



CONCORD recommendations for the EU 2014-2020 External Action Instruments

1. Thematic and overarching recommendations.....	2
1.1. General recommendations	2
1.2. Policy Coherence for Development (PCD)	2
1.3. Country differentiation	3
1.4. Blending loans and grants.....	4
1.5. Civil Society participation.....	5
1.6. Benchmarking and earmarking	6
2. Recommendations on the funding instruments	7
2.1. Development Cooperation Instrument (DCI).....	7
2.2. European Instrument for Democracy and Human Rights (EIDHR).....	9
2.3. European Development Fund (EDF)	10
2.4. European Neighbourhood Instrument (ENI).....	12
2.5. Partnership Instrument (PI)	12
2.6. Horizontal Regulation	13

1. Thematic and overarching recommendations

1.1. General recommendations

CONCORD welcomes the European Commission's proposal to increase the size of the EU Budget for external action (Heading 4) from 5.7% to 6.8% of the total MFF, and the proposed significant increase in development aid. This percentage should be maintained. Supporting a strong development policy with a substantial budget is a way of strengthening the EU's role at international level. EC aid and development policy have a real added value in donor coordination and in leveraging its political weight in developing countries. Aid has historically been the strongest foreign policy instrument of the EU.

During the past ten years, the effectiveness of EU external assistance has improved considerably with the adoption of a single development policy, a formal commitment to the principle of Policy Coherence for Development (PCD), the adoption of the EU Code of Conduct on Complementarity and Division of Labour in Development Policy and the establishment of specific development instruments.

CONCORD recommends that:

- ✓ References to the **objective of poverty reduction** and eradication enshrined in the Lisbon Treaty and the European Consensus on Development are included in all proposed regulations for cooperation with developing countries.
- ✓ The next EU MFF reiterates that the **overarching goal of poverty reduction** should be pursued in the context of sustainable *development* for which sustainable *growth* is only one element amongst others. While we welcome the proposal to strengthen **human rights** in the next MFF, its contribution to the objective of poverty reduction should be made clear. The human rights-based approach to development should also be prioritised.
- ✓ The EC develops action plans or guidelines for the implementation of the two main sector priorities of the Agenda for Change – energy and agriculture – and the crosscutting issue of climate change.
- ✓ References to current and forthcoming action plans and policy communications are inserted in all regulations for cooperation with developing countries. This includes the Action Plan on Gender, the EU Action Plan on Children's Rights in External Action, the food security policy framework of 2008 and the still awaited action plans on food security, the EU role on Global Health following the EC Communication in March 2010 and the Council conclusions in May 2010, and the EU response to situations of conflict and fragility. References should also be made to the two EC Policy Communications on the role of civil society and on social protection that will be produced in 2012.
- ✓ The use of opportunities for EU joint work *by default* in programming, pooled funding and joint monitoring is increased in order to improve the effectiveness of EU development cooperation.
- ✓ The envisaged increase of operational flexibility is used to ensure rapid response to unforeseen events and to bridge the gaps between the EU's humanitarian aid and its long-term financing for development (LRRD) as an integral part of all relevant instruments, particularly the Development Cooperation Instrument (DCI), the European Neighbourhood Instrument (ENI), Humanitarian Aid, the European Instrument for Democracy and Human Rights (EIDHR) and the Instrument for Stability (IfS). The EC should ensure that flexibility will not put long term and predictable funding at risk as they are necessary for achieving sustainable development objectives.

1.2. Policy Coherence for Development (PCD)

Achieving the objective of poverty eradication requires an unerring commitment to **Policy Coherence for Development** (PCD) and the coordinated and consistent use of all tools, policies and resources towards the objective at hand, as set out in the Treaty legal obligation, article 208 TFEU.

CONCORD recommends that:

- ✓ The principle and specific mention of PCD, with reference to the Lisbon Treaty, is reinforced in all external action instrument regulations, including the Partnership Instrument.
- ✓ The principle of PCD also applies to the EU's internal policies that may have an impact on developing countries.
- ✓ The text of the Development Cooperation Instrument (DCI) refers to "Policy Coherence for Development" rather than just "coherence".
- ✓ Non-ODA funds are earmarked for implementing PCD in practice. Funds from the budget heading for research, for example, should be used to research the implementation of PCD, building on lessons learnt from experience. Good practice should also be mainstreamed, for example through trainings. This should be done in an inclusive manner involving partner countries and civil society.

1.3. Country differentiation

We welcome the call to prioritise and focus on least developed and low income countries in the EC's proposal. However, the **EU should not cease addressing poverty and inequality in Middle-Income Countries around the world**. By introducing differentiated partnerships the EU risks turning away from the fight against poverty and inequality.

The current review of the **EU general system of preferences for trade (GSP)** is also dominated by the differentiation issue. It means that the Upper Middle-Income Countries (MICs) and certain lower MICs might lose on both sides with less aid and less access to EU markets for their exports.

