



December 2004

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All change: proposal for a new instrument on development and economic co-operation

1. Introduction

On 29 September 2004, the European Commission presented a proposal to simplify the existing range of financial instruments for the delivery of the European Community's (EC) external assistance. The proposal outlines a new framework to replace the current array of geographical and thematic instruments that has grown up in an essentially ad hoc manner, and which has long been criticised for being cumbersome and incoherent.

Although FERN supports a revision of the current external assistance system aimed at making EC development and other assistance more flexible and effective, our analysis reveals that the current proposal will not prove to be a step forward for development. We fear that any flexibility conferred by the new system will most likely lead to a shift of funds from development to economic co-operation. Moreover, the simplification of the Regulations underlying the instruments will have the effect of increasing the decision-making authority of the Commission, reducing the influence of the Parliament and excluding input from non-state actors.¹

This last point is critical, as the proposal lacks safeguards to ensure an improved quality of spending, particularly from an environmental or social perspective. Given the need for civil society involvement in development decisions, we would like to

make a number of recommendations to address this issue. This briefing outlines the Commission's proposal, focusing especially on the instrument for Development Co-operation and Economic Co-operation (DCECI). It also discusses FERN's concerns about the instrument's implications for Development Aid and presents our recommendations for moving forward on this issue.

History and outlook

According to the European Commission, the scale of external programmes managed by the Commission tripled in the 10 years running up to 2000, leaving it ill-equipped to cope. Chronic staff shortages and excessively complex administrative processes had left a backlog of commitments of over € 20 billion by the end of 1999. Meanwhile, the number of budget lines the Commission had to manage was heading towards the 100 mark (some 30 of which were geographic and 50 or so thematic).

Arguing that the ring-fencing of resources under such a large number of headings and sub-headings made for a rigid and unwieldy system, the Commission has now identified an ambitious programme of measures to make significant improvements in the quality and timely delivery of projects by: improving the efficiency of programme and project management, substantially reducing the time taken to implement projects, strengthening multi-annual



Published by FERN, November 2004. For more FERN publications see: www.fern.org

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Box 1: Key existing geographical instruments for external assistance

CARDS – Community Assistance for Reconstruction, Development and Stability in the Balkans

ISPA – Instrument for Structural Policies for Pre-Accession

MEDA – Assistance provided for the reform of economic and social structures under the Euro-Mediterranean Partnership (to Morocco, Algeria, Tunisia–Maghreb; Egypt, Israel, Jordan, the Palestinian Authority, Lebanon, Syria–Mashreq)

PHARE – Assistance for economic restructuring (initially provided to Poland and Hungary and later extended to cover Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia)

SAPARD – Special Accession Programme for Agriculture and Rural Development

TACIS – Technical Assistance to the Commonwealth of Independent States of the Former Soviet Union (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kirghizistan, Moldova, Mongolia, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan)

programming and streamlining external assistance administered by the EC.

Under the current structure, external assistance is delivered through a range of regional and thematic instruments.² These include CARDS, TACIS and MEDA (see Box 1) in terms of geographical instruments, and, thematically, environment, tropical forests, food aid and the European Initiative for Democracy and Human Rights. In the Mediterranean and Middle East alone, co-operation and assistance are currently managed through no less than 13 Regulations, all with different programming and implementation procedures.

With such a diverse and complex set of instruments, managing Development Aid in an efficient and co-ordinated way has become an increasingly difficult task, a situation ultimately giving rise to the Commission's proposal of 29 September 2004.

This proposal, however, looks set to have serious ramifications for development, particularly in relation to the involvement of the European Parliament on funding decisions and the future integration of cross-cutting issues – such as environment and human rights – into geographic projects and programmes.

2. The new financial instruments

Proposed within the context of the new 'Financial Perspectives' for 2007-2013 (see Box 2), the new proposal

details plans to replace the existing 90 or so financial instruments and replacing these with a new framework made up of just six instruments. Of these four are new, while those for Humanitarian Aid (HAI) and for Macro-Financial Assistance (MFAI) will remain unchanged. The four new financial instruments are:

The Pre-Accession Instrument (PAI)³

Covers candidate countries (Turkey and Croatia) and potential candidate countries (the Western Balkans). It replaces existing instruments PHARE, ISPA, SAPARD, CARDS (see Box 1) and several others. With the exception of Croatia, all countries covered are developing countries according to the list⁴ of the Development Assistance Committee of the OECD (Organisation for Economic Co-operation and Development).

