



Adviesraad inzake beleidscoherentie
ten gunste van ontwikkeling
Conseil consultatif sur la cohérence
des politiques en faveur du développement

Opinion of the Advisory Council on Policy Coherence for Development

Preliminary draft law on the Belgian Development Policy

1. Introduction

01. This opinion concerns the preliminary draft law on the Belgian development policy, proposed by the Minister for Development Cooperation and approved at first reading by the Council of Ministers on 31 August 2018. This opinion analyses how the principle of Policy Coherence for Development is integrated in the preliminary draft, in the version of 25 October 2018 (at second reading by the Council of Ministers). It contains recommendations to better integrate Policy Coherence for Development into the preliminary draft law.

This opinion was adopted on 21 November 2018 by the Advisory Council on Policy Coherence for Development.

Language of the original text: French.

2. Presentation of the problem

02. The preliminary draft law defines sustainable development as the general objective of the Belgian development policy, as defined in the United Nations' Sustainable Development Goals (art. 3 §1).

03. The preliminary draft law defines policy coherence for sustainable development as “the process aimed at ensuring that the objectives and results of the Belgian development policy are not hindered by the federal government’s policy in other areas that have an impact on the developing countries, and that these other policy areas support the Sustainable Development Goals, where possible” (Art. 2, 33°). In chapter 6 on the policy coherence for sustainable development, art. 49 §1 states that “Within the framework of a ‘comprehensive approach’, the Belgian development policy shall ensure that, on the one hand, the objectives and results of that policy are taken into account by the policy of the Belgian State in other areas that may have an impact on the developing countries and, on the other hand, that these other policy areas support the Sustainable Development Goals wherever

possible". Art. 49 §2 further stipulates: "In order to ensure the greatest possible policy coherence for sustainable development, the Belgian State shall ensure the synergy and complementarity between the actions of the various government departments and the public institutions in the field of sustainable development in the developing countries". Chapter 8 on the reports to be submitted to the Federal Parliament also states, in Article 55: "This report shall set out the results achieved and the recommendations made, including on policy coherence for sustainable development.

04. In addition to the chapter on Policy Coherence for Development, the preliminary draft law addresses three areas related to the priority themes of policy coherence: the 'comprehensive approach', migration and support to the private sector.

05. The 'comprehensive approach' is defined in the preliminary draft law as "the method aimed at maximising the effectiveness of all Belgian interventions in a given country or in relation to a given theme, by bringing greater coherence to the organisation of the Belgian policy concerning *inter alia* defence, diplomacy, international development, police, justice and migration, as well as by ensuring that the various efforts reinforce and complement each other within the framework of an integrated approach" (art. 2, 9°). Art. 11, 4° stipulates that the Belgian State promotes a 'comprehensive approach' that coherently combines policies and instruments relating to a wide range of areas from diplomacy, security and defence to finance, trade, development and human rights, as well as justice and migration, without prejudice to the specific objectives of these different policy areas and with respect for the specificity and uniqueness of the different actors". Art. 49 §1 also states that the Belgian development policy ensures policy coherence for sustainable development "within the framework of a comprehensive approach".

06. The fight against migration is at the same time an objective, a selection criterion for partner countries, a condition for the granting of budget support and a criterion for assessing the effectiveness of the Belgian development policy. Art. 11, 7° states that the Belgian State aims for "a structured approach to migration, which aims to provide the necessary leverage effect to achieve measurable results in terms of preventing irregular migration, by addressing its underlying causes and by analysing how its interventions either or not contribute to preventing irregular migration". The explanatory memorandum states that the policy "addressing the root causes of migration and thus preventing irregular migration" is part of the context of the European Consensus on Development, but that "care is taken, however, to ensure that official development assistance charged to the budget of the Belgian development policy is not used to strengthen the external borders of the European Union". Art. 17, 6° also defines "the impact on direct and indirect migration flows to Belgium" as a selection criterion for partner countries. The explanatory memorandum explains that migration has played a role in the choice of Morocco as a partner country. Article 29 §2 also provides that budget support to a partner country shall be conditional on its efforts to cooperate in the field of migration.

