

Comments on the non-papers expanding on the proposals for strengthening the European Neighbourhood Policy: Governance Facility, Neighbourhood Investment Fund and Neighbourhood Economic Community

The Commission's proposals to strengthen the ENP are very welcome, since such proposals could have a great potential to foster sustainable development patterns in Eastern Europe, Southern Caucasus and Southern Mediterranean countries.

This can happen if priorities and objectives are set right and if precise guidelines and benchmarks for the use of these funds are agreed upon through a transparent, democratic and participatory process. We are concerned that the non-papers on strengthening the ENP presented by the Commission remain quite vague on a number of aspects. Moreover, the process of strengthening the ENP, specifically regarding the involvement of partner countries' governments, parliaments and civil society representatives, lacks clarity.

These comments will provide EU Member States with further inputs, questions, concerns and suggestions, which could be used to truly strengthen the ENP, in the interest of the EU and neighbouring countries' citizens.

1/ The Governance Facility: truly improving governance, in the EU and ENP countries' long term interest

What it should reward and monitor:

The governance facility should be used to promote the **rule of law, human rights and reforms in line with EU democratic and social standards**. The allocation criteria should specifically monitor Action plans priorities aiming at the implementation of **international commitments taken by both the EU and neighbouring countries**, such as

- the Millennium Declaration,
- the Convention on the Elimination of All Forms of Discrimination Against Women,
- the International Covenant on Civil and Political Rights,
- the International Covenant on Economic Social and Cultural Rights,
- the Aarhus Convention on access to environmental information, public participation and decision making.

Long term interest and EU credibility at stake

The governance facility should not be used to grant additional funding to countries that implemented reforms primarily serving EU's economic and geo-political interests, such as trade liberalisation, readmission agreements or a commitment to the fight against terrorism. Trade liberalisation cannot be mixed with governance. Including it as a policy orientation, which should be followed to have access to the governance facility could be counterproductive. The EU would run the **risk of losing any credibility on governance**, which is absolutely essential to achieve sustainable development in the region.

2/ The Neighbourhood Investment Fund: clarity needed on the principles and objectives guiding its establishment and implementation

By lowering risks for investors, the Neighbourhood Investment Fund is likely to attract an important share of external investments going to the region. The priorities of the NIF will then play a **major role in defining development models** followed by countries in Eastern European, Southern Caucasus and Southern Mediterranean countries. **Efficient, environmentally and socially sustainable use of EC funds** in the context of the NIF is therefore very much in the interests of people in the region, as well as of taxpayers all over Europe. Past experience has shown that the establishment of strong benchmarks and criteria for the assessment and implementation of projects financed by the NIF could help avoid the financing of activities that would be environmentally damaging, economically unjustified, socially controversial, legally deficient or have a negative impact on women.

A great opportunity

The management of the NIF provides a great opportunity to **promote regulatory convergence in EU social and environmental standards**, by setting the example of socially and environmentally responsible projects. The NIF can be shaped as a very efficient tool to promote and implement high environmental and social standards abroad if **its management and the projects it supports are fully in line with EU acquis** in these fields.

The Fund's priorities

*“The lending operations that will be supported through the NIF will focus on the priorities stemming from the ENP Action Plans and fall into five broad **sectors**: Energy, Environment, Transport, Support for SMEs and (to a limited degree) the Social Sector. (p.3)*

Energy, transport and environment are broad sectors that can be addressed with very different approaches. We are concerned that **without any clear guidelines**, investments in the transport and energy sectors, as was the case for Member States that joined the EU in 2004 and 2007¹, may be biased towards road, air transport and fossil fuel infrastructures and therefore **out of tune with EU commitments and policies in these fields**².

Therefore we recommend that the Fund focuses on opportunities for developing sustainable and efficient transport and energy systems. Particular attention should be paid to ways of minimising their impacts on the environment and promoting renewable energy, energy efficiency, and sustainable mobility.

Debt risk

This fund risks increase the debt of neighbouring countries by channelling investments at lower risk for investors but with still a need of loan repayment. The governments will have to pay back (public sector projects) or, at least, provide a budget guarantee (private sector projects). That may also result with lack of budgetary means for other more sustainable projects. The projects selected should therefore fully comply with the development needs of the countries.

¹“EU cash in climate clash: how the EU funding plans are shaping up to fuel climate change”, Friends of the Earth Europe, 11 April 2007

² Review of the White paper on Transport, COM (2006) 314 final, 22 June 2006, Council Conclusions on an integrated climate and energy policy, Brussels, 8/9 March 2007

The types of projects supported

“Priority will be given to funding projects of common interest such as the priority trans-national axes extending EU TENs transport corridors to neighbouring countries and projects of similar nature in the energy and environment domains.” (p.3)

We believe the term “*project of common interest*” should be further explained. We understand that it is commonly used to qualify projects that should serve equally the interests of EU countries and their neighbours. The NIF is supposed to use **bilateral Official Development Assistance from the Member States as well as an EC contribution from the ENPI**. The legal basis of the ENPI regulation includes **article 179 TEC** on development co-operation. EC and Member States ODA money being used in the context of the NIF should therefore be fully **in line with the principles set in the European Consensus on Development**³. This requires the NIF to have as primary and overarching objective, *“the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs)”*.