The European Neighbourhood and Partnership Instrument (ENI)⁵

Covers countries involved in the EU's Neighbourhood Policy (i.e. the countries of the south and eastern Mediterranean, Ukraine, Moldova and Belarus and the countries of the southern Caucasus). Libya, the only Mediterranean country with no formal relations with the European Union, will also be covered under this instrument, as will the EU's strategic partnership with Russia. However, Central Asian countries (Kazakhstan, Kyrgyzstan, Mongolia, Uz-

Box 2: The broader financial framework

The proposal for restructuring external assistance has been put forward within the context of the discussion on the EU's new financial framework for 2007-2013. This multi-annual framework – the so-called 'Financial Perspectives' – involves agreement by the EU's budgetary authority (the European Council and the Parliament) on the EU's ceiling of expenditure for a given 7-year period.* In this case, each of the six instruments described above is underpinned by a legally binding Regulation that details the annual financial allocations for each instrument between 2007-2013 and lays down the basis for revising the relevant Regulation at the end of the financial period.

For practical reasons, the Commission has been increasingly using this practice of linking a legal framework for co-operation with the decision on multi-annual expenditures. The practice allows for greater predictability of Community's expenditure in the mid-term and increases coherence and co-operation between the institutions involved in budget proceedings. For example, in 2000, two Regulations promoting forest conservation** and environment*** in the Global South were adopted for a 7-year period. A new proposal for such activities was then to be presented within the current debate.

* The Commission presented the first Communication in February 2004 (*Building our Common Future: Policy challenge and Budgetary means of the Enlarged Union 2007-2013* http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0101en02.pdf), followed by a second one in July 2004 (*Proposal for renewal of the Inter-institutional Agreement on budgetary discipline and improvement of the budgetary procedure* http://europa.eu.int/eur-lex/en/com/wdc/2004/com2004_0498en01.pdf).

** Regulation (EC) No 2494/2000 of the European Parliament and of the Council of 7 November 2000 on measures to promote the conservation and sustainable management of tropical forests and other forests in developing countries

*** Regulation (EC) No 2493/2000 of the European Parliament and of the Council of 7 November 2000 on measures to promote the full integration of the environmental dimension in the development process of developing countries

bekistan, Tajikistan and Turkmenistan), formerly covered by TACIS, will be covered in future by the DCECI. Of the 17 countries and territories covered by ENI, 10 are developing countries according to the OECD Development Assistance Committee list.⁶

The Development Co-operation and Economic Co-operation Instrument (DCECI)⁷

Covers all countries not covered by the Pre-Accession or European Neighbourhood and Partnership instruments. It replaces, among others, the Asia and Latin American Regulation (ALA) and the thematic instruments on environment and tropical forest. It may also replace the European Development Fund (EDF) which currently funds development assistance to African, Caribbean and Pacific (ACP) countries,⁸ and which the European Commission has proposed to fully integrate into the EC budget.⁹ Furthermore, it will replace the Regulation on co-operation and commercial relations with the industrialised countries of North America, the Far East and Australasia.

The Instrument for Stability (SI)¹⁰

Tackles crisis and instability in third countries¹¹ and addresses trans-border challenges, including nuclear safety and non-proliferation, the fight against trafficking, organised crime and terrorism.

Each of these six overarching financial instruments will include one or more budget lines that provide the financial allocations for a given geographic or thematic programme. For Development and Economic co-operation specifically, the Commission foresees the development of four or five thematic budget lines together with six geographic budget lines, which are described further below.

3. The DCECI and its ramifications for development

The financial instruments presented in the Commission's new proposal clearly indicate that financial flows will be related to the type of relationship a group of countries has

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with the EU. Since developing countries are listed under the geographic scope of all the instruments proposed, development assistance will actually be administered through all of the above instruments. Nevertheless, as the most important instrument in relation to development, the instrument for Development Co-operation and Economic Co-operation (DCECI) deserves some greater attention.

