lives of local communities. In short, the law may have been well intended, but there have not been sufficient accompanying measures.

The EU seems to be working towards an OECD due diligence approach. Would EU legislation on conflict minerals be of help?
I hope that the EU law will not be a copy-paste of the Dodd-Frank Act. The EU law should aim to empower all stakeholders, both downstream (foundry, end consumers) and upstream, to improve their practices. It should also define carefully the areas of conflict to which the law will apply, and it should not just concern the Great Lakes region. We would like it to be extended also to a wider range of minerals, not just the 3 Ts (tin, tantalum and tungsten). We agree with the need for greater transparency, but the EU must take into account local communities who, often, do not have many alternatives other than to earn their income from minerals.

Would it be desirable in your view to encourage (European) companies to invest in the DRC's mining areas? If so, how?
Naturally I encourage companies to invest in Congo! The challenge though is to do it with a lot of social responsibility. Congolese law (July 2002 Mining Code) was developed against a background of incentives for companies to invest in Congo, but ten years on we see the opposite effect. This is because of two factors: 1) the weakness of the Congolese government (corruption, poor business climate, virtually no administration), and 2) the lack of social responsibility on the part of these companies, which take advantage of the State's weak governance. We will have to invent a way to have European companies both acting in a responsible manner and meeting their first objective: to make a profit.

While EU legislation on its own cannot, in CONCORD's view, be regarded as the only way of increasing conflict sensitivity in the extractives sector, if conceived in a well-defined way and implemented properly it will undoubtedly help to break the vicious circle of conflict financing and the illegal enrichment of military elites through mining. Greater transparency in supply chains can prevent companies operating in the EU market from contributing to the war economies around the world and fuelling conflict in cases like that of Máxima Acuña Atalaya and her community.

To this end, CONCORD calls on the Commission to come out with a proposal that:

- makes the five steps of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas[124] mandatory for companies;

- applies this obligation to all (EU and non-EU) companies and manufacturers placing minerals or products containing minerals on the EU market;

- has a broad geographical scope, going beyond Central Africa, based on a comprehensive definition of "conflict and high-risk areas";

- applies to materials other than the 3 Ts and gold, expanding the OECD's above-mentioned five steps to include other minerals from conflict and high-risk areas;[125]

- provides a sanctions mechanism that enforces reporting requirements on due diligence.

To fulfil its PCD obligation and help Adoaga in Chad, Maxima Acuña Atalaya in Peru and communities in other developing countries, the EU must adapt its policies on climate and energy, non-financial reporting by European companies and conflict minerals. That is how it can ensure that, in the future, it will not harm local communities in developing countries by impacting negatively on the use, management or availability of their natural resources.

124 (1) Strengthening of company's management system (engagement with suppliers, early-warning risk-awareness system), (2) identification and assessment of risks, (3) designing and implementing a strategy to respond to identified risk, (4) undertaking third-party audits, (5) public disclosure of supply-chain due diligence and findings (annual reporting). This standard is internationally accepted and has already been transposed into domestic law (DRC, Rwanda) and a regional mechanism (ICGLR)

125 Considering that companies will need time to apply this methodology to other minerals, we are in favour of a process-based approach allowing them to act in good faith and show measurable progress for a limited transitional period

ACRONYMS

ACP - Africa, the Caribbean and the Pacific

AFD - French Development Agency

AGRA - Alliance for a Green Revolution – Africa

AML - Anti-money laundering

CAP - Common Agricultural Policy

CEDAW - International Convention on the Elimination of All Forms of Discrimination against Women

CEP - Climate and Energy Package (2009)

CFS - Committee on World Food Security

CRD - Capital Requirements Directive

CSO - Civil society organisation

DANIDA - Danish International Development Agency

DFID - UK Department for Foreign International Development

DG - Directorate-General (of the European Commission)

DG AGRI EC - Directorate-General for Agriculture and Rural Development

DG DEVCO - EC Directorate-General for Development and Cooperation - EuropeAid

DRC - Democratic Republic of Congo

EBA - Everything But Arms

EC - European Commission

ECDPM - European Centre for Development Policy Management

EEAS - European External Action Service

EIA - Environmental Impact Assessment

EP - European Parliament

EPA - Economic Partnership Agreement

ETO - Extraterritorial obligation

EU - European Union

FAO - Food and Agriculture Organization

FATF - Financial Action Task Force

FDI - Foreign direct investment

FDR - Funding for Development and Relief (CONCORD Working Group)

FSPF - Food Security Policy Framework

FTA - Free trade agreement

GDP - Gross domestic product

GISA - Inter-ministerial group on food security (France)

GNI - Gross national income

GPs - UN Guiding Principles on Business and Human Rights

HR - Human rights

HRBA - Human rights-based approach

IA - Impact Assessment

IAASTD - International Assessment of Agricultural Science and Technology for Development

INSARD - Including Smallholders in Agricultural Research for Development

MDGs - Millennium Development Goals

MEP - Member of the European Parliament

MFA - Ministry of Foreign Affairs

OCHA - Office for the Coordination of Humanitarian Affairs (UN)

ODA - Official development assistance

OECD - Organisation for Economic Co-operation and Development

PAEPARD - Platform for African European Partnership on Agricultural Research for Development

PCD - Policy coherence for development

PPP - Public-private partnership
rai - Responsible agricultural investment

SMEs - Small and medium-sized enterprises

UNEP - United Nations Environment Programme

UNGP - UN Guiding Principles on Business and Human Rights

CONCORD's first Spotlight report on Policy Coherence was published in 2009. Thematic chapters included: climate change, trade, agriculture, migration and finance. National profiles covered: Belgium, the Czech Republic, the Netherlands and Sweden.

CONCORD's second Spotlight report on Policy Coherence for Development was published in 2011. Thematic chapters included: Food security, Natural resources, Human security and Migration.

Find out the latest information on PCD and read our report on our dedicated website:
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The report is co-financed by the European Union.
The views expressed in this publication do not necessarily reflect the opinion of the European Commission.

Publisher: O. Consolo - September 2013

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