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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

EU Code of Conduct on Division of labour in Development Policy

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INTRODUCTION

European citizens want a stronger Europe, capable of improving the living conditions of the world's poorest. A Europe that delivers more, better and faster in the fight against global poverty. A more vocal Europe, with a political impact that matches the level of its financial generosity.

But European citizens also want a more effective and efficient Europe. Over the last decade, the multiplication of development aid activities and structures has led to a complex and expensive aid industry. In each developing country there are, on average, 350 donor missions per year. Too many donors are concentrating on the same countries and the same sectors. In Mozambique, for example, there are no less than 27 donors fighting HIV. As a result, developing countries can often hardly cope with the many missions, the unnecessary administrative costs, the overlaps and duplications, and the differences in donor requirements, rules and conditionalities. This situation reduces transparency and increases the potential for corruption. Other countries, such as the Central African Republic or Somalia suffer on the contrary from so-called donor fatigue, leaving them almost entirely up to themselves.

A consensus is emerging that this opaque and complex situation is not sustainable and that the European Union (EU) should take the lead in addressing the problem. The emergence of new EU donors and the pledge to double EU aid has raised further awareness that radical improvement is necessary. With the adoption of the European Consensus for Development in 2005¹, the EU created a new momentum. For the first time ever, the Council, the Parliament and the Commission agreed on a set of common values, principles and objectives for the EU's development policy, positioning it as world leader in development. A few months later, in April 2006, the EU agreed on a package of measures to deliver more, better and faster aid.

Time has come to move from rhetoric to action. *Who does what* is the essential question the EU needs to address if it is to make progress in implementing the EU's new development policy. The objective of this Communication is therefore to present a set of concrete measures *to enhance complementarity and division of labour amongst EU donors*. To achieve this objective, the EU must analyse the main challenges and opportunities ahead (part 1) and redefine the concepts and principles for EU action (part 2). On this basis, the EU should define a way forward (part 3).

1. AN UNPRECEDENTED WINDOW OF OPPORTUNITY

Complementarity is not a new political issue. International donors and organisations such as the Organisation for Economic Co-operation and Development, the United Nations and the World Bank have a long standing experience in trying to improve complementarity. At European level, the Communications and Council Resolutions of 1995² and 1999³, many

¹ OJ C 46, 24.2.2006.

² Communication from the Commission to the Council and the European Parliament on Complementarity between the Community's Development Cooperation Policy and the Policies of Member States, Brussels, May 1995. Resolution of the Council on complementarity between the Community's Development Cooperation and Member States' policies and actions, Brussels, June 1995.

³ Communication from the Commission to the Council and the European Parliament on Complementarity between Community and Member State Policies on Development Cooperation - COM(1999) 218,

reports, and various pilot initiatives indicate the EU's commitment to promote division of labour. The Joint Policy Statement of November 2000⁴ on Development Policy was the first attempt to achieve operational complementarity between the Commission and the Member States by defining areas of recognised added value for Community assistance. However, many of these policy initiatives failed to be translated into field reality because of the political and operational difficulties such an approach raised.

1.1. The challenges

Politics and visibility. Development cooperation is part of donor countries' foreign policy toolbox. Donor countries may be reluctant to give up cooperation in a given sector or country, as it may lead to reduced visibility for their action. Visibility also has a domestic dimension. Parliaments and the public may become reluctant to support measures to pull out of directly poverty reduction-related sectors (e.g. education, children's health).

Operational challenges. An optimal division of labour, even when politically desired by donors, still entails operational challenges. Experiences exist where commitments were made in partner countries and where governments did promote harmonisation processes and division of labour among donors. Local processes, including those often referred to as Joint Assistance Strategies, were being developed early 2006 in about 15 countries. However, these laudable initiatives did not necessarily lead to much practical progress because of the operational difficulties involved.

Use of existing expertise. Any strategy for a division of labour must take account of the significant differences between EU donors. Some countries have provided large volumes of Official Development Assistance (ODA) for a long time. Others have maintained strong cultural and political ties from their colonial past. Other countries still have only recently started development co-operation. Every EU donor has specific expertise and can play an active role in a division of labour, which should not be lost but, on the contrary, fully capitalised upon. Division of labour should not lead to rigid bureaucratic approach but leave room for flexibility.