07. The preliminary draft law lists companies among the actors of the Belgian development policy (art. 2, 17°). Art. 26 in section 5 on the partnership with the private sector states that "the Belgian development policy actors involve the private sector in achieving the Sustainable Development Goals and in the humanitarian aid, while respecting the principle of untied aid and the social, environmental and human rights precautionary measures". Article 27 provides: "BIO implements the partnership with the private sector in accordance with the provisions of the law of 3 November 2001", as confirmed by art. 46, which states: "BIO supports and stimulates the sustainable and inclusive growth of the private sector". Art. 47 §1 adds that "the Belgian State may grant subsidies to companies charged to the budget of the Belgian Development Policy for interventions for sustainable development", provided that these interventions "are additional and development-relevant and support the objectives of the Belgian development policy". The explanatory memorandum states: "For example, subsidies can be

paid to companies that carry out interventions for sustainable development, for example when companies want to invest in and import from developing countries (...). These subsidies can only be granted to companies that make a financial contribution to the intervention. (...) Private companies receiving subsidies charged to this policy must have a code of ethics and subscribe to Agenda 2030 for Sustainable Development, (...) [and] subscribe to the international standards on business and human rights”.

Recommendations:

The Advisory Council on Policy Coherence for Development makes the following recommendations:

With regard to the ‘comprehensive approach’ and Policy Coherence for Development:

08. In Article 48, on the independent policy support bodies, name the “Advisory Council for external coherence of the policy for sustainable development” as a successor to the current Advisory Council on Policy Coherence for Development. This name would better reflect its mission and clarify the division of tasks with the Federal Council for Sustainable Development, established by the Act of 5 May 1997 on the coordination of the federal policy on sustainable development.

09. Describe the ‘comprehensive approach’ in the broader context of policy coherence for sustainable development - thus reversing the logic that appears to be presented in the preliminary draft law, suggesting that policy coherence falls within the framework of the ‘comprehensive approach’ (art. 49 §1st) - in order to define it as an approach that seeks to achieve the United Nations' Sustainable Development Goals in vulnerable states.

With regard to migration:

10. Avoid that the fight against migration becomes a goal of Belgian development policy, a criterion for choosing partner countries, a condition for granting budget support or a criterion for the effectiveness of the Belgian development policy, in order to guarantee coherence with the Sustainable Development Goals (art. 3 §1) and concentration in the least developed countries and vulnerable states (art. 10 §6).

11. Ensure coherence between the Belgian migration policy and the Belgian development policy, in the spirit of the United Nations’ Global Compact for Safe, Orderly and Regular Migration and in accordance with the approach of the Opinion on “Migration and Development”, published by the Advisory Council on Policy Coherence for Development on 4 July 2016.

With regard to the support of the private sector:

12. Give priority to instruments that support the private sector and are best adapted to the specific context of the least developed countries and vulnerable states, in order to achieve an optimal coordination between the concern to mobilise the private sector (in line with the current direction of the Belgian development cooperation policy) and to focus the development efforts on the least developed countries and vulnerable states.

13. Define, in the preliminary draft law, a coherent institutional architecture based on a clear division of tasks between the various Belgian actors involved in supporting the private sector in developing countries (BIO, ENABEL, DGD, FPS Finance, CREDENDO, FINEXPO, etc.).

14. Among the instruments for private sector support, exclude export credits and non-concessional public financing, because these can be regarded as a subsidy to enterprises in the sense of Article 1 of the World Trade Organisation Agreement on Subsidies and Countervailing Measures, which in principle prohibits this type of public support.

15. Ensure that companies that get support from the Belgian development policy comply with the principles on business and human rights, as approved by the Human Rights Council in its Resolution 17/4 (16 June 2011), by providing in Article 47 of the preliminary draft law that these companies must commit themselves to cooperate with the National Contact Point (NCP) established in Belgium in accordance with the OECD Guidelines on Multinational Enterprises, in particular by responding to requests for information in the context of specific procedures against them and by implementing any recommendations of the NCP addressed to them.

16. Ensure *ex-ante* as well as *ex-post* monitoring and evaluation of funded projects, in order to ensure that the support granted to the private sector supports projects with a proven positive contribution to sustainable development in its three dimensions (economic, social and environmental).

Justification of the recommendations:

With regard to the ‘comprehensive approach’:

17. The preliminary draft law states that policy coherence for sustainable development is part of the ‘comprehensive approach’ (art. 49 §1). But policy coherence is a principle that should be taken into account by all policies that are likely to have an impact on developing countries, while the ‘comprehensive approach’ is specifically designed to bring together certain foreign policy actors to ensure a more coherent foreign policy, historically to improve the situation in vulnerable contexts, according to the 3D-LO approach. Although the definition of the ‘comprehensive approach’ at the Belgian level has been extended following the 2017 Strategy Paper on the ‘comprehensive approach’, it must still remain part of the broader context of policy coherence with a view to achieving the Sustainable Development Goals by 2030, as is the case for any policy that has an impact on the developing countries¹.

