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A More Political EU External Action: Implications of the New Treaty for the EU's Relations with Developing Countries

The Lisbon Treaty was signed in December 2007, after years of debate over the desirable degree of European political integration. It reflects the latest phase in the gradual transformation of the EU from a rather inward looking community into a global player, *inter alia*, by expanding its list of objectives. For the first time these general objectives include the eradication of poverty, which is currently only an objective of development cooperation and it is not even among the objectives of EU external action.¹ However, development cooperation will be used by the EU as just one of its tools of external action in the overall more political role it seeks to play in the world.

This paper aims to provide an overview of the innovations in the Lisbon Treaty which, directly or indirectly, are likely to affect the EU's relations with developing countries. The first section will examine the issues affecting the future use of development cooperation in the context of the EU's wider external action and Common Foreign and Security Policy (CFSP). The second part will look at how the changes could play out in practice, through changes in institutions and structures and in the implementation of policies, such as the recently launched Joint Africa-EU Strategy.

As this text was being finalised, the Irish voters rejected the Lisbon Treaty in a referendum, by a small margin, but with a reasonably high turnout. In addition to this, ratification has been delayed in other Member States, pending high court decision, signature by the president, parliamentary elections or approval from legislative bodies. However, all of this does not necessarily imply the demise of the Lisbon Treaty. European leaders are already consulting how best to respond to the situation given that the Treaty contains many innovations needed to make the EU operate more efficiently. If the Lisbon Treaty does have to be abandoned, all the more reason therefore to look at the proposed changes in detail and try to find ways to push ahead with those reforms that have the potential to significantly improve EU's policy and action towards developing countries.

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¹ TEU, Art. 3 (The numbering of articles refers to the consolidated version of the Lisbon Treaty, available at www.consilium.europa.eu/showPage.asp?lang=en&id=1296&mode=g&name=).

1. The Basics of the Lisbon Treaty

1.1. From Nice to Lisbon: The Main Changes

The Lisbon Treaty would bring about most of the changes to further European integration that were proposed by the “Constitution” in 2004. It adopts a legal framework to improve the effectiveness of an enlarged EU. Essentially:

*Co-decision would be the standard legislative procedure.*² The structure of three pillars – European Community, CFSP and Justice and Home Affairs – is formally abolished. However, this mainly affects the third pillar where, e.g., judicial cooperation in criminal matters and legal immigration are subject to the community method. Co-decision in the areas of agriculture, fisheries, transport and structural funds is another important extension. The CFSP remains subject to “specific procedures”³, i.e. intergovernmentalism.

Democratic accountability would be somewhat enhanced. With the enhancement of the community method with qualified majority voting (QMV) in the Council, the *European Parliament (EP)* is involved in 40 additional areas through the co-decision procedure. The EP has equal standing to the Council of Ministers when deciding on the EU budget.⁴ The role of National Parliaments is also being strengthened, mainly due to a new mechanism for monitoring the subsidiarity principle. Democracy at EU level is further enhanced through the possibility of a “Citizens' Initiative”, which may lead to new dimensions in the involvement of citizens at EU level.⁵ The Council legislates in public, a great step forward for transparency of the EU.⁶ The President of the Council and the High Representative are both required to brief and consult the EP on a more regular basis.⁷

The *President of the European Council*, appointed for two and half years, which may be extended once, replaces the system of the rotating presidency. The President convenes, chairs and drives forward the work of the European Council. He oversees the preparation of the work of the European Council together with the President of the Commission, based on the work of the General Affairs Council.

The Council would be chaired by a team of ministers from three Member States for a period of eighteen months - with the exception of the Council of Foreign Ministers (see below).⁸

*The number of European Commissioners would be reduced from 27 to 18 by 2014.*⁹ In future, the Member States appoint Commissioners based on a rota system.

*Enhanced Cooperation and Permanent Structured Cooperation*¹⁰: In response to calls for differentiated integration, the Treaty includes some provisions which allow for various speeds of integration and different degrees of cooperation. QMV allows a core group of at least nine states to move ahead, while unanimity will still apply in the

² TFEU, Art. 294.

³ TEU, Art. 24, paragraph 1; TEU, Art.31.

⁴ TEU, Art. 14, paragraph 1.

⁵ TEU, Art. 11, paragraph 4 and TFEU, Art. 24.

⁶ TEU, Art. 16, paragraph 8.

⁷ TEU, Art. 15 and Art. 36.

⁸ TEU, Art. 16, paragraph 9; TFEU, Art. 236; Declaration 9.

⁹ TEU, Art. 17.

¹⁰ Enhanced Cooperation: TEU, Art. 20; TFEU, Art. 236-234; Permanent Structured Cooperation: TEU, Art. 42 and 46.

Council of 27.¹¹ Enhanced cooperation is also allowed in the CFSP. Permanent structured cooperation in the area of defence fulfils the same purpose (see below).

Decision making would be simplified to improve efficiency in the Union of 27 Member States and in preparation for future enlargement. There is a new standard voting rule in the Council, the “*double majority rule*”, which basically gives more weight to population figures, meaning that smaller countries lose their previous over-representation. The double majority voting would not take effect until 2014.

The Lisbon Treaty would provide for *flexibility*. Cleared of all references to a Constitution, it lends itself to revision sooner rather than later (see Box 1).

Box 1: Structure of the Lisbon Treaty

The Reform Treaty actually consists of two treaties:

- The Treaty of the European Union (TEU)¹², containing most of the institutional provisions, resembling a Constitution;
- The Treaty on the Functioning of the European Union (TFEU)¹³ is more akin to implementing legislation; some of the provisions of the TFEU can be modified with a simplified procedure;

1.2. Main Innovations in the Area of External Action

The design of development policy and the implementation of development cooperation would primarily be affected by the new institutions involved in external action, as set out below.

The new *High Representative of the Union for Foreign Affairs and Security Policy* (EUHR) *would wear a second hat* as Vice-President of the Commission. In his first role he chairs the Political and Security Committee¹⁴ and the newly established *Foreign Affairs Council*, which will be separated from the General Affairs Council.¹⁵ It is unclear which of these fora handles the development, trade and enlargement topics currently dealt with by the General Affairs and External Action Council. In his latter role, the EUHR will head DG RELEX and lead the EC’s group of external action Commissioners. The EUHR will take part in the work of the European Council¹⁶, prepare and oversee implementation of the CFSP¹⁷, represent the EU in CFSP matters and international organisations and conduct political dialogue.¹⁸ Together with the Council, the EUHR, will “*ensure the unity, consistency and effectiveness of action by the Union.*”¹⁹ The EUHR will be assisted by a European External Action Service (EEAS).²⁰ The incumbent will be appointed by the European Council (with the

¹¹ TFEU, Art. 326.

¹² The successor to the TEU as conceived in the Maastricht Treaties (1992). The modifications here affect the institutions, enhanced cooperation, foreign and security policy and defence policy.

