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Subject : EU Code of Conduct on Complementarity and Division of Labour in Development Policy

- Conclusions of the Council and of the Representatives of the Governments of the Member States meeting within the Council

At its meeting on 15 May 2007, the General Affairs and External Relations Council and the Representatives of the Governments of the Member States meeting within the Council, adopted the Conclusions set out in the Annex to this note.

CONCLUSIONS OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL

ON

EU Code of Conduct on Complementarity and Division of Labour in Development Policy¹

Political Commitment

1. The Council recognises that reinforcing the complementarity of donor activities is of paramount importance for increasing aid effectiveness, and thus for a more effective and efficient development assistance. It is one of the necessary conditions for the eradication of poverty in the context of sustainable development, including for timely achievement of the Millennium Development Goals (MDGs).
2. The Council underlines that EU initiatives on a better division of labour will aim at reinforcing the objective of strengthening the partner country ownership and capacities to take over responsibility for donor coordination processes.
3. The Council agrees that the EU should act as a driving force for complementarity and division of labour within the international harmonisation and alignment process, and that the EU should follow an inclusive approach that is open to all donors, and whenever possible build on existing processes.

¹ In adopting these conclusions, the Council refers to certain previous conclusions and statements (see Annex).

4. Therefore, the Member States and the Commission commit themselves to implement the principles set out in the attached EU Code of Conduct on Complementarity and Division of Labour in Development Policy. The Code of Conduct is voluntary and flexible, and should be implemented with a country-based approach, taking into account the specific situation of the partner countries.
 - The Code of Conduct will guide policy and actions of the Member States and the Commission, and is embedded in the principles of ownership, alignment, harmonisation and management for results and mutual accountability of the Paris Declaration on Aid Effectiveness as well as the EU commitments set out in the European Consensus on Development.
 - Member States and the Commission will base their engagement in all developing countries on the principles set out in the Code of Conduct. The primary leadership and ownership in in-country division of labour should first and foremost lie in the partner country government. If such leadership and ownership need strengthening, the EU should promote such a process. In any case, the EU should always play an active role in promoting complementarity and division of labour. All initiatives need to be open for other donors, build on existing processes whenever possible, and be readily transferred to the government whenever appropriate.
5. Simultaneously with the implementation of the Code of Conduct, the Member States and the Commission will promote wide discussions with partner countries and other donors on complementarity and division of labour, based on the EU code of Conduct which will be complemented by first experiences in the field. The outcome of these discussions would constitute an input to the OECD/DAC partnership and the High Level Forum on Aid Effectiveness III that will take place in Accra, Ghana in 2008. The Council invites the incoming Presidencies to actively support such a process, in close cooperation with the Member States and the Commission.

6. The division of labour among donors should also enhance the coherence of EU external assistance. In this regard, attention shall be given to the activities of the European Investment Bank and EU Trust Funds.

Implementation

In-country complementarity

7. The Member States and the Commission will start to use the Code of Conduct immediately and in all developing countries in a pragmatic way. Specific attention shall be paid to aid orphans and fragile states. The Code of Conduct is applicable to present and future engagements as well as additional development assistance in the context of scaling-up, and will therefore gradually change the current pattern of aid delivery without prejudice to existing obligations. To that effect, the Member States and the Commission will use existing co-ordination mechanisms in the field to render operational implementation of the Code of Conduct, with the primary leadership and ownership lying with the partner country government.
8. The Member States and the Commission commit themselves to increase their participation in joint multi-annual programming based on partner countries' development strategies and use the EU joint programming framework gradually and voluntary as a pragmatic tool to advance division of labour. Whenever the development of common strategies is already under way, such as Joint Assistance Strategies or similar processes, EU joint programming should complement, strengthen, and whenever possible be part of these existing processes, in order to avoid unnecessary parallel processes. A medium to long-term perspective is needed including special efforts to synchronise programming schedules with the partner countries' national planning and budget cycles (e.g. PRSs).