3.1 Delivery of Development Aid

Under this instrument, the Commission envisages that EC Development Aid will be delivered through six regional programmes: Asia, Latin America, Central Asia, the Middle East, South Africa and ACP.¹² In 2005 this will be elaborated further, with the Commission presenting a proposal for the number and scope of thematic budget lines, which will cut across these geographical programmes. Thematic budget lines are expected to be reduced to four or five in total, including one for sustainable environmental development which will encompass current programmes on, for example, environment and tropical forest.

The draft proposal lists 30 **areas of co-operation** under the DCECI (Article 1.3) covering, among other things, environmental protection, sustainable development and natural resources, developing civil society, support for promoting good governance, and promoting and defending human rights and fundamental freedoms. These areas of co-operation will be merged under the four or five thematic budget lines envisaged by the Commission.

However, the explanatory memorandum clearly underlines that “the listing of those areas is purely illustrative”. In other words: the Commission will be able to include any other area(s) considered appropriate in future or exclude some of the areas currently listed. It will also be free of any obligation to define a strategy for any of the areas already listed.

To integrate these thematic areas and geographic regions, the Commission has proposed a double framework for **programming** and the allocation of funds (Article 3): a **geographical programme** for co-operation with countries and regions, and a **thematic programme** to cover issues such as environment, forests, democracy, human rights and health. The Commission will be responsible

for drawing up both the geographic and thematic programmes, for specifying their scope, and for determining the allocation of funds with each partner country or region. A committee from the EU Member States will also be established and consulted before the adoption and revision of the geographic and thematic strategies.

3.2 A changing role for Parliament

In many ways the new situation is similar to the existing one. Under the current programming, the Commission already holds the role of drawing up the country and regional strategy papers (CSPs and RSPs) which form the basis of the geographical programmes. It is also responsible for thematic strategy papers, and Member States are consulted on programming. The major change proposed is not, therefore, linked to the drafting of strategies and programmes. Rather, it is related to the fact that, until now, the Parliament has been responsible for fixing the specific objectives and principles of each thematic/geographic instrument, whereas under the new proposal the Parliament will lose this power.

So how does this happen? Basically, under the current process, the Regulations underpinning development expenditure are essentially a mixture of policy, programming and instrument level. That is, a Regulation including details of priorities and objectives has been developed for each of the existing geographical and thematic instruments.

Under the new proposal however, the Commission envisages current Regulations reduced to instrument level, covering only a financial allocation, leaving the policy and programming to be developed by the Commission and the Council *via* various policies or through programming documents such as CSPs and RSPs (see Box 3). Given that the European Parliament is only involved (through the co-decision procedure) in developing Regulations, and that under the proposed system no comparable Regulations will be developed, the Parliament is effectively excluded from the objectives-setting process.

The new process, as it currently stands, will therefore see that it falls fully within the power of the Commission to:

- Define which areas will receive financial support (Articles 4.3 and 5.1) – thus being able to decide to stop

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funding environmental (or/and other) projects if it considers that such issue is being correctly addressed or if it decides that another area is more “pertinent to achieving the aims laid down in the Treaty”

- Shift resources between geographic areas, including from developing countries to industrialised countries. With development and economic co-operation merged under the same Regulation, financial resources for the first could easily be reallocated to the latter. This could lead to a situation where there are no specific ‘development funds’, the EU rather financing partnerships with the USA or Japan.

3.3 Creating budget lines

As the EU’s ‘budgetary authority’ the European Parliament can, under the current system, create new budget lines each backed by an individual Regulation defining the objectives of the budget and linked to a specified amount. In the past, this has enabled the Community to provide financial support to issues originally neglected in the budget – including the development of the tropical forest, environment and human rights budget lines. The Commission has, however, complained that the Parliament has used this power “extensively” leading to much of the complexity in current programme and project implementation.

Recommendations:

- Any proposal on simplifying budget lines must specifically address cross-cutting issues – such as environment or gender equality – and should clarify the role of thematic budget lines in relation to the geographical instruments.
- In the light of the current internal re-organisation within the Commission, where increasing importance is placed on the Delegations, it is essential to address the lack of relevant expertise of staff charged with mainstreaming these issues into geographic programming.