¹³ The successor to the Rome Treaties (1957), the Nice Treaty, became the Treaty Establishing the European Community (TEC). It sets out the competences and areas of intervention of the European Union.

¹⁴ TEU, Art. 38.

¹⁵ TEU, Art. 18 (paragraph 3).

¹⁶ TEU, Art. 15, paragraph 2.

¹⁷ TEU, Art. 27, paragraph 1.

¹⁸ TEU, Art. 27, paragraph 2.

¹⁹ TEU, Art. 26, paragraph 2.

²⁰ TEU, Art. 27, paragraph 3.

agreement of the President of the Commission) acting, if necessary, by qualified majority, and subject to a vote of consent by the EP. According to an agreed declaration, the European Parliament can use suitable contacts to participate in the appointment process, even in the initial phase in January 2009.

*The European Council would determine the strategic interests and objectives for all EU external action, including CFSP, on the basis of unanimity, further to proposals from the Council.*²¹ The President of the European Council – like the EUHR – is charged with the task of representing the Union in CFSP and play a role in crisis situations.²² There is a Secretary-General of the European Council, whose role and function is different from that of the EUHR.²³

*The European Commission would seize to be “fully associated” with the CFSP.*²⁴ The right of initiative in the CFSP remains with the Council. The EUHR can submit proposals to the Council, for which he can request the Commission’s support.²⁵ The Commission can submit proposals for other areas of external action, jointly with the EUHR.

A single procedure in CFSP called “*decision*” replaces what is now called “common strategies” of the European Council and “common positions” and “joint actions” of the Council of Ministers. The European Council’s decisions can cover *all areas of external action* and there is an explicit reference to the possibility of a *thematic approach*,²⁶ in addition to the geographic one applied up to now.²⁷

The EU would have a legal personality, which before only accrued to the European Community. The European Community is replaced by the EU throughout the Treaty text. This has a few implications in the EU’s external action. It would simplify the EU’s representation in international organisations, e.g., in the UN Peace-building Commission dual representation of the Council and the Commission will be replaced by a single EU representative due to the “double-hatting” proposals. Furthermore, in cases where Member States are willing to forego their right to speak, they can be represented by the EU. This would increase the weight of the EU as a group which is also one of the principal funders of many multilateral organisations, while reducing its own ‘multilateral image’. Legal problems and anomalies in relation to the signing of international agreements will be eliminated.²⁸ The Commission Delegations would become EU Delegations. The European Court of Justice could possibly gain competences in new areas.

2. Development Cooperation as part of the EU’s External Action

²¹ TEU, Art. 22 (paragraph 1); Currently, the European Council unanimously determines strategies for the CFSP on the basis of Council proposals only (Treaty of Nice, TEU, Art. 13, paragraphs 1 and 2).

²² TEU, Art.s 15, paragraph 6 and 26, paragraph 1.

²³ TFEU, Art. 240.

²⁴ Treaty of Nice, TEU 18, paragraph 4.

²⁵ TEU, Art. 22 (paragraph 2) and TEU, Art. 30 (paragraph 1). Currently, the European Commission can be requested by the Council of Ministers for Foreign Affairs to submit any appropriate proposal for CFSP to this Council (Treaty of Nice, TEU, Art. 14, paragraph 4).

²⁶ TEU, Art. 22.

²⁷ Only three Common Strategies have been adopted since the introduction of the instrument by the Treaty of Amsterdam (on Russia, the Ukraine and the Mediterranean).

²⁸ Dagard, Sophie (2008): “*This overcomes the anomaly whereby the EU had to find roundabout ways to fulfil its international responsibilities, for example, when the EU Special Envoy was obliged to sign the Dayton agreements as a “witness”.*”

2.1. The EU as a Global Actor

The EU's external policy would clearly be strengthened through the *institutional innovations* of the Lisbon Treaty. The President of the European Council is meant to ensure the continuity of policy priorities beyond the six-month duration of the current rotating EU presidency. The High Representative and the EEAS are designed to provide the EU with a stronger political profile and an increased capacity to act on the world stage. Both are hybrid animals, intended to function as a platform facilitating an immediate interconnection between the intergovernmental and communitarian areas.

Through *reformed decision-making*, the Treaty also helps to make the working of the EU's external action machineries more efficient. A few Member States have ensured that the CFSP and the CDSP have been carefully delimited in the intergovernmental area, but some consider that the slight expansion of qualified majority voting in these areas will help the EU to gain a stronger profile in international relations.²⁹

Furthermore, with the Lisbon Treaty the *scope and ambition of the EU's external policy* would be elevated to a new level. It presents the EU for the first time as a moral actor in the world³⁰ – shifting the emphasis from peace, well-being and prosperity within the EU to a concern with addressing global challenges. See Box 2 for the set of founding values introduced in the new Article 2 and revised Article 3, setting out entirely new ambitions to emanate these values in the EU's relationship with the wider world.

A new Chapter in the TEU on external action – including CFSP and the community areas – opens with an article on principles, somewhat mirroring the doctrine of the European Security Strategy designed by Javier Solana in 2003 (see Box 3). This article sets out some fundamental values, such as human rights and democracy, but also includes some of the aspects that have given rise to the term “soft power” in relation to the EU, i.e., the recognition of global problems that demand global solutions, as well as the commitment to foreign relations based on the rule of law and to multilateralism.

Box 2: The overall values and aims of the European Union	
Treaty of Nice	Treaty of Lisbon
	<i>TEU, Article 2</i>
	The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
<i>TEU, Article 2</i>	<i>TEU, Article 3 (paragraph 5)</i>
...to assert its identity on the international scene, in particular through the implementation of a common foreign and security	5. In its relations with the wider world, the Union shall uphold and promote its values and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among

²⁹ TEU Art. 31: In addition to the current exceptions to the unanimity rule in CFSP (1. Decisions on the basis of a common strategy; 2. Decisions implementing a joint action of common decision; 3. Appointment of a special representative), the Council can now use QMV on proposals presented by the HRFASP – acting independently or with the support of the Commission.

³⁰ Manners, Ian (2008) “The normative ethics of the European Union.”, *International Affairs* 84:1 (2008), 45-60.

policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Article 17.	peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
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The list of the EU’s objectives of external action following the statement on principles is significantly expanded. It now includes all areas of external action, from security to trade (see Box 4).

<p>Box 3: The principles of the EU’s external action</p> <p><i>TEU, Article 21 (paragraph 1) NEW</i></p> <p>1. The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.</p> <p>The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.</p>

The strengths and limits of the EU’s foreign policy is a key concern for development cooperation under the new set-up for external action in the Lisbon Treaty. The EU will only be able to exploit the entire range of external action to make a difference in any area, including development cooperation, if the EU starts to punch at its weight on the global scene on the basis of the new arrangements.