18. If the ‘comprehensive approach’ is not seen in the broader context of policy coherence for sustainable development, in order to achieve the United Nations’ 2030 Development Agenda, there is a risk that development cooperation will focus on Belgium’s own interests, including on promoting Belgian investors and the Belgian export sector, rather than on the strategies for sustainable development of the partner countries. In the case of the Netherlands, a pioneer in the field of the ‘comprehensive approach’, the OECD peer review pointed out a trend of implementing programmes that focus on supply (the Dutch interests) rather than on demand (the partner countries’ priorities),

¹ Act of 19 March 2013 on Belgian Development Cooperation; Art. 208 of the Treaty on the Functioning of the European Union.

thus compromising partner country ownership, which is nevertheless a cornerstone of the effectiveness of any aid provided².

19. In particular, a ‘comprehensive approach’ that does not take account of policy coherence for sustainable development can lead to the subordination of the Sustainable Development Goals to the priorities of donor countries in terms of the defence and security policy³ or may cause development aid to shift towards security issues (‘securitization’)⁴. This risk is all the more important since the OECD’s Development Assistance Committee (DAC) is discussing on the extension of the criteria in order to include certain military expenditure as development aid. As emphasised in the Belgian Strategy Paper on the ‘comprehensive approach’: “Within the OECD’s DAC (Development Assistance Committee), there has also been, at the instigation of Belgium, a significant evolution in favour of clarifying and extending ODA criteria, such as the eligibility of certain military expenditure (e.g. certain forms of training for the armed forces and the police, the use of military or military equipment in certain contexts and in the delivery of humanitarian aid, certain activities of prevention of violent extremism and disarmament under certain conditions)”⁵.

20. Coherence between the interventions of the different actors of the Belgian development policy and respect for each other’s specificity is indispensable to avoid fragmentation of the Belgian development aid. According to the Belgian Strategy Paper on the ‘comprehensive approach’, the ‘comprehensive approach’ that was originally aimed at the 3D-LO approach has been extended to also focus on other themes and involve other actors⁶. As a result, it is becoming increasingly difficult to define the boundaries of eligible sectors and the respective roles and priorities of each type of stakeholder. But without clear objectives, the risk of conflicting interests and objectives of stakeholders is also greater. Such risk of competition would lead to a lack of coordination between departments, which is exactly the opposite of what the ‘comprehensive approach’ is intended to do. In the United Kingdom, for example, discrepancies and incoherences between development and military actors were noted, partly because of differences in doctrine and the fear of a military monopoly among civilian actors⁷. In addition, according to the OECD’s most recent peer review in the Netherlands, the comprehensive approach has led in particular to a multiplication of inadequately coordinated instruments, resulting in a further fragmentation of aid and an increased administrative burden, as well as a lack of coherence in the objectives of the Dutch development cooperation⁸. Finally, one of the problems identified in developing the ‘comprehensive approach’ within the United Nations is the risk of competition between the various departments and services involved, especially between the policy department and the department of peacekeeping operations, at headquarters and in the field⁹.

² “A World to Gain stresses the importance of partnership [...]. However, the context and preferences of partner countries are not identified as the point of departure for development co-operation. Budgets are increasingly managed from the Netherlands, with limited opportunities for national governments to input into decisions. This is in contrast to the Netherlands’ leadership role in the Global Partnership for Development Effectiveness and the emphasis in Agenda 2030 on building developing countries’ own capacity.” OECD (2017), “OECD Development Cooperation Peer Reviews: The Netherlands 2017”, OECD Publishing, Paris.

³ Acropolis, “A Comprehensive approach for Belgian Development cooperation”, February 2018, p. 6.

⁴ BROWN G., “The securitization of foreign aid”, Rethinking international Development Series, 2015.

⁵ *Strategy Paper Comprehensive approach. Note to the Council of Ministers*, 2017, p. 10. https://diplomatie.belgium.be/sites/default/files/downloads/note_strategique_approche_globale.pdf

⁶ *Strategy Paper Comprehensive approach. Note to the Council of Ministers*, 2017, p. 4. https://diplomatie.belgium.be/sites/default/files/downloads/note_strategique_approche_globale.pdf

⁷ Acropolis, op. cit., p. 10.

⁸ OECD (2017), “OECD Development Cooperation Peer Reviews: The Netherlands 2017”, OECD Publishing, Paris.

⁹ Acropolis, op. cit., p. 9.