Cross-country complementarity

9. While acknowledging the Commission's added value provided through its global presence, the Member States and the Commission should address the current imbalance in resources provided to aid "darlings" and "orphans" and avoid the creation of new imbalances. They should assess aid levels using relevant, forward-looking data to establish a basis for well informed and evidence-based decisions. This needs to be done in dialogue with other donors and relevant international bodies. The Council invites the Member States and the Commission to conduct an EU-dialogue about future engagement and on strategic planning concerning their geographic concentration and country priorities, while recognising that Member States decisions on this issue are sovereign national decisions. This dialogue will take place in the framework of the annual Monterrey follow-up debate. In this regard, every Member State has a role to play. This discussion will be prepared by the Presidency in office, based on information compiled by the Commission, and take into account global aid allocations.

10. With a view to informing what are, in the case of Member States development assistance, sovereign national decisions, the Council invites the Member States and the Commission to initiate an exchange of information to prepare this dialogue process in 2007, in order to:
 - a. identify countries in which there are substantial overlaps ("darling countries") or gaps ("aid orphans") in terms of donor activity and / or in the level of aid allocations;
 - b. address the issue of aid orphans, and where appropriate aid darlings, and address specific sectoral issues;
 - c. develop specific response strategies for fragile states, which among other things will serve as an input to the ongoing OECD/DAC initiative and initiatives of other international fora;
 - d. examine how all aid, i.e. existing and additional aid ("scaling up") could be allocated in a complementary way.

11. The Council recognises that national decisions on sector and country choices should be based on reliable and forward-looking data, while underscoring the importance of the predictability of aid flows. Therefore the Council calls on the Member States and the Commission to strive for more transparency in their strategic planning and encourages the Member States and the Commission to share forward-looking data on commitments. Those Member States concerned and the Commission should set a good example by providing these data to the OECD/DAC survey on donors forward looking spending plans in a timely manner.

Cross-sector complementarity

12. Concerning the analysis of areas of strength, the Council invites the Member States and the Commission to review the state of the self-assessments of their respective areas of strength, in a first instance before the Accra High Level Forum in 2008, and on a regular basis thereafter. The Council regards the diversity of expertise in the EU as a whole as an added value that should be maintained. The Member States will, within the existing competences and as national decisions, address the issue of improving cross-sector complementarity. The Council fully respects the decision of many Member States that they will not seek to become specialised at headquarters level but work based on the needs of the partner countries. EU Member States that joined the EU in 2004 or in 2007 will undertake work to assess their respective areas of strength at a realistic pace which reflects their own circumstances as emerging donors.

Community assistance

13. The Council recalls that Community policy in the sphere of development cooperation shall be complementary to the policies pursued by the Member States.

14. The Council invites the Commission to outline Community implementation of the Code of Conduct in its annual report on development cooperation, including:

- a. consistent implementation of the Code of Conduct in Community aid financed under the EDF and the Community budget, including aid allocation criteria and how the implementation of already finalised country programmes can take into account the principles in the Code of Conduct;
- b. a self-assessment in its potential areas of comparative advantage as referred to in the joint Development Policy Statement (DPS);
- c. status for follow-up on the endorsed recommendation of the Ad Hoc Working Party on Harmonisation regarding decentralisation;
- d. a forward looking analysis on the intended Community aid implementation of the Code of Conduct before the High Level Forum on Aid Effectiveness III in Accra, Ghana.

Follow-up and review

15. The Council will, in the framework of the political dialogue, discuss progress and lessons learned in the implementation process for the Code of Conduct. The Council calls the Commission to facilitate this process by submitting a report, based on information provided by Headquarters and the field in the framework of the OECD/DAC survey and the Monterrey report. This report should also include lessons learned and state of play as regards a limited number of case studies for aid darlings, aid orphans and cross-sectoral issues, joint programming processes wherever they exist, including donor-wide processes, and highlighting cross-country and cross-sectoral complementarity.

