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Abbreviations

AAA	Accra Agenda for Action
BmeiA	Bundesministerium für Europäische und Internationale Angelegenheiten (Federal Ministry for European and International Affairs)
BMF	Bundesministerium für Finanzen (Federal Ministry of Finance)
CDF	Comprehensive Development Framework
CDI	Commitment to Development Index
CIRR	Commercial Interest Reference Rate
CSO	Civil Society Organization
DAC	Development Assistance Committee
DAC/FA	DAC Working Party on Financial Aspects of Development Assistance (OECD)
DCD	Development Co-operation Directorate (OECD)
DDR	Differentiated Discount Rate
EBRD	European Bank for Reconstruction and Development
ECA	Export Credit Agency
ECG	OECD Working Party on Export Credits and Credit Guarantees (OECD)
ECGD	Export Credits Guarantee Department (United Kingdom)
EC	European Commission
EU	European Union
GATT	General Agreement on Tariffs and Trade
HIPC	Highly Indebted Poor Country
IMF	International Monetary Fund

MDGs	Millennium Development Goals
NGO	Non-Governmental Organization
LDC	Least Developed Country
ODA	Official Development Assistance
OECD	Organization for Economic Co-operation and Development
OEFS	Österreichische Forschungsförderung für Internationale Entwicklung / Austrian Research Foundation for International Development
OeKB	Österreichische Kontrollbank
OOF	Other Official Flow
PRSP	Poverty Reduction Strategy Paper
PCD	Policy Coherence for Development
SDR	Special Drawing Right
TAD	Trade and Agriculture Directorate
UN	United Nations
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
WB	World Bank
WIFO	Österreichisches Wirtschaftsforschungsinstitut / Austrian Institute of Economic Research
WP-EFF	Working Party on Aid Effectiveness (OECD)
WTO	World Trade Organization

1. Introduction

“There are numerous accounts whereby the rich Northern countries keep enriching themselves at the expense of the poor Southern countries under the guise of Official Development Assistance. The issue of export promotion in general and tied aid in particular is well suited to act as a discursive interface, preparing the ground for an adequate critique of official development policy.”

(Michaelowa 1998: 72, 73; quoted in and translated by Petermann 2013: 2).

The first decade of this century saw the international community declare the Millennium Development Goals (MDGs), which have symbolized international aid efforts ever since. Along with this declaration of intent came pledges to not only increase the volumes of aid, but even more importantly to improve its effectiveness through better management and delivery. The OECD-hosted *Working Party on Aid Effectiveness* (WP-EFF) organized a series of High Level Forums in Rome (2003), Paris (2005), Accra (2008) and Busan (2011) and put aid effectiveness and ways of fostering it at the top of the international aid agenda (Tujan 2011: 340). The declarations made at these meetings influence our understanding of how good development co-operation should look today, they shape ideas and practices “*that constitute the field of development cooperation*” (Ruckert 2008: 96).

Part of these ideas of what encompasses *sound* development policies is a widely recognized *consensus* among the members of the OECD’s Development Assistance Committee (DAC) that “[...] removing the legal and regulatory barriers to open competition for aid funded procurement [...] generally increases aid effectiveness by **reducing transaction costs** and **improving the ability of recipient countries to set their own course**. It also allows donors to take greater care in aligning their aid programmes with the objectives and financial management systems of recipient countries” (OECD/DAC Homepage¹; emphasis added).

¹ For further information on the untying of aid as well as for a collection of relevant OECD publications on the topic, please see <http://www.oecd.org/dac/untied-aid/untyingaidtherighttochoose.htm>.

2 Introduction

This formal consensus among OECD donors on the untying of their assistance is laid down in the DAC Recommendation on *Untying Bilateral Development Assistance to Least Developed and Highly Indebted Poor Countries* (2001) and was reiterated most prominently in the Paris Declaration and the follow-up declarations in Accra and Busan.

Yet, a closer look at the reality of aid *politics* reveals that relics of tied instruments are still part of the portfolios of most DAC donor countries. The gradual move towards *de jure* untied aid as well as a growing number of voices calling for an overhaul of the concept of Official Development Assistance (ODA) in post-2015, are taken as a starting point to examine one of the remaining tied development policy instruments: tied aid credits. These have increasingly come under pressure to justify their very existence, which has pushed several OECD countries to either end their tied aid credit schemes (mainly mixed credits), untie these or at least evaluate their programs (Clay et al. 2009).