Nevertheless, under the new proposal the Parliament will still be able to create new budget lines under the proposed Regulation underpinning the DCECI in order to ensure, for example, that cross-cutting issues such as environment and human rights are funded. It seems then, that a proactive use of this power could, in the future, undermine the Commission’s proposal for simplification. This begs the question, how effective is this new proposal actually going to be in its basic goal of simplifying the allocation and dispensation of external assistance?

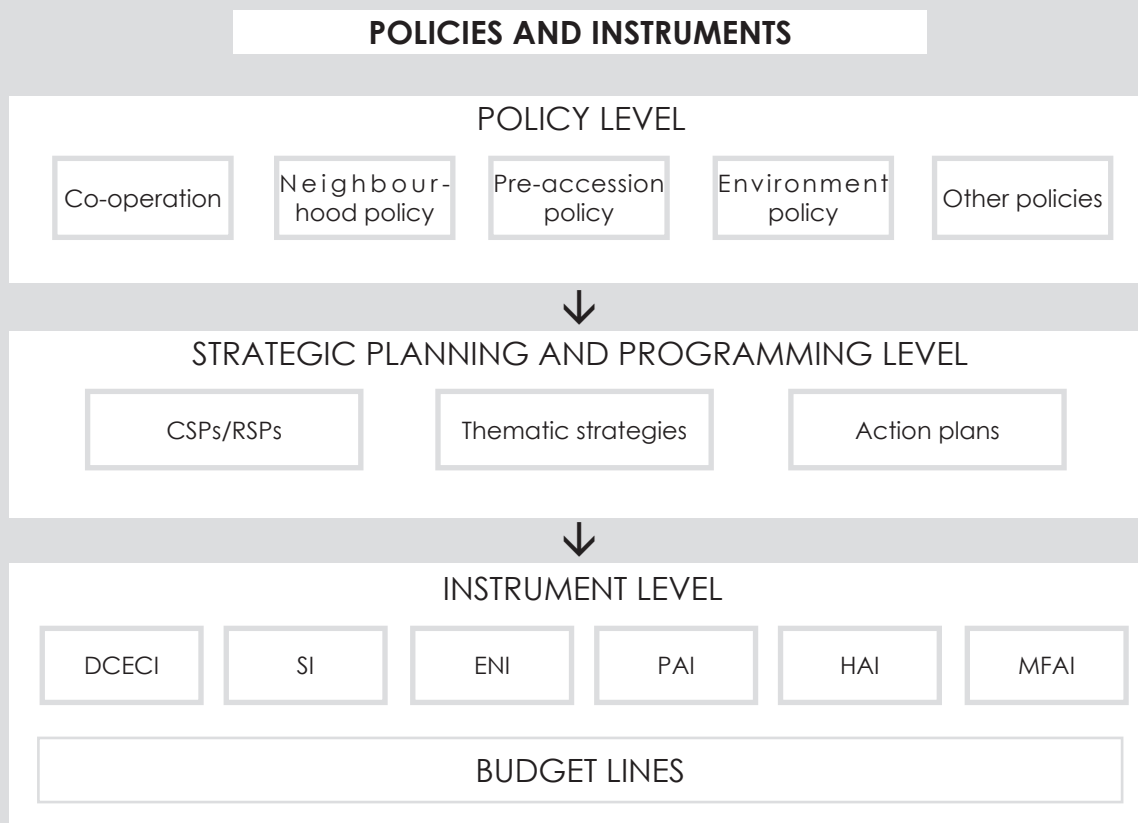
3.4 Redefining the roles of the non-state actors

In addition to the problems FERN has identified in relation to the Parliamentary role in future decision-making, the new Commission proposal is also unclear on the roles foreseen for other stakeholders. Indeed, while the document clearly states the Commission’s interest in ensuring co-ordination both between the Commission and Member States and between the Commission and multilateral and regional organisations (Article 2), the need for co-operation with the European Parliament and with civil society in partner countries has been neglected.