CONCORD recommends that:

- ✓ The EC adopts a **clearer and more holistic approach to differentiation, where the criteria for cutting aid are based on the multidimensional causes of poverty**. These criteria might include growth and GNI¹ but should also focus on the human development index, inequality index, vulnerability, access to social protection and services or other indicators of deprivation, with an appropriate balance between the different criteria, so as to loosen the equation of 'country most in need versus people most in need'.
- ✓ The EC clarifies the formula leading to graduating a country and details how the four criteria stated in the Agenda for Change will be used in future differentiation. GNI alone should not be used as a means of making aid allocation decisions.
- ✓ The EC investigates the possibility and potential impact of using bilateral ODA for new types of support to governments to enhance development and fight poverty, before cutting bilateral aid. This could focus, for example, on supporting central governments in enhancing their collaboration with civil society for development initiatives, focusing on human rights defenders or strengthening PCD.
- ✓ The EC works on a strategy detailing how bilateral aid to governments can be replaced by other cooperation modalities with a direct impact on poverty reduction, human development and social cohesion, focusing on the poorest and most marginalised groups of the population, including in complementarity with other donors and through division of labour. It is important that the highest level of coordination with Member States, other international donors and funding mechanisms is ensured in terms of bilateral aid presence to avoid ending up with "orphan countries" or orphan sectors.
- ✓ The EC extends the timeframe for phasing out bilateral aid, clarifying the modality for consultation with partner countries and ensuring democratic ownership. The EC should present a **phasing out strategy** for Upper MICs which might no longer receive bilateral development assistance. This strategy, which should focus on addressing poverty

¹ The EC has made a proposal to **cut bilateral aid to 19 Middle-Income Countries** (MICs) in Asia and Latin America in the next MFF on the basis of macro-economic criterion (GNI per capita). However, the discussion on country differentiation also concerns the ACP countries (Africa, Caribbean and Pacific).

and inequality, should be developed in cooperation with all relevant stakeholders and the partner country. The number of years needed for the phasing out should be determined on a case-by-case basis according to the country's context, keeping in mind that other resources must be found to replace the aid that is lost and that the EU should actively support partner countries in raising these resources (e.g. by using aid to help support the building of tax systems). It should be emphasised that access to the new Partnership Instrument (PI) cannot replace such a shared strategy for phasing out development assistance, since the goal of the PI is not poverty eradication.

- ✓ The EC ensures that the **funds 'saved' through cuts in bilateral aid to Upper MICs will be used to strengthen the fight against poverty and inequalities by targeting the poorest and most marginalised communities wherever they live**. Different options could contribute to that objective and these options are not mutually exclusive: 1) allocate more funding to the poorest countries where domestic resources are difficult to mobilise and/or where the MDGs are the most off-track; 2) use part of the funds to ensure a proper and longer phasing out in graduated countries, focused on enhancing domestic resource mobilisation and wealth redistribution; 3) channel more aid through the thematic programmes on 'Global Public Goods & Challenges' and 'Civil Society Organisations and Local Authorities' (CSOs/LAs) and through the EIDHR in order to address poverty and equity issues and to reinforce support to democratisation and human rights in all developing countries, including all MICs.
- ✓ Inclusive political dialogue with all stakeholders of partner countries on development, inequalities and PCD, continues and is strengthened even if there is no more bilateral assistance in a partner country. With this in mind, it is important to maintain sufficient capacity and expertise on development in EU delegations.

1.4. Blending loans and grants

The MFF proposal suggests that the EC could increase the use of 'blending', especially towards MICs. The blending mechanism combines EU grant resources with additional flows, such as loans from private institutions, risk capital or private investments, in order to gain financial and qualitative leverage. The intention is to increase EU policy impact and to make projects more affordable. In the context of heavily constrained public funds, blending is expected to support the largest possible impact of grants by leveraging additional financing.

CONCORD recommends that:

- ✓ The EC ring-fences money going into blending until **serious development environment and poverty impact assessment is carried out on the existing EU blending facilities**, including at project level. Such an assessment should consider in particular the impact of blending on the debt level of partner countries.
- ✓ **Binding guidelines or a strong policy framework on blending** are developed by the EC to ensure that this modality is properly used and monitored and contributes to poverty reduction.
- ✓ The EC ensures that poverty reduction is addressed at the project design level when the blending modality is used.
- ✓ The issue of DACability and the effect of low concessionality on ODA accounting is clarified.
- ✓ The EC clarifies the definition of responsible finance standards, including transparency, monitoring and evaluation standards, conditional to obtaining blending, and pays particular attention to the issue of debt burden and long-term social and environmental sustainability of investments.
- ✓ The EC and the Member States ensure that the European Investment Bank (EIB) increases its transparency and accountability when it finances development projects.
- ✓ The EC investigates alternative mechanisms than blending management by the EIB or similar investment banks, including moving to management at a smaller scale and in cooperation with non-profit and civil society actors.
- ✓ The EC (DG DEVCO) develops specific and more transparent reporting on blending.