Tied aid credits or *soft loans* - concessional credits which are tied to the procurement of goods and services in the donor country – are a *hybrid* instrument located at the interface of official export promotion and development policy. With tied aid credit programs donors claim to support domestic enterprises in their export endeavors while simultaneously contributing to the development of recipient countries. Thus, the goals of export promotion and of development co-operation are assumed to be not only complementary, but also achievable with a single instrument.

For decades tied aid credits have been widely used by most OECD members to finance export business and investment projects in richer developing countries. Due to increasing concerns in the 1980ies that these were used as “subsidization by the backdoor”, tied aid credits have been regulated through the *Arrangement on Officially Supported Export Credits* as part of the OECD’s export promotion framework which aims for the elimination of trade distorting practices.

Despite these institutional roots in the export promotion field, tied aid credits claim their place not only amongst the instruments of development finance, but of official development assistance. Donors justify the legitimacy of tied aid credit programs, being in contradiction with the OECD’s liberal trade philosophy, through postulated development goals. As a result of the Arrangement’s disciplines tied aid credits are mainly used to finance commercially non-viable projects in public sectors, such as health, water and sanitation, education or infrastructure. The resulting focus on the provision of (quasi) public goods, which are considered to be key to development, gives tied aid credits their assumed development relevance. Given the officially stated motivation of contributing *to economic development and*

welfare in developing countries (and complying with the 25% grant element threshold set by the DAC), the concessional part of a tied aid credit becomes ODA-eligible and contributes to a donor's overall ODA performance.

This status between export promotion and development policy makes tied aid credits subject to tensions stemming from the polyvalent interests of the actors involved. Whether the ambitious aim of achieving dual goals with a single instrument leads to efficiency losses with regard to the achievement of both goals remains largely unmentioned in public descriptions of the programs. However, following Jan Tinbergen, who demonstrated that each policy goal needed its own policy to be efficiently achieved (Tinbergen 1986: 14), this assumption behind tied aid programs requires profound examination.

Recent debates on aid and development effectiveness – as they are reflected in the Declarations of DAC High Level Meetings in Paris, Accra and Busan – are closely intertwined with a formal consensus on the untying of aid as well as the call for Policy Coherence for Development (PCD). In the context of these developments, the defining features of tied aid credits need to be critically examined. This thesis provides a conceptual analysis of tied aid credits in the light of recent debates on Official Development Assistance (ODA). The emphasis lies on the question of the extent to which the *Arrangement of Officially Supported Export Credits*, which gives tied aid credits their basic shape, is in line with today's political framework for the OECD's development policy. Based on an analysis of the historical genesis of the rules governing tied aid credits, this *hybrid* instrument and its potential effectiveness for development policy will be assessed along the DAC's standards and guidelines.

1.1. Research Question(s)

Due to the hybrid nature of tied aid credits, corresponding policies draw on two fields of reference - export promotion and development policy - and claim to bridge these. In the following pages, the emphasis will be put on examining the consistency and compliance of tied aid credits in their basic shape (i.e. the tied aid disciplines of the *Arrangement on Officially Supported Export Credits*) with the reference field of development policy or more precisely, the DAC's guidelines and principles for development policy.

The main research question is:

1. Are tied aid credits consistent with the OECD's standards and principles for development policy?

1.1. *Which role did development policy aspects and interests play in the historical genesis of the Arrangement on Officially Supported Export Credits in general and its tied aid disciplines in particular?*

1.2. *To what extent are the resulting tied aid disciplines, which give tied aid credits their basic shape, coherent with the OECD's standards and guidelines for development policy?*

1.2. Relevance of the Topic: "Studying the Unstudied"

It is crucial to understand the framework in which this thesis developed because it considerably shaped not only the research questions asked and the methodology chosen but also the very structure of the resulting study. This thesis forms an integral part of a research project by the Austrian Research Foundation for International Development (ÖFSE) on *soft loans/tied aid credits* headed by Dr. Werner Raza. The overall research aim is to assess the effectiveness of soft loans as an instrument of development policy by means of a comparative analysis of soft loans programs of four OECD donor countries.

The analysis of the international regulatory framework and its compliance with DAC standards and principles for development policy analyzed hereafter will be of direct relevance for the preparation of the comparative case study analysis conducted in the subsequent project phase.