As outlined above, the drastic reduction of the number of instruments managing external aid will inevitably shift the balance of decision-making on the allocation of funds away from the EU’s budgetary authority – the European Parliament – and towards the Commission. This opens up the risk that the allocation of development assistance will be increasingly influenced by political interests and financial concerns rather than by the needs of the world’s poorest people. Already, research by FERN¹³ has shown that in many countries where a high percentage of the population is dependent on natural resources, not only has there been a distinct lack of environmental integration into the CSPs but many have instead prioritised infrastructure, transport and macroeconomic projects without a proper economic or environmental analysis.

Following such a poor record of mainstreaming of thematic priorities by the European Commission, it is highly questionable whether increasing the Commission’s “flexibility” will lead to better implementation in relation to development issues, or whether – following the current trend – such flexibility could in practice subordinate the

Box 3: Policy and programming under the new proposal



Source: European Commission (2004) *Power Point Presentation 'Financial Perspectives 2007-2013: Europe as a global player, legislative package for external actions'*. Presented at the 12 November 2004 Consultation meeting with Civil Society.

EU's objective to eradicate poverty to political and security interests of the Union.

The issue of civil society participation brings up an interesting point in relation to the Cotonou Agreement – the current legal framework for trade and development co-operation between the European Union and African, Caribbean and Pacific countries. Since the Commission has proposed that these countries too should come under the new DCECI, the draft proposal has been obliged to refer to the need for civil society participation in relation to the preparation of geographical programmes. This is due to a binding obligation under the existing Cotonou agreement, which requires the involvement of **civil society** and **partner countries** in this process.¹⁴ The result is

that the draft DCECI proposal (Article 4.2) states that in order to “ensure that the country or region concerned takes sufficient ownership of the process”, then geographic strategies “shall be based as far as possible on dialogue with the partner country or region which involves civil society”.

Yet in relation to geographical programmes, whether the definition of “as far as possible” allows for proper input from partner countries and non-state actors (such as civil society groups) remains unclear. In relation to thematic programmes, the situation looks even worse, given the lack of any mention of civil society participation in relation to programme preparation.

There is one stage of the newly proposed process which does mention the involvement of civil society. Although

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this is in relation to the consultation process which ensures complementariness between the co-operation activities of the Community and the Member States – and not in relation to coherence among EC policies or the drafting and development of programmes – the reference is nevertheless welcome. Specifically (Articles 4.5 and 5.3), the proposal refers to the involvement of *“other donors and development actors, including those of civil society (...) as early as appropriate”*.

However, as it stands, the proposal is unclear as to how and when those actors will be included in the process, and gives seriously inadequate attention to actually ensuring or facilitating the participation of non-state actors. For while the proposal states that *“resources and intervention priorities [are] laid down for participation in global initiatives”* (Article 5.3), there are no resources or means actually set out. Thus it is difficult to see how meaningful participation by non-state actors will occur.

Recommendation:

The Commission should clarify how it will implement its commitment to involve all stakeholders, including civil society, “permanently and systematically” across the definition of strategies and the programming process.¹⁵ Meaningful consultation implies the involvement of civil society at all levels of the process. Therefore effective resources and means should be laid down in the proposal in order to ensure this participation takes place at country, Delegation and Brussels levels.

3.5 Accountability and transparency

The previous sections show that under the new framework, the Parliament will no longer be involved in setting objectives for EC Development Aid (see section 3.2), and that real measures for ensuring civil society involvement in the process do not exist. Given this, the proposal is rather unclear on how the Commission alone will ensure accountability and transparency while defining objectives and strategies. It is equally unclear on both the process by which thematic areas will be placed on the agenda and how choices for specific thematic areas will be made or priori-

tised. Moreover, it is not made clear whether specific units in **Directorate General (DG) External Relations** and **DG Development** will set the priorities for multi-annual and annual programming for thematic and geographic programmes, or whether the **EuropeAid Co-operation Office** or the **Delegations** would play this role.

Recommendations:

The Community should further develop accountable and transparent procedures for EC aid expenditure. To reach that goal, the Commission should:

- Set up a clear framework for consultation with the European Parliament and with civil society both in the North and in the South.
- Establish effective mechanisms and resources for the meaningful participation of all non-state actors during the preparation, implementation and evaluation of programmes and projects.