With regard to migration:

21. The countries of origin of most migrants in Belgium are not the partner countries of the Belgian development policy, nor the poorest countries or the vulnerable states that Belgian development policy wants to focus on (art. 10 §6). Morocco is the only partner country of the Belgian development policy that is one of the fifteen main countries of origin of migrants in Belgium. For example, in 2016, migrants from other EU Member States represented 57% of immigrants in Belgium, compared to only 7.6% from sub-Saharan Africa (and 1% from DRC)¹⁰. The other regions of origin included West Asia (15.8%, 7% of which for Syria and 3% for Iraq), the non-EU European countries (5.1%), North Africa (5.3%, 4% of which for Morocco) and also North America (2.3%). If the migrants' countries of origin are added as a criterion for choosing a country as a partner country, the Belgian aid risks being diverted from the poorest countries, even though this is provided for in the preliminary draft law¹¹.

22. The areas where migrants come from are not the poorest parts of the least developed countries and vulnerable states. Including the fight against migration as an objective of Belgian development policy therefore threatens to divert the Belgian aid from the poorest regions with the greatest needs. Under the Emergency Trust Fund for Africa, which aims to address the causes of irregular migration to Europe, European aid for a project to combat malnutrition in Niger was spent primarily in the areas where the migrants came from, at the expense of the areas where most people suffered from hunger¹².

23. Up to a certain level of development, there is an inverse correlation between the effectiveness of development and the emigration rate. The development of a poor country increases migration flows until the country reaches the phase of a middle-income country, i.e. with a per capita income level of more than USD 10,000. The correlation reverses only above this threshold¹³. In other words: up to a certain level of development, by far not achieved by the poor countries, development does not result in less, but - to the contrary - to more migration. It is therefore incoherent and counter-productive to assess the effectiveness of the Belgian development policy on the basis of the reduction of short-term migration flows in partner countries. In order to stabilise migratory flows in the medium and long term, and to give everyone the opportunity to live a decent life in their region of origin, all development cooperation resources must be mobilised within the framework of the United Nations' 2030 Agenda for Sustainable Development.

With regard to the support of the private sector:

24. Private investments mobilised by official development aid (ODA) are mainly aimed at developing countries with lower levels of poverty and more domestic resources. Between 2012 and 2014, low-income countries received an average of 60 million US dollars from these investments, compared to 756 million US dollars for middle-income countries¹⁴. During that period, only 5% of private investments mobilised by ODA in developing countries benefited the poorest countries - a much smaller proportion than the traditional ODA, of which 25% benefited the poorest countries. The five main beneficiary countries (Turkey, Chile, India, Pakistan and Serbia) received more than 20% of the total - 7% of which went to Turkey, the main beneficiary country. The first low-income country to receive aid was Senegal, which is only in the thirty-fourth place. This trend is contrary to the objective

¹⁰ MYRIA (Federal Migration Centre), "Myriatics No. 8", November 2017.

¹¹ CLEMENS M. en Postel H., "Deterring Emigration with Foreign Aid: An Overview of Evidence from Low-Income Countries", CGDEV Policy Paper n°119, February 2018.

¹² La Cimade, "Coopération UE-Afrique sur les migrations. Chronique d'un chantage. Décryptage des instruments financiers et politiques de l'Union européenne", Rapport d'observation – Synthèse.

¹³ CLEMENS M., "Does Development Reduce Migration?", CGDEV, Working Paper n°359, March 2014.

¹⁴ Development Initiatives, *Blended Finance: Understanding its Potential for Agenda 2030*, November 2016, pp. 9-14.

of the Belgian development policy to focus its efforts on the least developed countries and vulnerable states (Article 10 §6).

25. The concentration of support to the private sector in the middle-income countries threatens to divert part of the ODA away from the poorest countries. Because it is not always easy to determine whether a project needs an ODA contribution or is able to work without such support, there is a risk that it is too quickly assumed that a private investment needs an ODA contribution and that a growing part of ODA is thus diverted from the priority, namely the achievement of the Sustainable Development Goals - especially since a project's contributions to the development of the country concerned are often determined *ex ante* and the analysis of the possible added value of an ODA contribution often focuses on financing rather than on the sustainable development impact¹⁵.

The Advisory Council on Policy Coherence for Development (ABCO-CCPD) was established by Royal Decree of 2 April 2014 in application of the Act of 19 March 2013 on Belgian Development Cooperation (articles 2.16°, 8, 31 and 35.2°). This Council's primary mission is to provide opinions to the Belgian federal authorities in order to promote Policy Coherence for Development in accordance with Article 208 of the Lisbon Treaty and Article 8 of the legislation initiated on March 19, 2013, related to Belgian Development Cooperation.

Visit the website to learn more about the Advisory Council and to read other opinions in Dutch, French and English: <http://www.ccpd-abco.be/>

¹⁵ Oxfam, "Private-Finance Blending for Development. Risks and opportunities", Oxfam Briefing Paper, February 2017.