Initially this thesis was conceptualized as a study co-authored by my colleague Eva Schweiger and me. The basic idea was to provide an analysis of tied aid credits from both an economic as well as a development policy angle, thereby combining not only two perspectives but also quantitative and qualitative approaches and methods. This was and is thought to be valuable considering the *hybridity* of tied aid credits located at the interface of export promotion and development policy.

However, unfavorable circumstances made it necessary to change the original project which had been conceptualized as a thesis written by two students. Therefore, I cross-refer any reader interested in a more quantitative analysis of tied aid credits from an economic perspective to Ms. Schweiger's study, which is to be finalized in the months to come and which complements the qualitative analysis provided here. Due to the fact that data were

collected by both of us and close co-operation took place until a very late stage of writing-up the respective studies, some of the material used in this thesis, in particular the expert interviews will also be reflected in Ms. Schweiger's thesis.

1.2.1. Literature Review

When doing some first research in (digital) libraries and relevant journals in order to get an overview of the issue, I was puzzled to find out that there was not much to have an overview of: some OECD publications on the occasion of the Arrangement's anniversaries (OECD 1998; 2008; 2011b), a few academic papers dealing with export credits thereby briefly touching upon tied aid credits (Evans 2003; Hall 2011; Levit 2004; Moravcsik 1989; Morrissey 1998; Rosefsky 1993) and some books the majority of which were written by (former) OECD representatives and none of which were available in Austrian Libraries.

Therefore, a review of the academic literature on tied aid credits in general and even more so from a development perspective provides sobering and unsatisfying results.

By far the most comprehensive publication on the genesis of tied aid credits is John Ray's book "Managing Official Export Credits: The Quest for a Global Regime", published in 1995. This contribution is insightful in the full sense of the word – John Ray headed the Division of Financing and Other Export Questions in the Trade Directorate (today Trade and Agriculture Directorate) of the OECD and provides the reader with observations made from inside the organization.

In line with the wide neglect of tied aid credits by academia, there are only few relevant publications on tied aid credits in Austria. The most notable contribution concerning the topic in question is a study commissioned by the Österreichische Kontrollbank (OeKB) and conducted by the Austrian Institute of Economic Research (WIFO) in 1992 (Bayer/Stankovsky/Url). A follow-up study was done by Url in 2003, which has not been publicly released. Both studies take the perspective of national donor industries and their situation regarding competitiveness. Furthermore, there are some individual diploma theses available, which approach the issue from a donor economic angle (Handrich 1992) and provide a case study of an Austrian company using soft loan finance (Egger 1997). A more recent diploma thesis focuses on the treatment of environmental aspects in project assessment by the Austrian Export Credit Agency (OeKB) (Breuss 2005).

In contrast, academic literature dealing with the incentives for and consequences of tying aid is rather extensive, but one-sided². Most authors dealing with tied aid in general (and not tied aid credits in particular) are neoclassical economists who make use of macro-economic modelling to show the overall welfare-loss in the tied compared to the untied scenario (Jepma 1991; also Chilchiniski 1983; Bhagwati et al. 1983; Kemp/Kojima 1985; Schweinberger 1990; Jepma 1991 Hatzipanayotou / Michael 1995; Lahiri/Raimondos 1995; Brakman and van Marrewijk 1995; all quoted in Clay et al. 2008). Explanations for ODA allocation from a microeconomic perspective are given by Michaelowa (1998), for instance.

With the exception of some publications in the wake of the 2001 Untying Recommendation (e.g., Arrowsmith/La Chimia 2009³; La Chimia 2004; Petermann 2013), there seems to have been peaceful silence surrounding the issue of tied aid credits since around 2000. While large projects supported by traditional export credits have repeatedly been caught in the crossfire of NGO criticism for their negative environmental and societal impacts, tied aid credits have largely been neglected by civil society. In contrast to, or maybe as a result of, the limited academic civil society interest in tying practice, the OECD itself has published several reports on the issue.

As I am finalizing this thesis Jan-Henrik Petermann's dissertation "Between Export Promotion and Poverty Reduction" (2013) is published by Springer publishing. Although not specifically focusing on tied aid credits, he investigates the "foreign economic policy of untying Official Development Assistance" in general. The almost 500-page publication shows the relevance of the research topic of this thesis and illustrates the timeliness of studying tying practices.