1.2. The opportunities

Building on a new global and European consensus. In 2005, all donors signed the Paris Declaration underlining the importance of complementarity and the need to make full use of each other's comparative advantages, while respecting the ownership of partner countries. The EU has gone one step further. In its contribution to the Paris Declaration, based on the Report of the Ad Hoc Working Party on Harmonization⁵, the EU agreed to develop an operational strategy towards complementarity. This commitment was thereafter made an integral part of the 2005 European Consensus on Development and is a central element in the EU Aid Effectiveness Action Plan presented in 2006. Following this proposal, EU ministers agreed to develop operational principles on how to better organise the division of labour in a partner country or between countries. The present Communication –progressively elaborated since 2004 over seven presidencies with the participation of experts of the Member States– should be seen in the light of this framework.

6.5.1999. Resolution of the Council on complementarity between Community's and Member States Development policies, Brussels, May 1999.

⁴ Joint statement on EC development policy by the Council and the Commission - November 2000.

⁵ Endorsed by the Council in November 2004.

The EU: possible leadership, necessary responsibility. This increased European awareness is linked to its special responsibility, accounting for 52 % of worldwide ODA and 80% of the scheduled scaling up of aid. All EU donors share common development objectives, a common vision, values and principles. This vision, enshrined in the European Consensus on Development, provides the basis on which to build shared responsibilities. Moreover, on the ground, the Commission and Member States already have country-level coordination and constant dialogue. EU joint programming is emerging. The European Consensus has recognised budget and sector support, as a preferred aid modality, offering an additional opportunity to further promote coordination, harmonisation and division of labour.

Improving performance. The EU Donor Atlas has identified the gaps, duplications and unnecessary administrative costs that limit the impact of aid provided by EU donors and increase the burden put the partner countries. Reinforcing the complementarity of EU donors' activities is a key factor in increasing Europe's performance as a donor of reference.

2. A COMPLEX SET OF INTERTWINED CONCEPTS

Complementarity covers a wide range of principles and concepts. The EU must assess and clarify all these dimensions carefully. Indeed, agreeing on the conceptual framework is a prerequisite for joint action. At this stage, there are no clear internationally agreed definitions of complementarity, only briefly sketched by the Paris declaration. It is therefore important for the EU to offer to the international community the definition of key concepts and principles.

2.1. The various dimensions of complementarity

Complementarity is a concept of an organisational nature. It must be seen in terms of donors acting in complete and balanced unison, rather than being merely an additional planning exercise. Complementarity starts with co-ordination, but goes much further: it implies that each actor is focusing its assistance on areas where it can add most value, given what others are doing. Hence, *complementarity is the optimal division of labour between various actors in order to achieve optimum use of human and financial resources.* Complementarity can take place in the five following dimensions which, all interact with each other and must be seen as a whole.

In-country complementarity: as set out above, aid fragmentation leads to an increased administrative burden and transaction costs in partner countries, diffuses policy dialogue and may misallocate resources. Some, often politically attractive sectors may receive excessive funding while some other -not less important- sectors remain under-funded. The pharmaceutical pathways to purchase drugs in Kenya involving 20 donors through 13 procurement bodies are a perfect illustration of how irrational the system can turn out (see Annex 7).

Cross-country complementarity: too many donors focus on some, often success, countries, while leaving too often aside other, often fragile, countries. This tendency leads to an increasing gap between "aid darlings" and "aid orphans". Interesting experiences are being developed to ensure a minimum of international support in countries where partnerships are difficult and domestic capacity limited. The EU has a special role to play in this respect: The EC is a global player with global presence, Member States have close linkages with all developing countries and the EU has formal agreements with almost all of them.

Cross-sector complementarity: not all donors need to build capacity in all sectors. Some donors have developed specific know-how that should be fully used. For example, the European Consensus on Development has stated the sectors and themes where the European Commission should globally focus its activities on. Other donors have taken full benefit of their comparative advantage at agency level and established priority areas. The EU as a whole should be able to provide a complete “tool box” of thematic and sector operations, building on the specific expertise of individual donors.

Vertical complementarity: the emergence of global aid initiatives and of regional organisations as major actors has established a complex set of development assistance layers. There are several areas where similar activities are undertaken simultaneously at the national (including sub-national), regional or international levels. New synergies need to be thought through. For example, cross-border activities, large-scale projects or capacity building projects are often planned both at national and regional levels.

Cross-modalities and instruments complementarity: some initiatives involve a combination of various modalities or instruments, whose synergies need to be strengthened. For example, the choice is often on how to complement grants with loans or private capital flows. Some donors are also specialised in, or have a favoured type of, modalities or instruments (i.e. budget support, project, technical assistance, or support to NGOs).