Projects funded by the NIF should be in line with these principles rather than focused on serving the interests of EU countries. The use of ODA money to serve the short term economic interest of EU countries **could be considered as a form of tied aid**, which EU Member States agreed to move away from in the **Paris declaration on aid effectiveness** signed in 2001.

Environmental, social and gender mainstreaming

Major ENPI projects, namely on energy and transport infrastructures, can have adverse social and environmental impacts. In neighbouring countries, environmental legislation, expertise and awareness are weak. The environmental guidelines and procedures of the bilateral and multilateral development-finance institutions are not harmonised and fully aligned with EU legislation. We are concerned that without precise social and environmental guidelines and obligations and without appropriate monitoring, the EU funds channelled through the NIF could support projects that would be environmentally damaging, socially controversial, legally deficient or have a negative impact on women.

*i) « The Fund will operate in a way which is fully **consistent with Community principles** in particular concerning the Environment, Public Procurement and State Aid and that avoids to introduce distortions to the market and the competition among financial intermediaries. » (p.3)*

We welcome the reference to the NIF consistency with Community principles on the Environment, but the mechanisms set up to ensure that this is achieved in the implementation of the projects need to be specified. Without these mechanisms, reference to Community principles on Environment is very likely to remain only wishful thinking.

It will be particularly essential to ensure proper **environmental and social assessment of the projects**, especially in countries where environmental and social protection standards are not at the level of the EU. Therefore we would require from the European Commission services to further define detailed guidelines and obligations to the NC regarding the EIA and SEA procedures to be applied in accordance with EU standards and laws.

In parallel, the EC should ensure that the environmental and social guidelines and procedures of the IFIs are harmonized and fully aligned with EU legislation and that these have enough **human capacity to verify the social and environmental impacts of their investments** (these should not be

³ Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus’. 20 December 2005.

left entirely to the project promoter) and assess the projects' compliance with relevant international and local legislation.

Moreover, as stated above, we insist on the fact that the principles of the European Consensus on Development should be driving the implementation of the NIF, given the fact that EC and Member States ODA will be used.

To ensure that consistency with Community principles is actually respected, **transparency** and **accountability**, both in the operations of the Fund and in the use of loans provided by the Banks to the local financial institutions will also be crucial (see further).

ii) « The Fund will operate on the basis of projects that will be assessed on their own merit in terms of relevance to the objectives of the Fund and technical soundness. » (p. 3)

Further **specifications are needed** on the assessment criteria and especially **on the objectives** of the Fund, which do not seem to be clearly specified.

The selection of the projects should primarily be based on a comprehensive assessment:

- of the actual needs of the region
- of social, environmental and economic impacts of potential projects
- of the impact on women of potential projects
- of compliance with local and international legislation
- of all alternative scenarios

Environmental conditionality

Environmental conditionality provisions in the disbursement of the loans are needed to ensure respect of criteria, practices and standards incorporated in EU environmental legislation.

Public consultation and transparency in the implementation of the Fund

We are concerned that the Community principle of transparency is not referred to in the non-paper. Taking into account the high cost of infrastructure construction for society and the relatively high level of corruption in most of the neighbouring countries, it will be crucial to ensure transparency of information:

- in the operations of the Fund and the way decisions are made within the Strategic and Partnership Committee and the Operational Management Committee
- in the use of global loans provided by the Banks to local financial institutions, the impact of which are generally difficult to verify

Public consultations are also a way for the projects to benefit from the public knowledge and experience; it will increase the visibility and ownership of the neighbourhood policy.

Public access to social, economic, environmental and gender related assessments of specific infrastructure projects is an issue in most of the countries concerned. Transparency of information related to the infrastructure projects should be ensured by the EC, the national/local authorities and the Banks. This includes ensuring full and timely access to the economic, social, environmental and gender related studies of the projects promoted. Public consultation and participation at all stages of the project cycle, including during the elaboration of the terms of references of the impact assessments, and of further studies and analyses, such as EIAs of the individual projects should also be promoted.

3/ A series of deep free trade agreements as a path towards a Neighbourhood Economic Community (NEC)

« *A Sustainability Impact Assessment for each of the FTAs will need to be carried out, in order to identify potential economic, social and environmental impacts.* » (p.8)

In the past, Sustainability Impact Assessments of FTAs have often been carried out at a stage when it could no longer impact the development of the plan. In order to achieve its goal effectively, that is to avoid potentially adverse economic, social and environmental impacts of a FTA and to maximise its benefits, the SIA will need to be carried out at the earliest stage and its results will need to be taken into account in the further development of the FTA.

Proposed amendment:

"Sustainability Impact Assessments for each of the FTAs will need to be carried out jointly by the EU and each partner country before the opening of negotiations. The purpose will not be merely to identify potential economic, social and environmental impacts of an exogenous FTA, but also to make recommendations for shaping the FTA, for example by identifying sectoral priorities for maximising the benefits of the FTA in all three areas of sustainability."

Accompanying measures

Support for reforms in trade and economic regulatory environment should be systematically complemented by measures and programmes supporting rural and economic development (as a parallel to the cohesion fund for EU countries).

Contacts:

Aprodev, Colombe de Mercey, c.de.mercey@aprodev.net

Eurostep, Florent Sebban, fsebban@eurostep.org

WWF, Paloma Agrasot, pagrasot@wwfepo.org