Astonishingly, academic literature on the OECD itself has also proved to be limited and was not very helpful in identifying, for instance, power (im)balances between different Directorates (in this case the Trade and Agriculture Directorate and the Development Co-operation Directorate respectively) and groups subordinate to them. Literature on the very functioning of the Organization reaching beyond a mere description such as given in official OECD publications would have been extremely useful in understanding the dynamics between the two divisions being researched. This lack of academic literature on the OECD is even the more puzzling considering the Organization's active role in publishing as well as in light of one of its fundamental pillars: transparency. Similarly, Jakobi and Martens (2010b:

² Jan-Henrik Petermann's review of key literature comes to similar conclusions (Petermann 2013: 38-41). The author states that political science has so far largely neglected the (un)tying issue (Petermann 2013: 39).

³ Arrowsmith/La Chimia (2009), for instance, explore the possibility of integrating untying or rather anti-tying provisions into the legal EU and WTO frameworks governing public procurement (see also Petermann 2013: 38).

269) say: *“In fact, the organization is probably most prominently known for the data it produces despite the fact that we know little about how it is produced”*.

Although the OECD produces vast amounts of data that are widely cited and used, surprisingly, only little is known about how this data is produced in the first place. The DAC and its ODA statistics figure as prominent example for this discrepancy between being a “knowledge producer” on the one hand and being the subject of research on the other hand. Practically the entire Northern donor community relies on publications and statistical records produced by the DAC, but hardly any academic literature has so far dealt with the inner workings of the DAC, asking about dynamics behind drafting DAC policies, or how in-and outside influences and “ideological underpinnings” are shaping them. Some of the few publications on the OECD in general, touching also upon the DAC, are the books/volumes by Mahon/McBride (2008), Martens/Jakobi (2010), Woodward (2009).

The lack of relevant literature was challenging at various stages of the research project and unfortunately did not always allow for cross-checking of statements gained from interviews and comparing them with findings in the established literature. Closing these considerable gaps lies far beyond the scope of this thesis. However, this study sets itself the modest goal of at least identifying relevant future research topics on the OECD that could considerably enhance our understanding of processes shaping policy outcomes in form of OECD recommendations and their (potential) transfer into national policies, for example.

In addition to the unsatisfying situation concerning literature, initial research was made difficult by incoherent wording, insufficient differentiation between “traditional” export credits and tied aid credits, loopholes in statistical recording due to the legal frameworks (or political calculus) in certain countries. Accordingly, the findings presented in this thesis have to be interpreted in light of these constraints.

The relevance of this thesis lies in the importance of bringing transparency into the field of tied aid credits, which have been widely neglected by academic research so far. It is to be understood as a door-opener, laying the scientific foundations for further in-depth research. Also, against the background of the untying targets agreed upon by the “international community” – or rather the member states of the DAC – this thesis makes a valuable contribution in that it examines one relic of the tying toolkit, namely tied aid credits. While other forms of tied aid, especially tied food aid – as such exempted from the DAC Untying Recommendation –, have received considerable academic attention, tied aid credits, another relic of tying practices, remain largely beyond the academic radar. So far, many questions on

the development orientation of tied aid credits have remained unanswered by the existing literature.

By drawing on the comparative analysis of different “rule sets” developed by different (quasi) OECD bodies, this thesis aims at identifying potential incoherences and gives, to the extent possible, first recommendations for an increased development orientation of tied aid credits.

1.3. Structure of the Thesis

This thesis consists roughly of five parts, combining explorative with analytical chapters.

PART I, which comprises Chapter 2 and 3, will lay the methodological and terminological foundations. In a first step a description of the research methods used will be given. The documents and data gathered in the OECD archives as well as the expert interviews which were conducted constitute the backbone of this thesis and considerably shape its very structure. As will be explained in Chapter 2, a non-standardized qualitative approach, combining elements of document and qualitative content analyses, is followed to interpret the data. The emphasis put on historical processes allowed capturing the relative importance of development aspects in the making of today's regulatory framework covering tied aid credits. Once the methodological foundations upon which this thesis rests have been unfold, the key terminology will be examined. In addition to a critical examination of the concept of Official Development Assistance (ODA), it will be shown that definitions in the field of tied aid financing are rather imprecise or lacking altogether and that terminology varies in accordance with *who* (Participants, DAC/FA, national actor) is speaking *when* (in historical perspective). These weak definitions and inconsistent terminology were challenging at various stages of this research project. In order to lay the common ground for this thesis, a working definition of tied aid credit, based on the criteria set by the *Arrangement on Officially Supported Export Credits*, will be provided.