2.2. Principles for implementation

Ownership: The primary leadership and ownership in country-level division of labour should first and foremost lie with the partner country government. If such leadership and ownership do not exist, the EU should advance such a process. In both cases, the EU should play an active role in promoting complementarity and division of labour. All initiatives need to be built on existing processes whenever possible, and readily transferred to the government whenever appropriate. The EU should provide capacity building support to partner countries to enable them to take responsibility⁶.

Impact on aid flows: It is essential that division of labour is not implemented at the expense of global aid volumes or aid predictability. Increased volatility can pose major challenges for the recipient country's economy. The scheduled scaling up of aid provides an opportunity in this context but EU donors should avoid sudden aid disruption. Policy changes should be introduced in collaboration with the partner countries.

EU and donor-wide dimensions: As mentioned above, the EU has a special responsibility as provider of more than 50% of worldwide ODA. Moreover, the EU's shared vision and development objectives as well as its common political aspirations provide the ideal platform for an enhanced division of labour. Therefore, the EU has first and foremost to organise its own division of labour. This enhanced EU leadership and complementarity will also provide a basis for a better international division of labour. The European Consensus on Development established the principles on how to interact best in those two mutually reinforcing dimensions.

⁶ Conclusions of the Council and of the representatives of the governments of the Member States meeting within the Council on EU guiding principles on complementarity and division of labour (17/10/2006) - General principles.

Comparative advantage and added value: Complementarity should be based on the comparative advantage of donors in supporting partner governments (see definition in Annex 2). EU donors should make full use of their respective comparative advantages to (i) enhance division of labour, (ii) deepen concentration of activities, and (iii) develop delegated cooperation. Comparative advantage can be found also in sub-sectors or *niche* themes within sectors. Examples could be inclusive education within the education sector, fishing within natural resource management, local administration in public sector reform, etc. The European Consensus defined the roles through which the Commission will aim to provide added value (paragraphs 46 to 55). In addition to its role as a donor, the Commission has a recognized added value, in developing strategic policies, promoting development best practices, and in facilitating coordination and harmonisation (paragraphs 50 and 51), as well as in the external dimension of internal Community Policies.

Lead donor and delegated cooperation: Delegated cooperation is a practical arrangement where one donor (a “lead” donor) acts with authority on behalf of one or more other donors (the “delegating” donors or “silent partners”). The practical implementation modalities including those related to the issue of visibility need to be defined between leading and delegating authorities. The level and form of delegation vary, ranging from responsibility for one element of the project cycle (e.g. a particular review) to a complete sector programme or even country programme⁷.

European Neighbourhood & Partnership Policy (ENP): The ENP aims to build privileged partnerships with neighbouring countries, using appropriate – including development – instruments to promote effective management and implementation. Therefore the ENP and the relevant financing instruments contain specific provisions for programming EU support at overall, country and regional levels, for political and sector dialogues, for the mobilization of particular strengths of the Member States (e.g. through twinning programmes), and for coordination by the Commission. In the application of the Code to these provisions, and in accordance with Article 62 of the European Consensus, appropriate account will be taken of the broader political framework and the technical nature (approximation to the EU ‘acquis’) of the ENP.

3. THE WAY FORWARD: A MORE EFFECTIVE DIVISION OF LABOUR

Improving complementarity requires changes in the attitude of both donors and recipient countries. It impacts heavily on the planning processes and the long-term partnerships in countries and in sectors. This will not happen overnight. A long-term perspective and a multi-stage approach are therefore needed.

3.1. The approach: pragmatic and informed

Analyse and build on existing experiences. Improved complementarity and division of labour has been an objective of a number of national development policies and is under way. Lessons can be learned from good practices, but also from those initiatives which have not led to expected results (see Annex 3).

⁷ Definition of the DAC Guidelines and Reference Series: Harmonising Donor Practices for Effective Aid Delivery, Good Practice Papers.

Establish a political mandate. Development cooperation is based on political decisions and aid budgets are subject to parliamentary scrutiny. Changes are highly political decisions and work should be guided by a clear political mandate from the top level.

Establish appropriate operational modalities. Complementarity is very much linked to how donors organise themselves in the policy planning, programming and implementation of development cooperation. Topics covered in on-going work regarding methodologies for aid delivery include the roles of lead and active donors as well as delegating partners, joint programming and joint financing arrangement.