Box 4: The objectives of the EU’s external action	
Treaty of Nice	Treaty of Lisbon
<i>TEU, Article 11</i>	<i>TEU, Article 21 (paragraph 2)</i>
<p>1. The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be:</p> <ul style="list-style-type: none"> — to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter, — to strengthen the security of the Union in all ways, — to preserve peace and strengthen 	<p>2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:</p> <ul style="list-style-type: none"> (a) safeguard its values, fundamental interests, security, independence and integrity; (b) consolidate and support democracy, the rule of law, human rights and the principles of international law; (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;

<p>international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders,</p> <ul style="list-style-type: none"> — to promote international cooperation, — to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms. 	<ul style="list-style-type: none"> (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty; (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade; (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development; (g) assist populations, countries and regions confronting natural or man-made disasters; and (h) promote an international system based on stronger multilateral cooperation and good global governance.
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2.2. Development cooperation and humanitarian aid as areas of EU external action

Development Cooperation would become one of the EU’s areas of external action, all contributing to the same new overarching objectives of the EU in the world. It is placed under the new Part V on external action in the TFEU (see Box 5 and Figure). Separation from the provisions on the intergovernmental CSFP, which are treated in the TEU, still remains. This is politically relevant and has led to some concern that development could be instrumentalised by the CFSP.

Figure: External action provisions in the Treaty structure

Treaty of Nice Treaty on the European Union	Treaty of Lisbon Treaty on the European Union	Treaty of Nice Treaty on the Establishment of the European Community	Treaty of Lisbon Treaty on the Functioning of the European Union
<p>Title I Common Provisions</p> <p>Title II Provisions amending the Treaty of the European Economic Community with a view to establishing the European Community</p> <p>Title III Provisions amending the Treaty Establishing the European Coal and Steel Community</p> <p>Title IV Provisions amending the Treaty Establishing the European Atomic Energy Community</p>	<p>Title I Common Provisions</p> <p>Title II Provisions on democratic principles</p> <p>Title III Provisions on the institutions</p> <p>Title IV Provisions on enhanced cooperation</p>	<p>PART I Principles</p> <p>PART II Citizenship of the Union</p> <p>PART III Community Policies</p>	<p>PART I Principles</p> <p>PART II Non-Discrimination and Citizenship of the Union</p> <p>PART III Policies and internal actions of the Union</p> <p>PART IV Association of the overseas countries and territories</p>
<p>Title V Provisions on a CFSP</p> <p>Title VI Provisions on police and judicial cooperation in criminal matters</p>	<p>Title V General Provisions on the Union's External Action and specific Provisions on the CFSP</p> <p>Chapter 1 General Provisions on the Union's external action</p>		<p>PART V External action by the Union</p>
<p>Title VII Provisions on enhanced cooperation</p>	<p>Chapter 2 Specific provisions on the CFSP</p> <p>Section 1 Common provisions</p> <p>Section 1 Provisions on the common security and defence policy</p>	<p>Title IX Common commercial policy</p> <p>Title XXI Cooperation with third countries and humanitarian aid</p> <p>Title XX Development Cooperation</p>	<p>Title I General provisions on the Union's external action</p> <p>Title II Common commercial policy</p> <p>Title III Cooperation with third countries and humanitarian aid</p> <p>Chapter 1 Development cooperation</p> <p>Chapter 2 Economic, financial and technical cooperation with third countries</p> <p>Chapter 3 Humanitarian aid</p> <p>Title IV Restrictive measures</p> <p>Title V</p>

		<p>International agreements Title VI The Union’s relations with international organisations and third countries and the Union delegations</p>
	<p>PART IV Association of the overseas countries and territories</p>	
	<p>PART V Institutions of the Community</p>	<p>PART VI Institutional and budgetary provisions</p>
	<p>PART VI General and final provisions</p>	<p>PART VII General and final provisions</p>

Box 5: External action provisions in the Lisbon Treaty structure

- Placed in the TEU, Title V, a new opening Chapter 1 includes the principles and objectives of the entire external action and the roles of the Council and the EUHR. However, Chapter 2 covers specific provisions on the CFSP and the CSDP, separated from the other dimensions of external action to be found in the TFEU.
- In the TFEU, there is a new Part V on external action by the Union, which covers:
 - Common Commercial Policy
 - Cooperation with third countries and humanitarian aid
 - Union’s Relations with International Organisations and
 - Third Countries and the Union Delegations.

However, a number of changes would strengthen the status of development within the EU’s external action. Firstly, *development cooperation would be, for the first time, mentioned as one of the overall objectives of the EU’s external action* (Box 4).

Secondly, the *consistency requirement would be strengthened* (Box 6). The Union has to respect the principles and pursue the objectives of its external action in “*the different areas of the Union’s external action*” and “*in the external aspects of its other policies*”.³¹ As poverty reduction is among these objectives, the provision has gained relevance for development. In addition, consistency has to go beyond consistency *within* external action, with the Lisbon Treaty requiring consistency between external action and other policies. What is also new is that the Commission and the EUHR are directly responsible for consistency, in addition to the Council.

The consistency requirement is reiterated in the opening article of the specific provisions for the CFSP, thereby also implying that in the Lisbon Treaty CFSP shares the aim of poverty reduction in developing countries.³² The current Article 13 (Treaty of Nice) refers to consistency within CFSP only and places responsibility only with the Council of Foreign Ministers.

³¹ TEU, Art. 21, (paragraph 3).

³² TEU, Art. 23.

Box 6: Consistency in the EU's external action	
Treaty of Nice	Treaty of Lisbon
<i>TEU, Article 3</i>	<i>TEU, Article 21 (paragraph 3)</i>
<p>The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the <i>acquis communautaire</i>.</p> <p>The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies.</p> <p>The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers.”</p>	<p>3. The Union shall respect the principles and pursue the objectives listed in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and Part Five of the Treaty on the Functioning of the European Union and of the external aspects of its other policies.</p> <p>The Union shall ensure consistency between the different areas of its external action and <i>between these and its other policies</i>.</p> <p>The Council and the Commission, assisted by the <i>High Representative of the Union for Foreign Affairs and Security Policy</i>, shall ensure that consistency and shall cooperate to that effect.”</p>
<i>TEU, Article 13</i>	
The Council shall ensure the unity, consistency and effectiveness of action by the Union.	

Provisions on Development Cooperation

The Treaty of Lisbon clearly states that *poverty reduction* is at the heart of the Union’s development cooperation policy (Box 7).³³ This focus is a major change from the current provision, in place since the Maastricht Treaty of 1992, which mention “*sustainable development*” and “*smooth and gradual integration into the world economy*” as aims on an equal footing with “*the campaign against poverty*” (see Box 7, paragraph 1).³⁴ In addition, development cooperation is currently required to directly target governance issues (see Box 7, paragraph 2).³⁵

Box 7: The objectives of development cooperation	
Treaty of Nice	Treaty of Lisbon
<i>TEEU, Article 177</i>	<i>TFEU, 208</i>
<p>1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:</p> <ul style="list-style-type: none"> • The sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them, • the smooth and gradual integration of the developing countries into the world economy, 	<p>1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union’s external action.</p> <p>...</p> <p>The Union’s development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.</p>

³³ TFEU, Art. 208, paragraph 2 .