16. The Council invites the Member States and the Commission to strengthen communication on development co-operation contributions of the EU as a whole for information of their domestic audiences. This will contribute towards legitimising the decisions for individual donors to concentrate further on fewer sectors and countries. The Member States and the Commission will communicate their commitments to division of labour and the Code of Conduct in a coherent manner throughout their organisations. Communication on division of labour shall focus on the value added and results of the initiative. For advancing complementarity and implementation of the Paris Agenda within international fora, EU donors will increasingly use joint statements where appropriate, without prejudice to their bilateral ones.
17. The Code of Conduct is a dynamic document that will be reviewed periodically and in any case before 2010, on the basis of lessons learned from its implementation and the monitoring of progress.

In adopting these conclusions, the Council refers to the following conclusions and statements:

- Report of the Ad Hoc Working Party on Harmonisation – Advancing Coordination, Harmonisation and Alignment: the contribution of the EU. November 2004;
- Paris Declaration on Aid Effectiveness¹ of March 2005;
- Joint Development Policy Statement ‘The European Consensus on Development’ (DPS), 2005, paragraphs 30-34, OJ C 46, 24.2.2006, p. 6²;
- 2005 EU Strategy on Africa (The EU and Africa: Towards a Strategic Partnership);³
- Council and Member States Conclusions of April 2006 on Financing for Development and Aid Effectiveness: Delivering more, better and faster;⁴
- Council and Member States Conclusions of October 2006 on Complementarity and Division of Labour: Orientation Debate on Aid Effectiveness;⁵
- Commission Communication on an EU Code of Conduct on Division of labour in Development Policy.⁶

¹ paragraphs 33-35 - <http://www.oecd.org/dataoecd/53/38/34579826.pdf>.

² doc. 14820/2/05.

³ doc. 15961/05, paragraph 6(f), p. 4.

⁴ doc. 8388/06, paragraphs 55-57, p. 14.

⁵ doc. 14029/06.

⁶ doc. 7124/07.

EU Code of Conduct on Complementarity and Division of Labour in Development Policy

This Code of Conduct presents operational principles for EU donors regarding complementarity in development cooperation. Their aim is to enhance effectiveness by improving overall development results and impact for poverty reduction and reducing the transaction costs, through a division of labour between donors.

The Code proposes an inclusive approach that is open to all donors.

The Code is embedded in the principles of ownership, alignment, harmonisation and management for results and mutual accountability of the Paris Declaration as well as the additional objectives and values highlighted by the European Consensus.

The Code is voluntary, flexible and self-policing. It is a dynamic document that establishes principles and targets towards which EU donors will strive to work progressively and accordingly.

The partner country should be responsible for coordinating donors. EU Donors will encourage and support the partner country to assume that responsibility while structuring themselves, in an appropriate manner, using – where appropriate – good existing practices as inspiration.

EU donors will base their engagement on the below outlined principles. These principles have to be approached in a pragmatic and flexible manner. It is hoped that other donors will want to commit themselves to abiding by it and are invited to participate and base their activities on similar principles as those outlined in this Code of conduct.

General principles

EU donors (the Member States and the Commission) commit themselves to further progress on complementarity and division of labour, including closer cooperation among them, in line with the following general principles:

1. The primary leadership and ownership in in-country division of labour should first and foremost lie in the partner country government. If such leadership and ownership do not exist, the EU should promote such a process. In any case, the EU should always play an active role in promoting complementarity and division of labour. All initiatives need to be open for other donors, build on existing processes whenever possible, and be readily transferred to the government whenever appropriate. The EU should provide capacity building support to the partner countries to enable them to take on this responsibility.
2. It is crucial that the division of labour is not implemented at the expense of global aid volumes or predictability of aid flows and is carried out in collaboration with the partner countries.
3. Implementation needs to be based on (i) country-level priorities and needs, (ii) a long-term perspective, as well as (iii) a pragmatic and well-sequenced approach.
4. It is recognised that the EU donors share common development objectives, vision, values and principles. When limiting the involvement of Member States or the Commission in a partner country or sector, situations where all EU donors are absent from a strategic sector for poverty reduction should be avoided.
5. While implementation needs to be based at field-level, political commitment and adequate support and impetus need to be made both in headquarters and in the field. It is also important to improve coordination between the field-level and the headquarters to ensure a coherent approach. This should not, however, undermine the partner country leadership and ownership.