- ✓ The EC focuses on **micro, small and medium-sized private enterprises in developing countries**, including through facilitating their access to microfinance and other financial services.
- ✓ The EC clarifies the role for participation of CSOs in on-going discussions on the blending modality and in strategic dialogue governing the decision to opt for blending at country level. The capacity of staff at EU delegations to consult CSOs on projects proposed under a facility should be improved.
- ✓ The EC investigates the possibility to open blending to civil society.

1.5. Civil Society participation

We welcome the EC's **recognition of civil society as an essential actor in development** notably by maintaining a separate thematic program under the DCI to support the work of civil society but also by referring to civil society participation at all stages of development processes. However, the EC proposal does not specifically recognise the problem of lack of political space for civil society and some gaps need to be filled to make sure civil society participation can reach its full potential.

CONCORD recommends that:

- ✓ EU institutions show a greater recognition of CSOs as implementing actors in all geographic programmes, and a clear commitment to a **15% earmarking of funds for civil society within the geographic programme**.
- ✓ The EC pursues National Development Strategies instead of Country Strategy Papers in countries where the former is sufficient. However, as this could lead to less dialogue and consultation with CSOs, the EC should ensure that an **institutionalised consultation with CSOs** is made a criterion for assessing national development plans. This is particularly important if the EU proceeds with the idea of joint programming.
- ✓ The EC indexes the civil society definition in the DCI to the wider acceptance used in the EIDHR for more flexibility.
- ✓ The co-legislators mention the possibility for a programme approach and innovative modalities to support CSOs in the DCI, Article 3.8(c)². The proposal should be linked with point (b) of the same article about civil society.
- ✓ The EC recognises the need to publish programming documents upon adoption to support domestic accountability and more generally to establish regular and structured mechanisms to consult civil society at country level.
- ✓ EU delegations in fragile states proactively engage with CSOs and consider them as a key source of information for assessing the national context. This is important in order to counterbalance the lack of guarantee of CSO participation in national programming and reviewing in fragile states, which itself is due to the unknown nature of the modality used to ensure 'swift responses.'
- ✓ An allocation key between CSOs and LAs in the CSOs/LAs thematic programme is proposed by the co-legislators, and if possible, the predictability of funds for CSOs is ensured under all programmes.
- ✓ The EC includes **references to the conclusions of the Structured Dialogue** in all regulations, including with regard to the diversification of funding modalities (toolbox) and the promotion of an enabling environment for CSOs as independent development actors. The Final Statement is not a binding document, but it reflects commitments validated by all stakeholders, including Commissioner Piebalgs, Member States and the European Parliament.

² Refer to Structured Dialogue toolkit and technical briefs to see the possible modality portfolio.

1.6. Benchmarking and earmarking

Defining proper benchmarking is difficult, and increased earmarking also results in less flexibility to align with partner priorities or to reallocate funds between programmes and sub-headings if needed. However, it is tempting to earmark funds to ensure that particularly crucial areas of intervention receive a guaranteed level of funding, and that simplification (e.g. with the regrouping of a number of areas under the DCI Global Public Goods and Challenges thematic programme) does not result in a decrease in the predictability and the level of overall funds for these areas.

It is important to ensure a **balance between flexibility and predictability** since a reasonable degree of predictability is necessary for aid recipients and for operators to perform effective and sustainable development work. Flexibility should also go hand in hand with transparency and accountability. The use of **Delegated Acts** for the definition of areas of cooperation under geographic and thematic programmes could potentially allow for the right balance between flexibility and the scrutiny role of the European Parliament and the Council. However, there is a danger that the proposed process for the programming of regional and country cooperation as well as thematic programmes will offer less opportunity for democratic scrutiny and consultation with civil society than the current one. The process is not well defined, is open to multiple options and will very much depend on the programming guidelines elaborated by the Commission and the EEAS and the willingness of officials in EU headquarters and delegations to enable proper consultation.

In the context of the next external action instruments, reflections around the use of benchmarking and earmarking for development cooperation funds centre on the proposed benchmarks for climate finance and for social inclusion and human development.

CONCORD recommends that:

- ✓ **Separate or specific accounting for climate finance** is used within the MFF, the EC's past experience with using the Rio markers is evaluated, and more detailed guidelines for their future use are developed.
- ✓ Clarification is requested on policy guidelines for climate action - including on the 'mitigation-adaptation' balance and in relation to sustainable energy - and on complementarity between thematic and geographic projects.
- ✓ The need for the achievement of and coherence with international climate commitments and mechanisms, i.e. support for the Green Climate Fund, is underlined. The proposed Global Climate & Biodiversity Fund could serve as a channel for extra-budgetary revenues (including from a Financial Transactions Tax, if implemented by only some EU Member States) to fill the Green Climate Fund.
- ✓ The EU recommits to the established EU benchmark and previous commitments³ of allocating **at least 20% of the European Development Fund and the Development Cooperation Instrument to health and basic education** rather than social inclusion and human development, with particular attention to progress made towards internationally-agreed development goals. Health should be defined according to the OECD DAC⁴ codes and basic education should encompass primary and lower secondary education⁵. This 20% benchmark should be applied across geographic, intra-ACP and thematic programmes; in line with the international commitments⁶.
- ✓ The EC uses a mix of funding modalities at global, regional and country level, including support to relevant organisations and mechanisms, in order to ensure balance and complementarity between geographic and thematic instruments.

³ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0187&language=EN>

⁴ <http://www.oecd.org/dataoecd/13/28/46804176.doc>: Basic Health (DAC 5 code 122), Populations policies/ reproductive health programmes (DAC 5 code 130); Basic social services (CRS code 16050), Social mitigation of HIV/ AIDS (CRS code 16064).

⁵ Source: *International Standard Classification of Education*; *Commission Staff Working Document More and Better Education in Development* (OECD DAC 5 codes: 112 & 113)

⁶ Abuja commitment of allocating 15% of national budget to health http://www.un.org/ga/aids/pdf/abuja_declaration.pdf

- ✓ Through political and policy dialogue, which should involve all relevant stakeholders including civil society, the EU should encourage partner countries to prioritize health and basic education in their own development as stated in previous EC declarations⁷.
- ✓ The EC should develop an annual monitoring, evaluation and reporting framework for the European Parliament on the 20% benchmark for health and basic education.

2. Recommendations on the funding instruments

2.1. Development Cooperation Instrument (DCI)

CONCORD welcomes the EC proposal to **increase the budget of the DCI by 17% in constant prices**, to streamline and simplify its implementation and to increase flexibility. The share of the DCI in Heading 4 (30%) and in the total EU Budget (2%) must be secured and maintained.

It is positive and crucial that the DCI maintains **poverty reduction and eradication as the primary and overarching objective**. We also welcome the reiterated reference in the DCI to the role of the EC in promoting the “**principles of democracy, the rule of law and respect for human rights and fundamental freedoms**” under its general principles (Article 3).

We welcome the proposal to **increase the flexibility** of EC development cooperation by allowing a portion of funds in geographic and thematic programmes to be unallocated, as these can be used to react to unforeseen events and facilitate the link between relief and longer term development. We agree that more flexibility at operational and procedural level is necessary.

General principles

CONCORD recommends that:

- ✓ References are added in the regulation to all **sectoral and policy communications** or action plans produced by the EC in recent years (such as the Action plan on Gender) and the expected action plans on food security, on health, on education⁸ and on the EU response to situations of conflict and fragility. These documents should be referred to as guiding documents for the programming process.
- ✓ The EC clarifies the modality to be used in order to operationalize the mainstreaming of many cross-cutting issues (listed in Article 3), ensuring that these issues are not marginalised.
- ✓ **Additionality of climate financing** should be mentioned and clearly defined in the DCI regulation, preferably using the same definition as in the 2011 EU Accountability Report⁹.
- ✓ Ensure that the established benchmark of 20% of all EU aid to health and basic education is applied throughout the entire DCI (geographic, regional and thematic programmes).
- ✓ The EU develops an annual monitoring, evaluation and reporting framework to the European Parliament and Members States on the 20% benchmark, focusing on the most off-track internationally-agreed development goals.

⁷ Commission Declaration concerning Article 5 of Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation, Annex to the Communication from the Commission to the European Parliament of 24 October 2006 (COM(2006) 628). <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0628:FIN:EN:PDF> p. 8

⁸Ref: *The EU's role on Global Health* (Brussels, 31.3.2010 COM(2010)128 final) and *More and Better Education in Developing Countries* Brussels, 4.2.2010 SEC(2010)121 final.

⁹ EC 2011 Accountability Report 2011 on Financing for Development, see: http://ec.europa.eu/europeaid/how/accountability/eu-annual-accountability-reports/documents/working-document-vol1_en.pdf

- ✓ The thematic approach is seen as complementary to the geographic programmes. Benchmarks in thematic programmes should not be defined prior to geographic programming as they should contribute to meeting the overall 20% benchmark for health and basic education in the DCI, without prejudice to how the benchmark will be met at the geographic level.

Civil Society participation

CONCORD recommends that:

- ✓ The EC harmonises the reference to CSOs in Annex V and the references to the role of CSOs in the explanatory memorandum detailed explanation on the thematic programmes with the wording used in Article 8.
- ✓ The EC clarifies the participation of CSOs in Article 11 and the involvement of CSOs in the programming of unallocated funds. The EC should explore the possibilities for civil society consultation on regional and thematic priorities and ensure CSO participation in the consultations foreseen in Article 16 dealing with suspension of aid.
- ✓ The EC clarifies the modality for CSO participation in the decision-making leading to the reallocation of funds between programmes.