³⁴ Treaty of Nice, TEEU, Art. 177.

³⁵ Treaty of Nice, TEEU, Art. 177.

<ul style="list-style-type: none"> • the campaign against poverty in the developing countries. <p>2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.</p> <p>3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.</p>	<p>2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.</p>
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While the legally binding objective of poverty reduction in all EU development cooperation is very welcome, critics have pointed out that *some fundamental principles are absent* from the Treaty.³⁶ In particular, there is no mention of “partnership” and “ownership”, while these are firmly embedded in the Cotonou Agreement, which will be in place at least until 2020, and in the European Consensus on Development. The Treaty does not establish links between quality, effectiveness and the impact of development cooperation.³⁷

Policy Coherence for Development (PCD) would remain literally unchanged, taking over the current Article 178 TEC, which requires other EU measures to take account of development objectives (Box 8). But by means of the new focus on the goal of poverty reduction, taking into account the objectives of development cooperation in policies likely to affect developing countries becomes a much stronger demand. The focus on poverty reduction, together with the coherence requirement, also implies that development policy is a policy in its own right, and not merely an accessory to CFSP. It is worth noting, however, that the PCD article remains to be located in the chapter on development cooperation. The other areas of external action, including CFSP and CDSP merely have to be “consistent” with each other.

Box 8: Policy Coherence for Development	
Treaty of Nice	Treaty of Lisbon
<i>TEEC, Article 178</i>	<i>TFEU, Article 208</i>
<i>Article 178</i>	<i>Article 208</i>
<p>The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries.</p>	<p>1. ...</p> <p>Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.</p> <p>The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.</p>

³⁶ BOND (November 2007) “International Development and the new EU Reform Treaty”, p2.

³⁷ Ibid.

Development cooperation and humanitarian aid would remain “*shared parallel competences*” between the EU and its Member States.³⁸ This is the result of organic development rather than design. The Member States rejected advances by the Commission to hand over this area to EU competence in 1992.³⁹ Hence, one of the crucial aspects of the Lisbon Treaty is that it strengthens the *complementarity and coordination provisions* (Box 9). What is new is that complementarity goes both ways: previously the Community had to complement Member States’ development policies, now the two “*complement and reinforce each other*”.⁴⁰ There is a new reference to “*complementarity and efficiency*” as the purpose of coordination within the Union, while this coordination remains to be promoted by the Commission.⁴¹

Box 9: Complementarity in development cooperation	
Treaty of Nice	Treaty of Lisbon
<i>TEEC, Article 177</i>	<i>TFEU, Article 208</i>
1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, ...	1. ... The Union’s development cooperation policy and that of the Member States complement and reinforce each other. ...
<i>TEEC, Article 180</i>	<i>TFEU, Article 210</i>
1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes. 2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.	1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes. 2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Provisions on Humanitarian Aid

Humanitarian Aid would get a *new legal basis* in Article 214, TFEU. This provision stresses the specificity of the policy and the application of the principles of international humanitarian law, impartiality, neutrality and non-discrimination.⁴² However, the principle of independence is absent. NGOs see here a risk of instrumentalisation for political purposes.⁴³

³⁸ TEU, Art. 4.

³⁹ Communication to the Council and the Parliament “Development-cooperation policy in the run-up to 2000”.

⁴⁰ TFEU, Art. 208.

⁴¹ TFEU, Art. 210.

⁴² TFEU, Art. 214.

⁴³ BOND (November 2007) “International Development and the new EU Reform Treaty”, p2.

Humanitarian aid, as with development cooperation, is “*to be conducted within the framework of the principles and objectives of the external action of the Union*”...“*to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations*”.

There is also a complementarity requirement: “*The Union’s operations and those of the Member States shall complement and reinforce each other.*”

The Treaty provides for the creation of a European Voluntary Humanitarian Aid Corps.⁴⁴ Most people would agree that it is important to provide young Europeans with the possibility of gaining experience in developing countries. But at a time when many developing countries have an abundance of unemployed young people with university degrees and long-established volunteer organisations have moved away from working with inexperienced volunteers, dispatching young volunteers should not be confused with assignments for professionals. NGOs are also concerned about quality standards and the principles of humanitarian response in the context of this Corps.⁴⁵

2.3. Conclusion: A More Political Form of External Action – A More Political Form of Development Cooperation

The new scope and ambitions of the EU’s external action, as summarised in section 2.1, would amount to a politicisation of the EU’s external action. Development Cooperation is one of the instruments at the Union’s disposal for this purpose and, as such, also politicised. While the poverty focus is more pronounced, the first sentence in the section on development cooperation reads as follows: “*Development Cooperation shall be conducted within the framework of the principles and objectives of the external action of the Union.*”⁴⁶ Is this a good thing?

The Lisbon Treaty has been received among development practitioners as largely positive. It is felt that development cooperation and humanitarian aid have been recognised as EU policies in their own right, with their own objectives.

However, there is also great concern among NGOs that the consolidation of the EU external action and CFSP risks “*sidelining commitments on development*” and that the role of poverty reduction in the policy mix of the EU’s external action is under threat. Worse than this, NGOs fear that the “*increased politicisation of development cooperation*” and the funding allocated for it, could be instrumentalised to achieve foreign policy objectives.⁴⁷ This concern is compounded by the fact that no additional funding seems to be forthcoming to match the more ambitious structure and policy in the CFSP area.⁴⁸

Others argue that the politicisation of development cooperation should not be seen as a threat. There is a lot to gain from a more political approach, given that we lend credibility to the EU as a “normative power”. Although the EU’s approach to external action based on subscription to the rule of law and multilateral solutions runs into difficulties when confronting military powers e.g., in the areas of energy and security, it

⁴⁴ TFEU, Art. 214.

⁴⁵ BOND (November 2007) “International Development and the new EU Reform Treaty”, p2.

⁴⁶ TFEU, Art. 208.

⁴⁷ BOND (November 2007) “International Development and the new EU Reform Treaty”, p2.

⁴⁸ Stocker, Simon (2007) “Simon Stocker examines the potential impacts of the Lisbon Treaty. Strengthening Europe’s aid”.

has a unique potential in promoting development through a “Whole-of-Government” approach.

Given that institutions – governance, the rule of law, accountability, etc. – are key for development and their evolution is paramount to development, this creates a need for a more political approach to support the beneficial evolution of local institutions. EU development cooperation with its new policies, such as programme support or the Governance Initiative, demands that the political dimension of relationships with ACP countries also be upgraded. Vis-à-vis countries like Ethiopia and Sudan, where the security development nexus is most apparent, diplomats are also clearly needed. Political dialogue is meaningless without the political backing of the EU as a global actor.