6. Comparative advantage is not primarily based on financial resources available, but also on a wide range of issues such as geographic or thematic expertise. Therefore, each Member State has a role to play.

Guiding Principle 1 – Concentrate on a limited number of sectors in-country

EU donors will aim at focussing their active involvement in a partner country on a maximum of three sectors¹, based on the following criteria:

- Each donor will act ambitiously to reduce transaction costs on partner governments and streamline their sector presence according to their comparative advantage as recognised by the partner country government and other donors.
- The appreciation of what constitutes a sector, being intuitive or informed, should be done in a flexible manner, at partner country level and match the definition of the partner country, that should have identified the sector as a priority in its poverty reduction strategy or equivalent. In agreement with the partner country, the partitioning of sectors should be avoided as much as possible.

In addition to the three sectors, donors can provide general budget support, where conditions permit to do so, support to civil society, and research and education schemes including scholarships. In their selected sectors donors should mainstream crosscutting issues.

A donor's comparative advantage can be determined by, *inter alia*, any of the following criteria:

- presence in the field,
- experience in the country, sector or context,
- trust and confidence of partner governments and other donors,

¹ In limited cases, where donors face a significant reduction in sector coverage, this target may be increased to engage in more than three sectors, taking full account of partner country views, neglected issues of particular importance and a realistic timeframe to support any change in their country programmes.

- technical expertise and specialization of the donor,
- volume of aid, at country or sector level,
- capacity to enter into new or forward looking policies or sectors,
- capacity to react quickly and/or long term predictability,
- efficiency of working methodologies, procedures, and quality of human resources,
- relatively better performance - without necessarily absolute advantage,
- lower cost compared to other donors with adequate standards of quality,
- building new experience and capacities as a emerging donor.

The comparative advantage of a given donor should be self assessed, endorsed by the partner government, and recognized by other donors. The EU encourages partner countries to provide clear views on donors' comparative advantage.

The partner countries will be encouraged to identify the areas for increased or reduced support and to indicate their preferences as to which donors should remain actively involved in each sector. EU donors will work together with the partner country to identify sectors in which to remain, and propose exits from sectors from which they shall withdraw. The creation of orphan sectors should be avoided in this process.

EU donors will aim at a long term engagement in a given sector (i.e. minimum of 5-7 years, or a minimum of one period of a national poverty reduction strategy).

Guiding Principle 2 – Redeployment for other in-country activities

A redeployment process should be based on local negotiations and will very much depend on the situation in the country. It is recommended that headquarters offers field offices/delegations a flexible enough mandate with room for negotiation and capacity to adapt.

EU donors that are active in sectors other than the three concentration sectors should pursue one of the following options:

- stay financially engaged in the sector through the use of delegated cooperation/partnership arrangement,
- redeploy the freed-up resources into general budget support - where conditions permit to do so - while still being engaged in developments in the additional sector through the structures, dialogue and capacity building processes surrounding general budget support,
- exit from the sector in a responsible manner while using the freed-up resources in scaling-up support for the sectors in which they will remain.

Responsible exit from a sector entails a well planned and managed process with the full participation of the partner country and with the change/redeployment process being well communicated to all stakeholders.

Guiding Principle 3 – Lead donor arrangement

In each priority sector, EU donors will work towards and support the establishment of a lead donor arrangement in charge of all donor coordination in the sector thereby reducing the transaction costs for both partner countries and donors. The lead donor model might differ from one case to another. Burden sharing arrangements, for instance through a team of supporting donors, could be envisaged where relevant. The important objective is to ensure that the partner country is faced with a structured donor set-up.

The lead donor(s) should be given a substantial mandate for specific aspects of sector policy dialogue and have an obligation to regularly consult with other donors in the sector. In order to allow for efficient specialisation and continuity, rotation of lead donor responsibility should be limited (for example sequenced on national planning cycles if applicable).