Have a pragmatic approach to implementation. Promoting complementarity should be based on a pragmatic approach aiming at concrete and tangible results. The extensive discussions in recent years on in-country complementarity should make an early implementation possible. As for cross-country and cross-sector complementarity, further political discussions are needed to guide implementation. At all stages working methods should remain rational, transparent, and well balanced.

Build effective monitoring systems. For the signatories of the Paris declaration, the Organisation for Economic Co-operation and Development/Development Assistance Committee (DAC) monitoring systems provide a good basis for permanent monitoring of progress. In other countries, existing national systems should be utilised with as few new systems established as possible. The EU Donor Atlas and the annual reporting on implementation provide overviews at European level.

3.2. The method: A Code of conduct

It is proposed to adopt a Code of conduct that sets out operational principles with a view to ensuring better division of labour between EU donors. Based on good practices from the field, it has been drafted in close collaboration with Member States experts. *The Code is embedded in the principles of ownership, alignment, harmonisation and management by results* entailed in the Paris Declaration as well as the additional objectives and values highlighted by the European Consensus.

The European Commission will apply this code on the basis of the objectives and principles laid out in the legal framework applicable to its development and external assistance policy, namely the Development and Cooperation Instrument and the European Development Fund.

3.2.1. Nature

The Code is voluntary, flexible and self-policing. It is a 'soft' law to guide policy and actions, and to encourage consistency with our commitments. The Code provides principles and standards applicable to EU development aid but may be incorporated and form part of any other similar local or international agreed code of conduct when such a code is developed.

The Code is a dynamic document. It establishes targets, which EU donors will endeavour to reach progressively. It will be evaluated and revised periodically as information accumulates through its implementation and the monitoring of its progress.

The Code is generic in nature and focuses on broad guidelines. It is elaborated on the basis of desired outcomes, rather than a prescriptive set of procedures to attain those outcomes.

This approach allows flexibility for balancing the need for rapid results with the constraints that some EU donors will face in implementing those principles.

The Code is directed towards all EU decision-makers who may be engaged in any form of definition and implementation of development assistance. Their compliance with the Code is encouraged.

The Code is a contribution to the international agenda. It is hoped that donors around the world will find it useful and will want to commit themselves publicly to abiding by it. Governments and donor bodies may want to use it as a yardstick against which to judge the conduct of those agencies with which they work. And partner countries have a right to expect those who seek to assist them to measure up to these standards.

3.2.2. *Scope*

Civil society activities and cooperation with private foundations represent an important part of the aid delivered in a given country, but enhanced complementarity between the private and the public spheres belongs to another debate. Therefore, while fully acknowledging the importance of this dimension, this Code focuses only on the complementarity between public authorities.

At this stage, while referring to the five components highlighted above, the proposed Code will mainly focus on the first three dimensions of complementarity, *i.e.* on division of labour between EU donors and how EU donors can complement each others' work (in-country, cross-country and cross-sector). It will nevertheless reaffirm the need to address the remaining dimensions within other relevant contexts.

Finally, this Codes addresses operational complementarity. It does not intend to touch upon any institutional set up. Nevertheless, further progress on division of labour implies change and redeployment of activities and working methodologies, and even potential structural adjustments. They need to be promoted and sustained by supporting measures.

3.2.3. *Principles*

It is proposed that the EU donors commit themselves to the following principles (further detailed in Annex 1):

- *Guiding principle 1 - Concentrate their activities in-country on focal sectors*

EU donors will focus their activities on two focal sectors on the basis of their respective comparative advantages. The partner countries will be encouraged to play an active role in the identification of the focal sectors. The European Consensus defined the roles through which the Commission will aim to provide added value (paragraphs 46 to 55). This is completed by the Treaty which recognizes the added value in the external dimension of internal Community Policies. In addition to the two focal sectors, which should absorb the bulk of available funding, donors can provide general budget support, where conditions permit to do so, and finance activities in other areas such as support to civil society, research, or university/school co-operation.

Box 1: The European Commission Country Strategy Papers, as launched in 2001 and revised in 2005 define the strategic programming of the Commission's aid allocation for all developing countries. The concentration of activities and financial assistance on two sectors is a key principle of these Strategy Papers and has greatly increased the focus and efficiency of the Commission's cooperation.