With these basics in mind, **PART II** - Chapter 4 - will turn to the role of the OECD's Development Assistance Committee (DAC) as norm-setter in the field of international development and will provide the conceptual reference framework for this thesis. In this vein, the major debates on development co-operation, which have been framed by the DAC in the past two decades, will be analyzed. The emphasis will be put on the *Paris Declaration for Aid Effectiveness* and follow-up declarations (Accra/Busan), the broad consensus on the untying of aid, which had its temporary climax in the 2001 *Recommendations on Untying Official Development Assistance to LDCs and HIPC*s as well as the call for *Policy Coherence for Development* (PCD). The aim of this analysis is to identify key concepts of how development

co-operation and policy *should* be designed to be of maximum effectiveness in recipient/partner countries. The conceptual framework derived from these debates will be used as the benchmark against which tied aid credits will be assessed. When compared with tied aid credit policies as framed by the *Arrangement on Officially Supported Export Credits*, this will also allow to draw conclusions on the OECD's internal coherence in the field of development policy.

PART III consists of Chapter 5 and 6 and will lead us right into the heart of the regulatory framework. After a short introduction to the complex sets of rules on tied aid financing, tied aid credits will be traced back to their roots in the export credit race of the early 1980ies. This will allow grasping the deep linkages of the instrument with traditional export credits and the initial aim of gaining competitive advantage for domestic companies via tied aid practices. It is only in the light of these early motivations and the resulting concern about trade distortion that the contemporary set of rules can be understood. Looking back at the history of tied aid credits will show that on an international level they have been designed from a liberal economics perspective striving first and foremost to eliminate trade distortions.

While PART III focuses on trade considerations stemming from the use of tied aid credits, **PART IV** – Chapter 7 - will analyze the evolution of the regulatory framework for tied aid credits and associated financing from a development policy angle and aims at grasping the role and influence of the DAC – the *DAC Working Party on Financial Aspects of Development Assistance* (DAC/FA) - in the making of today's rules. The resulting traces in today's Arrangement will be analyzed, as will be the guidelines and principles adopted by the DAC itself and which culminated in the *New Measures in the Field of Tied Aid* in 1991/92. By means of the document analysis it will be shown that the DAC/FA's treatment of tied aid credits is to be understood as embedded in the larger untying discourse that the DAC has triggered early on.

PART V - Chapter 8 - of this thesis essentially brings the jigsaw pieces together and assesses tied aid credits as well as the disciplines governing them (essentially the Helsinki tied aid disciplines) against the conceptual framework that has been elaborated from the DAC's debates as outlined in Chapter 4. As will be shown tied aid credit disciplines and policies are in overt contradiction with some of the pillars of today's development architecture, in particular the principles of *ownership*, *alignment* and (*global*) *partnership*.

2. Research Approach and Methods

This section gives a brief explanation of the methodological approach as well as the research methods used in order to answer the research questions as outlined above. Overall, a mix of qualitative methods was chosen to collect and interpret data stemming from a variety of sources, both primary and secondary. Since there was not one method “fitting it all”, it seemed appropriate for the purpose of this research to follow a non- standardized methodology and to apply a combination of methods. In general, primary sources are considered those that “[...] were written [...] by the people directly involved and at a time contemporary or near contemporary with the period being investigated. Primary sources, in other words, form the basic and original material for providing the researcher’s raw evidence” (Finnegan 2006: 142). Secondary sources, on the contrary, “[...] copy, interpret or judge material to be found in primary sources” and are written sometime after the actual event (Finnegan 2006: 142).

Apart from academic literature, which is considered a secondary source, this thesis relies on primary sources, such as official OECD documents, publications and homepage content, and archive documents as well as interview transcripts (see below Chapter 2.2). In order to ensure the reliability of the findings, data interpretation was tailored to the respective sources.