Guiding Principle 4 – Delegated cooperation/partnership

If a given sector is considered strategic for the partner country or the donor, EU donors may enter into a delegated cooperation/partnership arrangement with another donor, and thereby delegate authority to the other donor to act on its behalf in terms of administration of funds and/or sector policy dialogue with the partner government. Partner governments should be consulted on the donors' delegating agreements. Delegating donors should be enabled to review policies and procedures of the lead donor relevant to their delegating agreements. A delegated cooperation/partnership role in a sector will be considered additional to the maximum of three sectors in which a given donor is engaged.

The delegation of cooperation from the Commission to other donors will follow the provisions of financial and implementation regulations of Community Budget and the EDF.

Guiding Principle 5 – Ensure an adequate donor support

When implementing sector concentration, the EU should ensure that at least one donor with appropriate comparative advantage and sharing similar values and principles, is actively involved in each sector considered relevant for poverty reduction.

EU donors, with full participation and ownership of the partner country, will seek to limit the number of active donors to a maximum of 3-5 per sector, based on their comparative advantage. Other donors can still take part in sector activities by means of delegated cooperation modalities.

Guiding Principle 6 – Replicate practices at regional level

While adhering to the general principles of aid effectiveness also at regional level, EU donors will apply the above principles of in-country division of labour also in their work with partner regional institutions.

Guiding Principle 7 – Establish priority countries

EU donors agree to reinforce the geographical focus of their assistance to avoid spreading their resources too thinly. They will strive to establish a limited number of priority countries.

This process will be informed by a dialogue within the EU, taking into account the broader donor engagement, and be carried out in dialogue with partner countries and with other donors.

Discussions should be based on:

- transparent information on EU donors' activities and plans and, as much as possible, on the activities and plans of other donors;
- self-assessments conducted by each donor;
- regular EU-wide exchange of information when Member States modify their list of priority countries, as well as exchange of information with partner countries and other donors in order to prevent at an early stage the creation of orphan countries.

In non-priority countries, EU donors may provide their support *inter alia* through delegated cooperation arrangements or by redeploying on the basis of responsible exit strategies prepared with the partner country. EU donors will share information on good practices.

The European Consensus recognises its global presence as an added value for the EC.

Guiding Principle 8 – Address the "orphans" gap

Committed to avoiding imbalances, EU donors will address the problem of "orphaned" or neglected countries, based on needs and performances, taking into account all financing flows from ODA and other aid flows. The specificity of those neglected countries calls for a redeployment of resources in their favour.

"Orphaned" or neglected countries are often 'fragile states' whose stabilisation would have a positive spill-over effect on the wider region. Addressing this issue should be done amongst other things as an input for the ongoing OECD/DAC initiative and initiatives of other international fora.

Adequate attention and financing need to be given to linking relief and rehabilitation to long term development.

Guiding Principle 9 – Analyse and expand areas of strength

EU donors, taking into account the views of partner countries, will deepen the self-assessment of their comparative advantages as regards sectors and modalities with the aim to identify those in which they would like to expand, as well as those where they might be willing to reduce their own activities.

The Commission will further develop its expertise and capacities in the areas where it has comparative advantages, paying particular attention to building the necessary capacity and expertise at the country level, in line with the deconcentration process and ownership of partner countries.

Guiding Principle 10 – Pursue progress on other dimensions of complementarity

EU donors commit themselves to advancing on the other dimensions of complementarity. On vertical complementarity, primarily in the context of relevant international fora and ongoing discussion on the rationalisation of the international aid architecture, and to further discuss cross-modalities and instruments, in the context of specific partnership and the implementation of joint/coordinated programmes.

Guiding Principle 11 – Deepen the reforms

EU donors recognize that in order to achieve a coherent division of labour between individual donors, strong political commitment and adequate support is needed both in headquarters and in the field, implementation needs to be based at field-level and a close coordination between the headquarter and field level is necessary. Member States may consider in this regard decentralised structures to facilitate complementarity and coordination on the ground, institutional incentives to staff and redeployment of financial and human resources.