- *Guiding principle 2 - Redeploy their other activities in-country*

EU donors will redeploy aid activities that are not in their focal sectors, by either remaining engaged through lead-donors arrangements and delegated cooperation/partnerships, redeploying into general budget support, or exiting in a responsible manner.

a) Sub Principle 2 a – Lead donorship arrangement

EU donors will seek to establish lead donorship arrangement based on a substantial mandate.

b) Sub Principle 2 b – Delegated cooperation/partnership

If a given sector is considered strategic for the partner country or the donor and there is a financing gap, EU donors may enter into a delegated cooperation/partnership arrangement with another donor.

Box 2: In South Africa, the UK Department for International Development (DFID) has delegated the implementation of its support to land reform to Belgium. In Rwanda, Sweden has delegated the monitoring and auditing of funds in support to the education sector to the DFID which is providing general budget support.

- *Guiding principle 3 - Ensure an adequate EU presence in strategic sectors*

EU donors should ensure that at least one EU donor is actively involved in each strategic sector considered relevant for poverty reduction. EU donors will furthermore seek to limit the number of active donors to a maximum of 3 per sector by 2010.

- *Guiding principle 4 - Replicate practices in the cooperation with partner regional institutions*

Taking into account the increasing/scaling up of aid volumes and activities at regional level, the EU donors will apply the above principles of in-country division of labour also in their work with partner regional institutions.

- *Guiding principle 5 - Establish priority countries*

EU donors will reinforce their geographical focus, through a dialogue within the EU, taking into account the broader donor engagement. As stated in the European Consensus, Community assistance will remain universal.

Box 3: As an example, the Netherlands have gone through a drastic reduction in the number of core/priority countries (from over 70 to some 20 priority countries), by broadly speaking using three selection criteria: (i) poverty level, (ii) macroeconomic performance and (iii) good governance performance.

- *Guiding principle 6 - Address the "orphans" countries of aid allocations*

EU donors will strive to dedicate part of their aid budget to "under funded" countries. These are often 'fragile states' whose stabilisation has a positive spill-over effect for the wider region.

Box 4: The European Community Humanitarian Office's (ECHO) aid strategy strongly focuses on forgotten crises. In 2002, ECHO has set as a target to channel 10% of its funds to forgotten crises. Today this target has been largely achieved. Already in the course of the year 2004 support totaling €239 million was allocated to forgotten crises (i.e. 42% of total funds).

- *Guiding principle 7 - Analyse and expand global areas of strength*

EU donors will deepen self-assessments of their comparative advantages. They should specialise more, while maintaining the diversity of expertise for the EU as a whole.

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.

- *Guiding principle 8 - Pursue progress on the vertical and cross-modality/instruments dimensions of complementarity*

EU donors commit themselves to advance on the other dimensions of complementarity primarily in the context of relevant international fora and partnerships.

- *Guiding principle 9 - Promote jointly the division of labour*

EU donors will increasingly rely on joint statements to clarify purpose, modalities and outcome of division of labour, and achieve greater impact of EU collective contribution.

- *Guiding principle 10 - Deepen the reforms of aid systems*

EU donors recognize that division of labour will imply real structural changes, reforms and staffing consequences.

3.2.4. Follow-up

For the reasons set out above, it is proposed that this Code of conduct is first adopted by the EU and opened in a second stage to all donors willing to join this good practice. The successful implementation of the Code will depend on a collective effort by Member States and the Commission and requires clear instructions. The role of Commission delegations and Member States' field offices will be key in its implementation.

The implementation of the Code should be strongly promoted and monitored. It should be part of an annual debate on the orientation of EU Development Policy and be based on three elements: an annual sampling of country cases, an EU Donor Atlas adapted to a more political use, and the EU Development Report under preparation. The Code should be reviewed in 2010.

CONCLUSION

The lack of effectiveness of donors' collective input has become unsustainable. The EU has the duty to be pro-active in addressing this challenge. There is today a unique opportunity to deliver, in a progressive manner, on the long-standing commitment to enhance complementarity and organise a real division of labour between donors. EU donors are invited to adopt the proposed Code of conduct and to start immediately the implementation of its principles, both for ongoing and future scaled up activities. The Commission will monitor and evaluate the status of its implementation through ongoing annual reporting and regular country samplings.

The EU must now go beyond policy statements and translate words into acts. Agreements on a division of labour would increase aid effectiveness, strengthen the role of development co-operation in EU external relations and contribute to the construction of a European identity based on the values contained in the European Consensus on Development. The EU has both the potential and responsibility to act as an engine for a donor-wide division of labour.