ODA expenditures

CONCORD recommends that:

- ✓ The EC limits to the minimum non-ODA expenditures under the DCI budget so that non-ODA activities are only financed under the DCI in duly justified cases where added-value to the objective of ODA is clearly demonstrated. Criteria for duly justified cases and provisions for monitoring should be made more explicit in the regulation (including a list of examples of duly justified cases) and the ceiling of 10% for non-ODA actions should in practice be limited to the lowest possible threshold.
- ✓ The EC clarifies the use of the criteria *“although not strictly speaking ODA-compliant, may be required for the adequate implementation of actions under these programmes”* and makes clear how this will be assessed in practice.
- ✓ The EU institutions clarify the “Erasmus for All” programme, including specifying how much of the proposed €1.8 billion for this programme will come from the DCI, what it will be used for, whether this is expected to count as ODA, how it will be monitored, how it fits with the objectives of the DCI and the benefit for poverty reduction.

Thematic programmes

CONCORD recommends that:

- ✓ The EC allocates more funding for the thematic programmes, especially under “Global Public Goods and Challenges” given its wide scope in view of: (i) incorporating ‘additionality’ for climate change; (ii) addressing the persisting characteristics of the food security crisis; (iii) supporting essential social sectors that are not always prioritised by partner countries in the bilateral geographic programmes; (iv) ensuring targeted support towards poverty and inequality reduction in countries ‘graduating’ from bilateral aid.
- ✓ A substantial part of the “Global Public Goods and Challenges” programme is allocated to agriculture and food security, particularly to support small-scale farmers.
- ✓ **Conditions for a 50% climate change benchmark** (as a cross-cutting issue) in the ‘Global Public Goods and Challenges’ thematic programme respect additionality, so as not to undermine other priorities. The EC should provide details on how the 50% benchmark will be reached and accounted for, including which programmes and which modalities will be used.

- ✓ There needs to be a good dialogue and consultation to define the priorities of the **Pan-African programme** and detail how the programme will actually work. The current proposal is still very vague and open. While we welcome the proposal to allocate resources to the Joint Africa EU Strategy (JAES), there should also be resources available to facilitate the implementation of the strategy, including the participation of CSOs.
- ✓ The EC carries out specific monitoring on non-ODA interventions in the thematic and Pan-African Programmes, for example through the publication of an annual report and facilitated access to information.

Geographic programmes

CONCORD recommends that:

- ✓ Annex IV provides sufficient guidance for the programming process and does not only reflect the priorities of the Agenda for Change but also the spirit and principles of the European Consensus on Development and the Lisbon Treaty's overarching objective of poverty reduction. It is important to maintain a broad and open framework for cooperation so that the principle of country ownership and country-specific programming can be implemented. With this in mind, we are particularly concerned by the regional cooperation priorities proposed in Annex IV and would recommend to revise them.
- ✓ Priority areas for each partner country are selected on the basis of dialogue with partner countries and civil society, and that their contribution to poverty reduction is clearly demonstrated. This is particularly important if the focus is restricted to a maximum of three priority sectors per country, as set out in the Agenda for Change.
- ✓ Regional priorities in Annex IV better reflect the objectives of poverty reduction, addressing inequalities, addressing social needs and focusing on sustainable agriculture and food security. It is important that the three priority sectors per region and country are selected on the understanding that "*An organized and active civil society*" should be a priority in all regions.
- ✓ The objectives of poverty reduction and improvements in basic services, especially health and education, are reinstated in the regional priorities for **Latin America**, as is the case in the current DCI, and that cooperation with civil society is mentioned in these priorities. In turn, the appearance of economic growth and security as new priorities should be questioned.
- ✓ There is a specific focus on young people in the **Middle East**, since almost all countries in the region have very young populations. This is particularly important in light of the Arab Spring. One of the key priorities in relation to creating stability, democracy and wealth in the region must therefore be to provide young people with education, employment, and participation and representation in the formal democratic decision-making.
- ✓ There is a focus on education in **Asia**, given the fact that 40 million children in Asia are not in school and 40% of those starting in first grade do not complete primary school, and on nutrition and food security, since a quarter of children in Asia are malnourished.
- ✓ **A clear, transparent framework, including democratic ownership criteria, is put in place detailing how to decide when a National Development Strategy is 'suitable' or not.** We welcome the fact that the EU wants to align more to National Development Strategies instead of drafting EU Country Strategy Papers, but clear criteria are needed.

2.2. European Instrument for Democracy and Human Rights (EIDHR)

CONCORD welcomes the confirmation of the **added value of the EIDHR as a specific instrument** alongside the mainstreaming of human rights and democracy throughout the EU's external development cooperation instruments. In the EIDHR in particular, civil society has been given a strong role as an active driver of change. The prioritisation of difficult countries where human rights are most at risk is relevant and necessary, as is the recognition that the EU is willing to bypass a third country's state institutions where necessary and support CSOs directly in their work for human rights and democracy.

