

PRESENTATION ON SCREENING CHAPTER 30: DEVELOPMENT POLICY

FOR

CROATIA AND TURKEY

THE EU DEVELOPMENT POLICY: RIGHTS AND OBLIGATIONS OF NEW MEMBER STATES

Primary legislation

The development policy is a shared competence between the community and the member states.

Primary legislation includes in particular the Treaties establishing the European Communities and other agreements having similar status.

Primary legislation is agreed by direct negotiation between Member State governments. These agreements are laid down in the form of Treaties which are then subject to ratification according to the internal constitutional rules. The same procedure applies for any subsequent amendments to the Treaties.

The specific provisions regarding Development Cooperation are the following:

Articles 177-181 of the EC Treaty (Title XX . Development Cooperation) which set:

- **the objectives to be pursued by Development Cooperation** (sustainable economic and social development, smooth and

gradual integration of developing countries into the world economy, poverty reduction, development and consolidation of democracy and the rule of law);

- **how they should be pursued** (the principles of coherence, complementarity, co-ordination and consistency, and the possibility of concluding agreements with third countries on development co-operation); and

- **who should make decisions on policies** (the Council of Ministers by qualified majority, except for association and accession agreements).

Article 181a (Title XXI - Economic, Financial and Technical Cooperation with Third Countries, added by the Treaty of Nice), which allows the European Union to reach cooperation agreements with third countries acting by qualified majority;

Overseas Countries and Territories: Annex II EC Treaty and art.182-188 EC Treaty state that 20 overseas countries and territories having special relations with France, the United Kingdom, the Netherlands and Denmark enjoy preferential access to the single market and may benefit, inter alia, from EC financial assistance;

And, Declaration 36 annexed to the Final Act of the Treaty of Amsterdam, which restates that the objective of art. 182-188 is to promote the economic and social development of the countries and

territories and to establish close economic relations between them and the Community as a whole.

These provisions have several major implications for new EU Member States.

1. By acceding the Union, new Member States accept the overall objectives of EU aid:

- ❖ sustainable economic and social development,
- ❖ smooth and gradual integration of developing countries into the world economy,
- ❖ poverty reduction,
- ❖ development and consolidation of democracy and the rule of law

2. The Treaty states unequivocally that the Community and the Member States shall comply with commitments and take account of the objectives they have approved in the (Art 177, para 3.) context of the United Nations and other competent international authorities (as the OECD/DAC rules and regulations). The Treaty gives the Council the authority to adopt the measures necessary to pursue the objectives of EU aid (Secondary legislation).

4. The European Community is competent to sign international agreements relating to the field of development cooperation.

5. The principles of coherence, complementarity, co-ordination and consistency, are clearly spelled out. In particular, the Treaty states that the Community and the Member States shall coordinate

their policies on development cooperation and shall consult each other concerning their aid programs (Art. 180).

Summing up, upon the date of their accession, the new Member States will join the EU in supporting all the objectives and instruments of the EU's development policy. Consequently the major implications for these countries are:

- ❖ To comply with commitments and take account of the objectives that the EC and the Member States have approved in the context of the UN (Millennium Development Goals);
- ❖ To coordinate the policies on development cooperation and consult each other concerning their aid programmes (Barcelona, Monterrey and GAERC commitment 2005 on ODA).

Secondary Legislation

Regulations are always binding in their entirety and directly applicable in all Member States without the need for any national implementing legislation. Development-related regulations have two major implications for the new Member States:

- ❖ they require Member States to accept the types of ODA, eligible recipients, the purpose of EU aid and the policy cycle to be followed in each region or for each theme;
- ❖ they rule the coordination process for each region or cross cutting theme giving to the Commission one of three types of

coordinating role and may require specific actions by all Member States.

In particular, specific requirements for the Member States exist in the area of food aid.

Implementing Measures - Comitology

Under the Treaty establishing the European Community, it is for the Commission to implement legislation at Community level (Article 202 of the EC Treaty, ex-Article 145).

In practice, each legislative instrument specifies the scope of the implementing powers granted to the Commission and how the Commission is to use them. Frequently, the instrument will also make provision for the Commission to be assisted by a committee in accordance with a procedure known as "comitology".

New EU Member States will be subject to such coordination, and will participate in the relevant committees.

Acquis Cotonou

The Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (ACP) and the European Community and its Member States, signed in Cotonou on 23 June 2000 (2000/483/EC), entered into force on April 1, 2003.

The main policy documents are the Statement on the European Union Development Policy called "The European Consensus" and the Cotonou agreement.

Soft Law

Soft Law includes **non binding legal acts** (opinions and recommendations) whose real significance is political or moral and **other forms of Community actions that are not legal acts** but are used for forming and shaping the Community legal order (resolutions, declarations and action programmes).

EC Soft Law on development includes the Joint Statement by the Council and the member States meeting with the Council, the EP and the Commission on the European Union Development Policy and decisions on contributions to International Programmes (e.g., GEF, Food Aid, Global Fund to Fight HIV/Aids) as well as policy statements, both general and region, theme or sector specific, adopted by the Union through Council Resolutions in the case of Communications from the Commission to the Council or through European Parliament Resolutions in the case of Communications from the Commission to the Council and the European Parliament.

Institutional framework

In addition to the legislative Acquis your countries will have to play their part in achieving the EU's objectives on poverty reduction. There is a need to develop an aid strategy that gives priority to poverty and country specialisation. This requires a substantial reduction of the number of interventions, joint work with other donors and developing strong learning organisations with adequate monitoring and evaluation capacities.

Indeed, there is an obligation to setting up an institutional framework able to provide the administrative capacity to implement the administrative capacity

to implement your national development policy as part of the EU Development Policy. The EU Member States committed in Barcelona prior to the Monterrey UN Conference and last year in Brussels prior to the New York, September UN Conference to achieve a common set of targets for 2006 and 2015. There is an understanding that these individual commitments should be politically endorsed by the future Member States as part of the EU Development Policy.