In addition, Europe is the largest global economic power – in trade, investment and development aid. Combining external action instruments in a Whole-of-Government approach to address global challenges – rather than development cooperation alone as a technical and often marginal exercise – has the potential to counter-balance the influence of commercial interests, hard powers and emerging donors in Africa. More adequate institutions such as the EUHR, EEAS and strengthened Delegations should be better equipped to ensure coherence of engagement on the ground. From an optimistic perspective, such an approach could lead to the allocation of more adequate funds from all areas of EU external action to address global problems, ranging from poverty to climate change.

The task for the development community will be to harness the entire breadth of the EU’s external action for development effectiveness and EU policies affecting the South. In the next section we will look at some aspects of this task ahead.

3. From Principles to Implementation

3.1. Institutional Changes

The Lisbon Treaty would provide the necessary political push to move ahead on a number of institutional reforms, many of which do not necessarily depend on a new legal framework but have been discouraged by a lack of political guidance and uncertainty about institutional developments.

EU foreign policy has grown organically – responding step by step to outside challenges since the Balkan wars of the early 1990s. These developments were slowly framed by a few crucial institutional and procedural adaptations in the consecutive treaties, with the latest culmination in the Lisbon Treaty. These adaptations should not be underestimated. However, some of the innovative features such as the “double-hatted” formula have been successfully piloted already. In terms of policy-making in the area of external action, closer cooperation between Council and Commission is already the order of the day in many areas. Debate on reforming the multitude of overlapping Council working groups dealing with issues relating to Africa has also been triggered by the need to implement the multidimensional Joint Africa-EU Strategy.

This shows that there is already clear recognition that something has to be done about some incoherent and inefficient structures, and that innovative ways have to be found to address ubiquitous challenges, such as mainstreaming cross-cutting issues in external action.

The fact that the Treaty leaves more open than it clarifies is of concern, however. Its vagueness in terms of the institutional set-up poses the threat of greater incoherence through a proliferation of overlapping activities by a multiplicity of actors.⁴⁹ There is a danger of competition among the three leaders in the field of external action, in particular, between the EUHR and the President of the European Council because they are both responsible for representation in CFSP matters and between the EUHR and the President of the Commission because of the ambiguous reporting position of the EUHR. Commentators have argued that a lot will depend on the personalities of the three top leaders. Some see the ambiguity of the relevant Treaty provisions as an advantage allowing the people who take up the three top positions to find a *modus operandi* among themselves and shape the three jobs in a flexible manner. It is highly questionable whether this is the best way to determine the outcome. There would seem to be a need to clarify the roles, responsibilities and hierarchies as soon as possible by legal acts. Such regulations should be the result of a broad consensus in the spirit of the new multi-dimensional external action.

Commission Services for Development Cooperation

The role of the EUHR offers great potential for improving coherence between the two spheres of intergovernmental CFSP and the Commission's work on external relations. However, it would remain to be seen whether the High Representative can resist the pressure to primarily expand the intergovernmental space rather than promote the community policies at the Council. In other words, the issue is: who does the EUHR – to be appointed by the European Council which also has the power to dismiss the incumbent – ultimately report to? The Council or the Commission President?

Some warn of the loss of the Development and Humanitarian Aid Commissioner. It is however not likely that development would be a victim of the reduction of Commissioners. Looking at the institutional models for development cooperation among the EU Member States, only the UK reports to have an autonomous agency for development cooperation and some of the most generous EU donors incorporate their development cooperation as a section under the Foreign Affairs Ministry (Table 1). The comparison does show, however, that lead countries in terms of living up to Monterrey commitments, have a Minister for Development in the Cabinet. If Development Cooperation were to lose its Commissioner this would be a major set-back.

⁴⁹ Santopinto, Federico (2007/5) “Le traité de Lisbonne et l'action extérieure de l'Union européenne“, Rapport du GRIP.

Table 1: Models of institutional arrangements for Development Cooperation⁵⁰

Examples	Responsible for Development Cooperation	ODA% of GDP (2006)
1. Autonomous Agency (responsible for policy and implementation)		
Minister for Development Cooperation		
UK	• Department for International Development (DFID)	0.52
2. Implementing agency for under policy of Ministry for Foreign Affairs		
Minister for Development Cooperation		
Germany	• German Federal Ministry for Economic Cooperation and Development (BMZ) • Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)	0.36
Sweden	• Swedish International Development Cooperation Agency (SIDA)	1.3
3. Development Cooperation Directorate within the Ministry of Foreign Affairs		
Italy	• Directorate General for Development Cooperation	0.21
Minister for Development Cooperation		
Finland	• Department for Development Policy;	0.39
Netherlands	• Directorate-General for International Cooperation (DGIS);	0.81 (2005)
4. Integrated Foreign Affairs Ministry (each section in the ministry has a development cooperation unit)		
Minister for Development Cooperation		
Denmark	• Danida Devforum, Technical Advisory Services	0.80
5. Multiple ministries with multiple implementing agencies		
France	• Agence Française de Développement (AFD), operates under the aegis of the Ministry of Foreign Affairs, the Ministry of Finance and the Overseas Ministry.	0.47
Portugal	• Instituto Português de Apoio ao Desenvolvimento (IPAD)	0.21

Others are concerned about a hierarchy among Commissioners with senior and junior members of the College. They fear the subjugation of all other external action DGs to a predominant DG RELEX promoting security-driven or influence-asserting politics. The role that the Development Commissioner can play in the College of Commissioners and in relation to the EUHR remains to be seen. Generally, in a smaller College, the political weight and the abilities of the individual Commissioners are likely to play a bigger role than in the past. In addition, it is clear that this Commissioner should be on an equal footing with other RELEX Commissioners to be coordinated by the EUHR. Coordination and overseeing consistency and coherence under one external action approach is the main responsibility of the EUHR. Hence, by definition the EUHR would be a *primus inter pares* in the College of Commissioners. However, in practice, the distribution of power and influence would hinge upon control over the Community budget, which in turn will largely depend on the competences of the EEAS. The EEAS could become responsible for all external relations expenditure, for DG RELEX instruments only, or not have any financial control, which would then remain with the Commission.