In practical terms, the Parliament, as the EU’s only democratically elected institution, should be responsible for EC accountability to non-state actors within the EU. With its role in determining objectives, priorities and budget lines greatly diminished under the new proposal, it is difficult to see how adequate accountability can be achieved. Moreover, it is critical that the process is sufficiently transparent to facilitate effective implementation. While this will require good information flows both within the EU and with civil society, the draft proposal sheds little light on how this will be ensured.

3.6 Inclusion of thematic issues

One final area of concern within the draft proposal relates to how the Commission will present detailed budget allocations to specific thematic programmes within the context of the multi-annual framework. The Commission has argued that ring-fencing of resources under a large number of headings and sub-headings makes the system rigid, preventing proper adjustment and effective

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use of resources to achieve the Community's policy goals. This goal of avoiding ear-marking (and therefore losing 'flexibility') has encouraged the Commission to delay producing detailed allocations as late as possible in 2005. By avoiding the fight between stakeholders to ring-fence funds this underlines the absence of open debate with relevant stakeholders, and flags the issue of how, without ear-marking, the Commission can ensure that all areas of co-operation will be properly addressed.

Recommendations:

To secure sufficient financial support for each area of co-operation, the Commission should:

- Clearly spell out criteria and goals – subject to co-decision – for its policy priorities and mainstreaming strategies, following consultation with stakeholders, including civil society, in the South and in the North.
- Define solid commitments to allocating a part of the budget on each thematic issue, and give clear indications as to how this amount is to be calculated.

4. Conclusion

Although FERN supports, in principle, a revision of the current external assistance system, we do have a number of concerns about the Commission's new proposal. Specifically, we fear that the apparent reduction in Parliamentary involvement, and absence of other stakeholder engagement, will ensure that the 'flexibility' of the new process will translate into a shift of funds from development to economic co-operation.

This briefing note shows that under the new framework, the Parliament will no longer be involved in setting the objectives for EC Development Aid, and that real measures

for ensuring civil society involvement in the process do not exist. Given this, some major changes must be made to the proposal to ensure that the new framework will indeed lead to a more flexible and effective disbursement of EC Development Aid. These include: developing a clear framework for consultation with non-state actors, providing a clear role for the European Parliament in setting the objectives of development assistance and defining commitments to allocate part of the budget to relevant thematic issues.

Notes

- ¹ Synonymous with 'civil society', 'non-state actors' include industry, NGOs etc. Here, we are primarily concerned with ensuring adequate input from, for example, local communities and NGOs.
- ² FERN (2002) *Briefing Note: EC Development Aid*. Available at: www.fern.org
- ³ Draft Regulation establishing a Pre-Accession Assistance Instrument http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0627en01.pdf
- ⁴ List of Aid Recipients – As of 1 January 2003. See www.oecd.org
- ⁵ Draft Regulation establishing a European Neighbourhood and Partnership Instrument http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0628en01.pdf
- ⁶ List of Aid Recipients – As of 1 January 2003. See www.oecd.org
- ⁷ Draft Regulation establishing an Instrument for Development Co-operation and Economic Co-operation http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0629en01.pdf
- ⁸ This fund, managed by DG Development, is directly funded by EU Member States and covered by its own financial rules, and is thus neither included in the EC Budget nor under the scrutiny of the European Parliament.
- ⁹ Today the EDF is funded by the EU Member States. EDF *budgetisation* means that the EDF would enter into the annual Community Budget and would be part of the new multi-annual financial framework. The proposal is yet to be accepted by the Council and the Parliament.
- ¹⁰ Draft Regulation establishing an Instrument for Stability http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0630en01.pdf
- ¹¹ Any country which is not an EU Member State
- ¹² See Section 2 (The Development Co-operation and Economic Co-operation Instrument)
- ¹³ FERN (2002) *Forests at the Edge: a review of EC aid spending*. Available at: www.fern.org
- ¹⁴ FERN (2003) *Briefing Note: Consultation requirements for civil society in EC development policies and practices*. Available in English, French and Spanish at: www.fern.org
- ¹⁵ Communication from the European Commission to the Council and the Parliament: *Participation of Non-State Actors in EC Development Policy* 7 Nov 2002

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