CONCORD recommends that:

- ✓ The EC endorses a **human rights-based approach (HRBA) to development**, as recommended in the final conclusions of the Structured Dialogue. Following the basic principles of HRBAs to development, development policies and practices should: (i) be explicitly based on the international human rights law framework; (ii) seek to empower all those in the development relationship; (iii) promote the right of beneficiaries to active, free and meaningful participation; (iv) address all grounds of discrimination and prioritize vulnerable groups; (v) subject those involved in development processes to human rights accountability, clearly defining right-holders and duty-bearers (e.g., referring to governments, CSOs themselves, etc.). Article 2 of the regulation should be reformulated to reflect these basic principles¹⁰.
- ✓ The EC recognises the need to **support human rights defenders (HRDs)** with ad hoc grants that would help ensure their safety.
- ✓ The EC more explicitly links support for democracy with support for an **enabling environment for citizen participation**, ensuring that the "urgency situation" (Article 2.4) also includes situations where an "enabling environment for citizen participation" is under threat.
- ✓ The EC refers to the fact that this instrument should also be designed to **monitor the actions of public institutions** and not only to monitor elections. **Access to information** should also be a key reference in the document.
- ✓ References to and links with other instruments and PCD are made more explicit. In particular the **coherence between the DCI and the EIDHR** is lacking, particularly given that the promotion of democracy, the rule of law and respect for human rights and fundamental freedoms are rightly reiterated in the DCI regulation under the general principles.

2.3. European Development Fund (EDF)

CONCORD welcomes the proposed **increase for the 11th EDF to €34,276 billion** (taking into account inflation), compared to € 23,970 billion for 2007-2013, although this amount covers seven years instead of the current six year period¹¹. We also welcome the proposal to prepare the **integration of the EDF into the EU budget (budgetisation) for 2020**, the year of expiry of the Cotonou Partnership Agreement. However, for the EDF to be budgetised some conditions and safeguards¹² would need to be taken into account and the process would need to involve all stakeholders including European and ACP CSOs. The proposal to have **greater regional cooperation** between the ACP countries and the OCT is also positive.

The **Cotonou Partnership Agreement (CPA)** and its values and essential elements must remain the framework of the new EDF. The implementation of any revised policy orientation adopted with the Agenda for Change must be fully consistent with the letter of the CPA.

CONCORD recommends that:

- ✓ The balance between promoting human rights and the essential elements of the CPA is ensured. Maintaining political dialogue where the EU donor should address the situation on a case-by-case basis providing an opportunity to address the issue in a coordinated, transparent and participatory way.

¹⁰ Suggested reformulation: *Following the basic principles of human rights based approaches to development*, the promotion and protection of gender equality, the rights of the child, rights of indigenous peoples, rights of persons with disabilities, as well as empowerment, participation, non-discrimination of vulnerable groups and accountability based on the international human rights framework shall be taken into account ~~whenever relevant~~ for all assistance measures referred to in this Regulation.

¹¹ Acknowledging that all EU member states will need to contribute from 2014 on which was not yet the case in 2007 and Member States contribute according to requests from the EC that are based on an indicative requirement established each year by the EC.

¹² Refer to the CONCORD Cotonou Working Group Briefing on Budgetisation from May 2011

http://www.concordeurope.org/Files/media/0_internetdocumentsENG/4_Publications/3_CONCORDs_positions_and_studies/Positions2011/newthings/ok-Briefing_Budgetisation-Budapest-ENG_revds-2.doc

- ✓ The criteria for aid allocation are agreed through political dialogue with the recipient government, but also national stakeholders like Parliamentarians, Local Authorities and CSOs.
- ✓ An appropriate mix between modalities at regional and country level is guaranteed to ensure proper provision to essential sectors (in particular health, education and agriculture).
- ✓ Civil society is consulted when activating Article 96 of the CPA and taking decisions on sanctions or suspension of aid or budget support to make sure that these decisions are properly targeted and have no damaging impact on the population.
- ✓ CSOs are increasingly recognized as key players in promoting democratic governance and in holding governments to account, in addition to their role in supporting community development actions and service delivery. In many countries CSOs face increasing legal restrictions and a diminishing political space to operate. As a major donor in the ACP countries, the EU should be active and vocal in supporting an enabling environment for civil society.
- ✓ Civil society participation, as foreseen in the CPA, is mainstreamed in the EDF. In particular in the programming process it is crucial that the EU includes CSOs at an early stage in order to promote complementarity and consistency among cooperation activities. The programming guidelines should be public to allow CSOs at country, regional and international levels the opportunity to comment on them.
- ✓ Where an incentive approach is taken in funding allocation, objective criteria are developed based on the response to development needs and the respect of the essential elements of the CPA, including human rights conventions. The EC should refrain from imposing criteria that can be assimilated to political and economic conditionalities with the risk of applying double standards.
- ✓ Strict criteria of poverty impact and social and environmental sustainability are put in place where the blending modality is used. Since a majority of ACP countries are low income countries the bulk of development cooperation should be provided in the form of grants, in accordance with the principle of differentiation of the Agenda for Change, where risk capital or grants are combined with loans. EU delegation staff should have the expertise and competence to accompany those programmes and monitor their impact on poverty and their contribution to the country's development objectives.
- ✓ Aid effectiveness principles are also mentioned in programming of the 11th EDF, as in the draft DCI regulation: *"The Union shall promote effective cooperation with partner countries and regions in line with international best practices"* (Article 3.8).¹³
- ✓ Flexibility in no way harms the established EU benchmark and previous commitments¹⁴ of allocating at least 20% of the EDF to health and basic education. Health should be defined according to the OECD DAC codes¹⁵ and basic education should encompass primary and lower secondary education.¹⁶
- ✓ The EU ensures that this benchmark for health and education is applied throughout geographic and intra-ACP programmes. A mix of funding modalities should be applied at global, regional and country level, including support to relevant organisations and mechanisms, in order to ensure balance and complementarity between geographic and thematic instruments.
- ✓ Through political and policy dialogue with all relevant stakeholders including civil society, the EU encourages partner countries to prioritize health and basic education in their own development in line with the CPA.
- ✓ The EC develops an annual monitoring, evaluation and reporting framework for the European Parliament on the 20% benchmark for health and basic education.