The Treaty has the potential to lead to a streamlining of the EC development architecture. There are various ways to address the current multiplicity of instruments,

⁵⁰ EU Donor Atlas 2007.

with thematically and regionally overlapping coverage, managed with fragmented structures:

- First, calls to *unite all EU development policies under one DG* and one Commissioner have been repeated further to the signing of the Lisbon Treaty. Merging DG EuropeAid and DG DEV and hence bringing policy formulation and implementation together should increase effectiveness. Bringing the development programmes for Latin America and Asia of DG RELEX together with those of DG DEV for ACP countries, under the responsibility of the Commissioner for Development would increase thematic coherence. The question is whether the DG responsible for development would retain a geographical rather than a political role or if it would, in fact, be another DG RELEX working with development countries. Again, in practice, a lot will depend on the nature of the EEAS (see below). For example, it has been proposed to integrate the Council Secretariat's geographical desks with the political desks in DG RELEX, DG DEV and DG Enlargement as political advisory units to the Commission. This constellation would leave the DG responsible for development without any political relations function. In any case, a single DG with strong development policy capacity is key for the Commission to be able to play its federating role within the EU, gathering lessons learned and consolidate best practices. It would also need to have the authority to project development priorities effectively into all fora where EU external action is discussed and decided upon.
- Second, due to the deletion of Article 179(3) of the Treaty Establishing the European Community, which excludes the EDF from the scope of that Treaty, “*budgetisation*” of the European Development Fund (EDF) is back on the agenda.⁵¹
- Third, further *deconcentration* of development cooperation is desirable and would be logical in the context of the newly empowered Delegations.

The Union Delegations and the European External Action Service

The status of the Delegations would be enhanced significantly by the Lisbon Treaty. The EU Delegations would have a legal personality enabling them to represent the Union in the full range of Union competencies. This implies combining the Council's Delegations (i.e. in New York) with the Commission's Delegations worldwide, into one service. Under the authority of the EUHR, the Delegations are required to cooperate closely with the Member States' representations. The Union Delegations also bear responsibility for consular protection of EU citizens.⁵² Together with the Member States' representation, they are also responsible for ensuring that the EU's policies are complied with and implemented;⁵³ as stated in the Nice Treaty, they shall “*contribute to formulating and implementing the common approach*”.⁵⁴

The establishment of the EEAS is required to give the EUHR authority and give him or her tools to deliver. It is set up “*to work in cooperation with the diplomatic services of the Member States*”, and comprises “*officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from*

⁵¹ For an overview of the issue see: Mackie, J., Frederiksen, J. and C. Rossini. 2004. *Improving ACP-EU Cooperation. Is 'budgetising' the EDF the answer?* (ECDPM Discussion Paper 51). Maastricht: ECDPM.

⁵² TEU, Art. 35.

⁵³ TEU, Art. 35.

⁵⁴ TEU, Art. 32, paragraph 3.

national diplomatic services of the Member States".⁵⁵ It is not clear if the EEAS would be funded from the EU budget – which would subject it to the EP's scrutiny – or from the Council Secretariat's budget, and who would fund staff seconded from Member States, ensuring equal conditions across the service.

The practical side of the EEAS remains very much in the dark. The paragraph on the EEAS was taken over from the Draft "Constitution" with no changes. Since then, a 2005 Joint Progress Report on preparatory work remained vague on the big questions of the scope and size of the future EEAS.⁵⁶ It states that the EEAS should be of "*sui generis*" nature – meaning that it will not be a new institution "*but a service under the authority*" of the EUHR, probably functioning as an interface for the three staff sending parties. It should minimise duplication and help save costs. The EEAS will consist, at least, of the relevant services of the Council Secretariat (Directorate General E and Policy Unit) and of the Commission (DG RELEX). Member States disagree on the inclusion of areas such as enlargement, neighbourhood and development policy. There is a consensus that the Union Delegations should be an "*integral part of the EEAS*". But this "*does not necessarily imply that all staff working in the Delegations would need to be members of the EEAS (those covering specific policies such as trade and management of financial assistance would continue to come from the services of the Commission).*"

The EEAS and the Delegations would probably constitute the battlefield where the politicisation of external action and development cooperation would be most keenly felt. The upgrading of EU Delegations will affect the power balance between national embassies and the EU Delegations in partner countries. On the technical side, Member States may be more willing to delegate cooperation or channel funds for budget support to Delegations with a greater capacity and stronger mandate for political dialogue. Hence, if the new Union Delegations can strengthen their political and technical capacities through the EEAS, the Commission may be able to establish its added value in managing budget support in the context of the Code of Conduct on Division of Labour in Development Cooperation. On the political side, Member States could feel threatened by EU Ambassadors, who will also represent the European Council instead of the current rotational presidency, might take too much political space. They may be less willing to engage in a division of labour in cases where that means withdrawing or cutting back activities. More secondments of experts from Member States to the Delegations may have the potential to counter such tendencies and further upgrade the technical capacity of Delegations in all areas of external action. While the report mentioned above insists on recruitment based on merit – in which geographical balance has to be maintained – the Member States are already planning on lobbying activities to place their own diplomats.

In addition to confounding the traditional relations between the EU and the Member States in the field, the power balance within the new Delegations is another major issue. All depends on the extent to which officials responsible for Commission development programmes would also be EEAS members and what their lines of reporting would be in relation to the probably also double-hatted heads of the new EU Delegations. Should development cooperation personnel be integrated into the EEAS, while the Heads of Delegations have to wear two hats, the Heads of Cooperation may find themselves in a

⁵⁵ TEU, Art. 27, paragraph 3.

⁵⁶ Council of the EU, "Joint progress report by the Secretary-General/High Representative and the Commission on the European External Action Service"., Brussels, 9 June 2005, 9956/05, CAB 24, RELEX 304.

position of having to weigh development priorities against more short term foreign policy objectives. The staff in question could end up being marginalized within the Delegation, in violation of the Whole-of-Government approach. There would also be competency overlaps as well as high transaction costs for the new cross-body communication and coordination.

If development cooperation staff were part of a larger EEAS, it is feared that instrumentalisation would take place in the service of a diplomatic agenda while the Commission would lose influence. However, integrating development in the EEAS may provide an opportunity to acknowledge the increasingly political nature of the EU's relationship with many developing countries.

Both options have advantages and disadvantages and this may be a case for trying to find the least worst solution. Critics fearful of the EEAS taking over aspects of development cooperation in the Delegations should be reminded of the current staffing situation in Delegations. Many posted officials are by no means necessarily development experts but mostly technocrats coming from an entire range of educational backgrounds. The technical experts are mostly contractual agents, whose power and competencies are limited. Due to the limited duration of their contracts, compounded by recent changes in recruitment through standardised exams, their experience is not available to the Commission on a continuous basis.

3.2. The Joint Africa-EU Strategy - Could the Treaty Support a More Political Relationship?

The Lisbon Treaty has the potential to support the paradigm shift from PCD to a Whole-of-Government approach. The trend towards a more political and a multi-dimensional approach to development cooperation, which has just received recognition in the Lisbon Treaty, is probably best exemplified by the Joint Africa-EU Strategy, signed by 70 Heads of State from the AU and the EU in December 2007 at the Lisbon summit. Encompassing eight policy areas – peace and security, migration, mobility and employment, democratic governance and human rights, trade and regional integration, the Millennium Development Goals, energy and climate change and science, information society and space – it is not just about development cooperation. It goes beyond aid, committing both Unions to a renewed long-term political partnership based on common values and interests, and strategic objectives. Engaging in a political partnership with the AU based on common interests and strategic objectives, the EU can also draw lessons from the successes of the Pre-accession and Neighbourhood Policies. These EU policies have demonstrated that a combination of strong incentives and ownership is the key to change.