While the first part of this thesis draws heavily on literature analysis of OECD publications, NGO reports and academic literature on the DAC’s development agenda, the subsequent part follows a historical approach borrowing from both document and qualitative content analyses (see Mayring 2004: 266-270). In order to trace the development orientation of tied aid credits, Part III and IV of this thesis adopt a historical perspective trying to capture as best as possible the importance given to development (policy) aspects in the making of today’s regulatory framework covering tied aid credits, hence giving this policy instrument its basic shape. Essentially it is an attempt to understand the concerns that have driven the actions of the two groups regulating tied aid credits. The following quote by Jennings illustrates the importance of adopting a historical perspective also in development policy research:

*“Policies and development narratives have emerged over time, in response to past failures, new fads and fashions, and changing needs and interest groups. **Knowledge of the historical antecedents of current development practice are vital to understanding why***

things are done the way they are today, and how they might be done in the future. The archive can offer vital information on such processes to the development studies researcher” (Jennings 2006: 243; emphasis added).

Considering that this thesis does not follow a single standardized approach, but is characterized by the flexibility of qualitative research (Flick 2009: 140), it appears crucial to make the research proceedings transparent and traceable. This section on methodology will thus portray my personal experience with doing research on the international framework that regulates tied aid credits and the consistency thereof with the DAC’s development agenda.

2.1. Literature Analysis

In the first part of this thesis the main DAC debates on development co-operation and policy are analyzed and the conceptual framework for the assessment of tied aid credits is elaborated. It draws on OECD official publications, recommendations and declarations and, where available, puts them in the context of existing academic literature.

Since this thesis is particularly interested in the DAC’s development agenda on the level of official discourses, analyzing the Organization’s own publications and policy documents seems an appropriate way of capturing the Organization’s understanding of *good* development policy. This analysis means that the official documents used are not seen as mere “information containers” that provide factual content or information on decision-making processes, but are treated as “methodologically created communicative features”. This allows taking into account the way and the purpose for which they have been produced (Wolff 2004: 288). Based on this literature analysis of both official OECD publications and academic work, preliminary conclusions on the usefulness of the instrument for development policy will be presented. Furthermore, first categories for the subsequent document analysis of OECD archive footage will be derived from the findings of this literature analysis. It was also on the basis of this literature analysis that the framework for the semi-structured interviews with OECD officials and country representatives was built.

As with regard to tied aid credits per se, literature analysis is of limited use. As the brief literature review above has shown (Chapter 1.2.1), with the exception of OECD publications and OECD commissioned studies on the subject, **secondary literature** on the development orientation of tied aid credits is limited and either rather outdated (from the 1980ies when an export credit race posed a real threat) or more interested in trade considerations, largely neglecting development concerns.

In this situation, consulting primary sources proved to be indispensable for the attempted analysis of the role of and weight given to development aspects in the making and use of tied aid credits. At the heart of this thesis thus lie documents retrieved from the OECD archives as well as the expert interviews conducted in Vienna and Paris between June 2012 and April 2013 (see Chapter 2.2 below).

2.2. Data Collection and Production

In order to properly and comprehensively address the research question two methodological approaches - document analysis and expert interviews – were combined. The majority of data was collected during a two-week research stay in Paris in June/July 2012. During this stay, the OECD archives were consulted and simultaneously interviews with experts, affiliated in one way or another with the OECD, were conducted. The research trip to Paris was generously supported by the Austrian Foundation for International Development (ÖFSE).

2.2.1. Searching the OECD Archives

*“[...] Archive sources are an important, and all too often neglected, source of useful information about development processes and practice, **the evolution of and shifts in policy formulation**, debates amongst development practitioners and analysts, and so on. Archives can provide what a reliance on contemporary-focused documents and other participatory research methods can sometimes leave out: **the long-term context of a particular programme or policy**”* (Jennings 2006: 241; emphasis added).

Considering the main research goal of finding out about the role of development aspects and motivation in the historical genesis and the contemporary design of tied aid credits, analyzing documents from the OECD archives appeared to be the best method, despite the heavy workload associated with proceeding the collected documents.

Furthermore, as tied aid credits are subject to “rule sets” of two separate groups linked to different degrees to the OECD’s Trade and Agriculture Directorate and Development Co-operation Directorate respectively, analyzing archive material was expected to *“[...] break down the image of the organization as monolithic entity and reveal the divisions and contested notions that lie at the heart of institution/s”* (Jennings 2006: 249). This leads Jennings to conclude that *“[t]he archive reaches into the inner most sanctums where*

dissent, debate and discussion exist. The archive allows the private voice to emerge from behind the public face“ (Jennings 2006: 244; emphasis added).