¹³ http://ec.europa.eu/europeaid/how/finance/documents/prop_reg_instrument_dev_coop_en.pdf

¹⁴ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0187&language=EN>

¹⁵ <http://www.oecd.org/dataoecd/13/28/46804176.doc>: Basic Health (DAC 5 code 122), Populations policies/ reproductive health programmes (DAC 5 code 130); Basic social services (CRS code 16050), Social mitigation of HIV/ AIDS (CRS code 16064).

¹⁶ Source: *International Standard Classification of Education; Commission Staff Working Document More and Better Education in Development* (OECD DAC 5 codes: 112 & 113)

2.4. European Neighbourhood Instrument (ENI)

The '**more for more**' approach should encourage those countries showing sustainable progress in the direction of democracy and respect for human rights and international law.

Nevertheless, it is surprising that the Civil Society Facility for the Neighbourhood and the Endowment for Democracy are not mentioned at all in the ENI regulation. CONCORD welcomes the newly created Civil Society Facility as it acknowledges CSOs' role in contributing to policy-making and holding governments to account. We also welcome the commitment to supporting a greater role for CSOs through a partnership with societies, helping CSOs develop their advocacy capacity, their ability to monitor reform and their role in implementing, monitoring and evaluating EU programmes.

CONCORD recommends that:

- ✓ The EC defines **concrete, measurable and implementable benchmarks against which a country can be assessed** according to whether it lives up to the democratic values the EU intends to promote through the ENI.
- ✓ The EC develops a detailed reform agenda with each country, backed up by specific benchmarks and target schedules, and makes provisions for a follow-up mechanism and regular evaluations. The EC should clearly define and apply benchmarks for its cooperation with all countries in the region based on improvement, stagnation or regression in the area of human rights. The setting of these benchmarks should not be left solely to the political dialogue between the EU and partner countries. Instead they should be determined through an open process (as also mentioned in Article 7.5) with civil society involvement, and should only be based on the affected peoples' interests, not on the EU's political, security or ideological interests.
- ✓ The EU downgrades relations with countries that violate human rights and democratic principles – a 'less for less' approach – but without forgetting vulnerable populations in countries which do not develop in a democratic way. Lack of progress in relation to reforms should not lead to cuts in development assistance to individual countries but rather a redistribution of assistance from government to civil society.
- ✓ When measuring achievements in sustainable and inclusive development and poverty reduction the EC gives a role to CSOs along with OECD, WB, UNDP and other official sources of statistics.
- ✓ There must be a horizontal safe guard clause, which ensures that the EC cannot provide support for activities or actors contravening international humanitarian law and community law.
- ✓ The co-legislators mention in the regulation the Civil Society Facility for the Neighbourhood and the Endowment for Democracy as it is a welcomed pilot initiative to support civil society and it should be extended.

2.5. Partnership Instrument (PI)

We welcome the fact that classification of expenditure as ODA is not mandatory within the PI, although this should remain possible especially for Aid for Trade and for trade related assistance in general. CONCORD welcomes that this **instrument could be ODA additional**.

The geographic scope of intervention of the instrument is still very vague. Given that it is a politically sensitive instrument, the scope of intervention could change or be diverted according to changes on the political scene. It will be important to consider the kind of context analysis that will be done prior to establishing the countries of intervention.

CONCORD recommends that:

- ✓ **Development cooperation values and principles endorsed in other instruments are respected** and reflected in projects funded by the PI.