Would the entering into force of the Lisbon Treaty impact on the implementation of the action plans agreed on in the Joint Africa-EU Strategy's eight topical partnerships? There are three reasons why, in principle, this should be the case:

- First, the *EU will gain a number of competences*, in security policy, governance issues, trade, energy, migration and space policy that will allow it to actually represent the EU Member States and move ahead in the agreed areas.
- Second, a *coherent Whole-of-Government approach* is especially promising in the context of common interests and strategic objectives. For the former, the broad spectrum of foreign policy goals in the Lisbon Treaty is to some extent mirrored by the eight partnership areas. This would allow the EU to provide adequate incentives

to match the priority goals. The latter could encourage more political will to go beyond aid and offer some concessions. There is reason for some optimism here, as most partnerships represent areas of common interest, where the EU needs Africa as much as Africa needs the EU.

- Third, the *double-hatted new institutions* should support this approach. The implementation of the Joint Strategy, involving up to seven current Council groups, many Commission DGs and the Member States, will be an exercise in EU coherence and complementarity *par excellence*, from which lessons can be learned in the future. The establishment of a High Representative to the AU preceded the entering into force of the Lisbon Treaty, but definitely constitutes an important basis for progress in the various partnerships.

The remainder of this section looks at one EU policy – the European Neighbourhood Policy (ENP) and two exemplary areas of the eight partnerships in the Joint Africa-EU Strategy, in an attempt to grasp some of the implications of the Lisbon Treaty for coherence in general, and the implementation of the respective action plans in particular.

The European Neighbourhood Policy

- The ENP would receive a new level of recognition in the Lisbon Treaty. This again confirms the reality of the current intensification of the ENP. It seems clear that the ENP would remain separate from development policies, firmly rooted in DG RELEX. As the only policy mentioned in a very prominent position in Title I, Common Provisions of the TEU, among core principles such as the Union's aims, the subsidiarity principle, etc., the aim is clearly to establish another level – “*a special*” relationship with a group of Eastern European and Mediterranean countries.⁵⁷
- With regard to coherence, the ENP offering “*a deeper political relationship and economic integration*”⁵⁸ is clearly in contradiction to “treating Africa as one”, as postulated in the Joint EU-Africa Strategy. The implications for African integration are not at all clear. Through the ENP the EC applies some of the features of possibly the most successful area of EU foreign policy, the Pre-Accession Policy, aiming at the eventual transfer of its legal and regulatory framework, including to some Northern African countries. It cannot be ruled out that the potential benefits of the privileged relationship with North Africa would have positive spill-over effects within Africa.

Peace and Security

- The Lisbon Treaty would strengthen the Union's security policy in many respects (Box 10).⁵⁹ In case of urgent financial assistance, the Council acts by qualified

⁵⁷ TEU, Art. 8.

⁵⁸ “The Policy: What is the European Neighbourhood Policy?”, http://ec.europa.eu/world/enp/policy_en.htm

⁵⁹ For comprehensive overviews see: Dagand, Sophie (2008) “The impact of the Lisbon Treaty on CFSP and ESDP”, ISIS Europe – European Security Review no. 37, 03/2008, and Quille, Gerrard (2008) “The Lisbon Treaty and its implications for CFSP/ESDP”, Directorate-General for External Policies of the Union, Directorate B, Policy Department, European Parliament, 02/2008.

majority upon a proposal from the Commission. This should mean quicker financial assistance in the future. The expansion of the Petersberg Tasks confirms the reality of the EU's missions in recent years but it is also a sign that the EU intends to further step-up its profile in international crisis intervention.

In relation to the Joint Africa-EU Strategy for Africa and its partnership on Peace and Security, it may be noted that cooperation with regional and continental organisations is strengthened under the Treaty (Box 3).⁶⁰ In this context, these provisions give hope that cooperation with the AU will not be limited to agreed action plans on peace and security but also relate to EU missions in Africa which have thus far rather sidelined the African Peace and Security Architecture (APSA).

The new context of the rationalisation of EU external action may shed a different light on another aspect of this action plan, i.e., the sustainable funding of African-led Peace Support Operations (PSOs). More coherent external action could provide other options for supporting PSOs than the current main EU instrument for this task, the African Peace Facility (APF). If the EU is serious about human security in Africa, as well as strengthening its own security threatened by conflict and lack of rule of law in Africa, it will not only have to apply the entire range of external action instruments and policies to the problem, but also allocate adequate funds to it. This issue will definitely impact on the review of the APF scheduled for 2009.

Box 10: Major changes in the EU's security policy

- The expansion of the scope of the European Security and Defence Policy (ESDP), to be called *Common Security and Defence Policy (CSDP)*, under a new separate heading including: a “solidarity clause” and a “mutual defence” commitment, both with substantial qualifications and provisos;⁶¹
- The significant expansion of the *Petersberg tasks* reflects the reality and the ambitions of the EU's international missions. The EUHR “*acting under the authority of the Council and in close contact with the Political and Security Committee,...*” rather than the PSC, has the responsibility to oversee and ensure coordination of the civilian and military aspects of such tasks.⁶²

Petersberg Tasks	
Nice Treaty	Lisbon Treaty
<i>TEU, Article 17 (paragraph 2)</i>	<i>TEU, Article 43</i>
Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.	The tasks referred to in Article 42(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peacekeeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

⁶⁰ TEU, Art. 21 (paragraph 1).

- The possibility for the Council “to entrust the implementation of a task to a group of Member States which are willing and have the necessary capability”;⁶³ As Dagand points out, “this provides formal recognition of the Artemis mission led by the French in the Democratic Republic of Congo in September 2004; thereby institutionalising the development of such practices”.⁶⁴
 - The possible establishment of “permanent structured cooperation” in the field of defence;⁶⁵ mirroring enhanced cooperation, but does not require a threshold number of countries; the establishment of start-up financing for a defence policy mission can be agreed upon by QMV.⁶⁶ These provisions might lead to accelerated enhancement of military capacity and increases in defence spending, requirements for the EU’s role in international crisis management.⁶⁷ However, there is concern that permanent structured cooperation could lead to a two-tier Europe, excluding smaller Member States which lack the means to participate in such cooperation.
 - Remarkably, out of the dozens of EU agencies, only the *European Defence Agency* is mentioned in the TFEU. It was established in 2004 in Brussels, and is tasked with defence capabilities development; armaments co-operation; the European defence, technological and industrial base and defence equipment market; research and technology. Clearly, this article constitutes a strong signal reflecting the EU’s determination to enhance its military power.⁶⁸
- A coherent Whole-of-Government approach to peace and security seems to be of the utmost importance in view of the EU’s increasing appetite to engage in military and civilian crisis management in developing countries and with the EU’s largest ever crisis intervention mission just dispatched to Chad. The year 2007 brought new policies and instruments relating to the development and security nexus, but implementation has been slow. While the conditions for meaningful EU engagement in global crisis have improved with the Treaty’s innovations in this area, a common political backing for a coherent human security-oriented EU profile has yet to emerge. In its absence, the possibility of delegating military missions to one or more Member States as established by the Treaty may pose a threat, i.e., endorsement of a continuation of the “françafrique” politics under the EU flag.
 - The new bridging institutions have raised expectations in bringing together the multitude of actors involved, i.e., DG RELEX for conflict prevention and increasingly for external aspects of energy and climate policy, DG DEV and DG EuropeAid dealing with the APF, and various Council groups handling the military and civilian aspects of security-related EU missions. The recent appointment of a Special Advisor for African Peacekeeping Capabilities with a mandate to “strengthen the partnership between Africa and EU in the field of prevention management and resolution of conflicts” is a sign that the EU is, to some extent, taking seriously the need to support the APSA, but a double-hatted envoy – the standard approach with the Lisbon Treaty – would be preferable.

⁶¹ TEU, Art. 42.

⁶² TEU, Art. 42 (paragraph 1).

⁶³ TEU, new Art. 44.

⁶⁴ Dagand, Sophie (2008) “The impact of the Lisbon Treaty on CFSP and ESDP”, ISIS Europe, European Security Review no. 37, March 2008, p 3.

⁶⁵ TEU, new Art. 46.

⁶⁶ TEU, Art. 41 .

⁶⁷ Santopinto, Federico (2007) “Réforme des traités: Une ‘coopération structurée permanente’ pour mieux armer l’UE”, Note d’analyse, GRIP.

⁶⁸ TFEU, Art. 45.

Trade and Regional Integration

- With the Lisbon Treaty the EU would arguably give its mission of strong promotion of global trade liberalisation, albeit with reservations with regard to cultural services or agriculture, a new level of significance. The Treaty of Nice included “*the smooth and gradual integration of the developing countries into the world economy*” as one objective of development cooperation. While the only objective mentioned in the chapter on development cooperation in the Treaty is poverty reduction and eradication, the overarching objectives of external action include: to “*(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade*”. The adjectives “smooth and gradual” were lost in this re-phrasing, which could be interpreted as an ideological shift (see Boxes 4 and 7).

In addition, the Treaty would bring the entire Common Commercial Policy – including trade in services, foreign direct investment and intellectual property rights, which are currently shared competences – under exclusive EU competence, mostly subject to the co-decision procedure.⁶⁹ Hence we can expect the EC to continue to push for broad liberalisation, as already pursued in the EPA negotiations.

- In terms of a coherent Whole-of-Government approach, there are concerns that the Lisbon Treaty would reinforce the EU’s generally protectionist agriculture policy which has an impact on developing countries. Bringing the Common Agricultural Policy (CAP) under the co-decision procedure, the EP with its track record of opposing CAP reform gains influence. However, the ACP as a group is against CAP reform (with the exception of cotton).
- On the institutional side, DG Trade would not be integrated in the EEAS and the Commissioner for Trade would not necessarily be reporting to the EUHR. In conclusion, there is a strong case for DG DEV to develop stronger policies on trade and agriculture policy towards Africa and to set up mechanisms and structures to ensure that EU trade policies are conducive and supportive to development.

4. Conclusion

The Lisbon Treaty would provide the EU with the tools and frameworks for a more politicised profile in external action. As shown above for the areas of peace and security and trade, the Treaty entails potential benefits but also risks for development. In addition, reforms in some of the internal and external common policies would give the EU many more competences to play a stronger role on the global scene and to build more meaningful partnerships, e.g., in some areas of the Joint Africa-EU Strategy. While efforts to increase consistency, PCD and effectiveness of structures and policies are already on the way in many areas, there is plenty of room for manoeuvre in the implementation of the Lisbon Treaty reforms.

Improvements in PCD would not come automatically. By building on this reformed legal framework, development cooperation would have to assert itself within the EU’s external action. A strong proponent – such as a unified DG Development with strong

⁶⁹ TFEU, Art. 206 and 207.

development policy capacity headed by a Commissioner – needs to ensure that the development dimension is adequately addressed in other policy areas such as peace and security and trade. However, political backing would be key in determining the role of development cooperation – far more than any institutional arrangement. With an external action policy that represents a fairly radical break with the past, the new set-up may not have to follow the old recipe. The chance of capitalising on the entire breadth of external action for the benefit of development is an exciting prospect, but will have to be fought for.

The way forward would be through extensive analysis and inclusive consultation on the pros and cons of the detailed options for reporting and financial control structures, the set-up of the EEAS and the reform of Commission services and aid architecture. An ample and inclusive debate would be needed in order to get the most out of the Treaty changes for development cooperation. Such a debate would also form the basis for developing response strategies for development partners in dealing with a somewhat transformed counterpart.

Information sources

Information on ECDPM's work on ACP-EU cooperation
www.ecdpm.org

Information on the implementation of the Joint Africa-EU Strategy
<http://europaffrica.org/>

Joint Action Aid and ECDPM Project "Wither EC Aid"
<http://weca-ecaid.eu/>

EC Information on the Lisbon Treaty
http://europa.eu/lisbon_treaty/index_en.htm

Latest information on the "Future of Europe/ Institutional Reform" by the President of the European Commission
http://ec.europa.eu/commission_barroso/president/priorities/future/index_en.htm

French Presidency of the European Union
www.ue2008.fr/PFUE/lang/en/accueil

Statewatch Observatory on the EU Constitution-Reform-Lisbon Treaty
www.statewatch.org/euconstitution.htm

Eurostep/EEPA information page on the Lisbon Treaty and development cooperation
www.lisbon-treaty.org/wcm/index.php

The three Cs initiative (coordination, complementarity and coherence)
www.three-cs.net

List of acronyms

ACP	African, Caribbean and Pacific Group of States
APF	African Peace Facility
APSA	African Peace and Security Architecture
AU	African Union
CAP	Common Agriculture Policy
CDSP	Common Defence and Security Policy
CFSP	Common Foreign and Security Policy
DG DEV	Directorate General for Development Cooperation
DG RELEX	Directorate General for External Relations
EC	European Commission
EDF	European Development Fund
EEAS	European External Action Service
ENP	European Neighbourhood Policy
EU	European Union
EP	European Parliament
ESDP	European Security and Defence Policy
EUHR	High Representative of the Union for Foreign Affairs and Security Policy

JHA	Justice and Home Affairs
PCD	Policy Coherence for Development
TEC	Treaty on the Establishment of the European Community
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
QMV	Qualified majority voting