- ✓ The EC adopts a set of defined rules and standards to guarantee fair access for the private sector, in particular small and medium-sized enterprises. The instrument should focus on smallholder farmers and small local enterprises.
- ✓ The EC puts into place a more comprehensive analysis on the role of economic growth, as economic growth alone does not necessarily lead to development. The key role of CSOs in the path for sustainable (and inclusive) growth should also be highlighted.
- ✓ The EC reinforces the **principles related to Policy Coherence for Development (PCD)**, as coherence with other instruments will be decisive if the EU is to accomplish its goals and to protect people's rights. EU policies related to trade, investment, energy and climate can undermine the aims and objectives of European development cooperation policies.
- ✓ The programming of this instrument takes into account that the new emerging countries where it will operate are home to large numbers of poor people. While the PI's focus will include the external promotion of EU interests, the programming of the instrument should not bring any more hardship to the poorest.

2.6. Horizontal Regulation

Concord welcomes:

- ✓ The proposal for **increased coherence between external instruments** through the development of a common horizontal framework regulation.
- ✓ The reference to LRRD funding: *"Special measures may also be used to ease the transition from emergency aid to long-term development operations"* (Title I, Article 2).
- ✓ The eligibility of taxes, unless exemption has been negotiated with country (Title II, Article 5).
- ✓ The increase in the low-value grant threshold for human rights defenders to finance urgent protection actions (from €10,000 to €60,000).
- ✓ The requirement to respect applicable environmental legislation including multilateral environmental agreements as well as internationally-agreed core labour standards for tenderers, applicants and candidates who have been awarded contracts (Title III, Article 8).
- ✓ The end of the rules of origin when the use of competitive negotiated procedure is allowed (Title III, Article 8).

CONCORD recommends that:

- ✓ The **conclusions of the Structured Dialogue** are reflected and referred to in the explanatory memorandum and the introduction. Fourteen months of multi-stakeholder dialogue (including the European Institutions) led to the adoption of a concluding paper in May 2011. The recommendations made to the EU to promote and support regular, structured and inclusive multi-stakeholder dialogues and to draw from an appropriate mix of funding mechanisms should be firmly embedded in the legal basis for EU external action funding.
- ✓ **Title I, Article 2:** Climate risk analyses are required for any sectoral programme to ensure climate risks are taken into account in the design of programmes.
- ✓ **Title I, Article 2:** The EC consults **civil society** in the development of annual action programmes and publishes these upon adoption. In addition to the publication of the initial annual action programme, there should be an annual report on the action plan to ensure visibility regarding which calls have been launched and which have been postponed.
- ✓ **Title II, Article 4:** The commitment to support the right of initiative of CSOs and to draw from an appropriate mix of funding mechanisms (including modalities and selection procedures), incorporating sensible actor differentiation and a flexible set of responses adaptable to different local situations, to pursue development objectives in a more

strategic, effective and sustainable manner should be explicitly reflected here. In the context of the Structured Dialogue, twelve aid modalities, including programme funding, follow-up grants and re-granting were analysed and should be referred to among the types of financing envisaged.

- ✓ **Title II, Article 4:** Clear definitions are set out for “*lump sums, flat rates and scales of unit costs*”. These terms cover a wide variety of practices and clear definitions of what they stand for and how they would function are required. While the use of lump sums seems to simplify grant management in general, it also comes with a major drawback as it does not allow full recovery of costs.¹⁷ The lump sum approach should be a **possibility offered to grant beneficiaries and not be imposed** by the contracting authority. The real cost approach should be applied by default.
- ✓ **Title II, Article 4:** Concerning the sentence, “*Actions financed under the Instruments may be implemented with parallel and joint co-financing,*” the current rules that do not require the EC co-financing share to be earmarked to specific budget headings remain as a standard practice. Parallel funding should be a possibility offered to grant beneficiaries and not be imposed by contracting authority.
- ✓ **Title III, Article 8:** Eligibility for participation in grants does not remain limited to natural and legal persons as in the current proposal. The new Financial Regulation proposal foresees the “*participation of entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on the behalf of the entity and offer guarantee for the protection of the Union's financial interests equivalent to that offered by legal persons.*” This possibility, which is particularly useful in countries where registration is difficult because of the political situation, should be kept in the horizontal regulation.
- ✓ **Title III, Article 11:** Participation without limitations in the award of procurement contracts or grants, as well as the recruitment of experts, under the IFS and EIDHR applies to other relevant instruments (the DCI thematic programmes, for example).
- ✓ **Title III, Article 11:** All instruments, not only the EIDHR, foresee the eligibility of “*natural persons, entities without legal personality and, in exceptional and duly justified cases, other bodies or actors not identified in this paragraph, when this is necessary to achieve the objectives of the instrument*”.

¹⁷ Some NGOs have internal policies for accounting certain types of costs according to the average of actual costs, such as average of actual costs for expatriate staff. These methodologies are based on actual costs which can be easily traced and audited, and should be acceptable. This clearly simplifies the management of grants, while ensuring the elaboration of realistic budgets based on actual costs.