Following this role attributed to archive documents, the analysis of the retrieved files was expected to give an insight into the interests and political dynamics that have shaped today's regulatory framework for tied aid credits. It needs to be considered as an attempt to de- and subsequently reconstruct the existing set of rules, which is understood as the result of long-lasting and difficult negotiations between different interest groups. Thereby, reconstruction is understood as the analysis and interpretation of the data that allows for further assessment and comparison (Flick 2009: 133).

Due to our affiliation with both the University of Vienna and the Austrian Research Foundation for International Development, we obtained permission to visit and consult the OECD archives without any obstacles. While the archive staff had already prepared a folder with requested documents upon our arrival in the archives, most documents at hand were retrieved by my colleague Ms. Schweiger and me in the period from 2/7/2012 to 10/7/2012.

Time wise, documents from the years 1978 to 2005 were retrieved, hoping that this would allow us to trace tied aid credits back to their roots and to assess the role of development aspects in their evolution. Furthermore, special attention was paid to the period immediately before and after the adoption of the so-called Helsinki Package in 1992 up to the release of the first *Ex Ante Guidance for Tied Aid* in 1996. Prior research had shown that these were the major innovations in the regulatory framework with regard to potential development content of the rule set. Content wise, the research was restricted to the work of three major bodies: the Export Credit Group (ECG), the DAC Working Party for Financial Aspects of Development Assistance (DAC/FA) and the Participants Group (PG). This selection was made on the basis of prior knowledge of the institutional setting gained through both, OECD publications and first interviews.

Documents prior to 1990/91 were stored on microfiche and retrieved from the archives staff on our request. These were skim read in the archives and directly scanned. Due to time constraints, a first sorting out of documents available on microfiche was done already in the archives by reviewing the agenda of the respective meetings. Consequently, no claims to completeness⁴ are made. From 1991 onwards OECD documents have been digitalized, which made the research process easier and allowed to proceed via word search functions

⁴ Furthermore discussions within other Working Parties or groups, for instance, the Development Committee Task Force on Non-Concessional Flows, touching upon the borderline of export and tied aid credits were not considered in our analysis.

in OLIS and retrieve the relevant documents electronically. Put in place in 1990 (see DAC/FA/M(90)1(Prov.), page 4), OLISnet: is “a restricted online portal providing remote access to committee information and discussion groups where they can mingle with the secretariat and their counterparts abroad” (Woodward 2009:53). According to the OECD homepage, “[n]ational delegates use OLIS to interact with the Secretariat in preparation for Committee meetings. Other policymakers use the service to research the OECD information banks - including publications, statistics, document archive and committee work-in-progress” (OECD Homepage⁵). OLIS provides the possibility of searching with the help of key words and key word chains such as “tied aid credits – development”. Following this first step, which allowed gaining an overview of the main topics discussed within both the Participants Group and the DAC/FA, documents were selected on grounds of their expected explanatory power. To a certain extent, a “gather as much as possible” philosophy was followed because returning to the archives at a later stage of the research was not an option. The flip-side of this strategy was that the great amount of material retrieved considerably complicated the subsequent analysis and interpretation.

2.2.1.1. Description of the Sources

Initially, more than 1500 documents of three groups – the DAC Working Party on Financial Aspects of Development Assistance (DAC/FA), the Export Credit Group (ECG) and the Participants Group (PG) - were retrieved. A first screening of the documents as well as hints by interviewees, however, resulted in putting the research focus on the Participants Group and the DAC/FA, largely leaving aside parallel discussions in the ECG. For further information on the respective groups see Chapter 5.

According to Wolff (2004: 284) “[d]ocuments are standardized artefacts, in so far as they typically occur in particular formats”. In this case, the following forms of documents were retrieved:

- Agenda of Meeting
- Aide-Memoire
- Note by the Secretariat
- Study by the Secretariat
- Chairman proposal
- Statistical report
- Agreed guidelines and quasi-legislative texts

⁵ For further information on OLIS please see <http://www.oecd.org/general/olis.htm>;

- Studies and Evaluation commissioned by the Secretariat

Furthermore, so-called room documents referred to in Aide-Memoires were retrieved if relevant. These comprise, for instance, minutes and communiqués from Ministerial Council Meetings and DAC High Level Meetings.

All these documents follow, to varying degrees, the purpose of documenting discussion processes and outputs within the respective groups and are not per se produced for an “external” audience. The fact that they are rather “inward-bound” is reflected in the highly technical language used. Wolff argues that “[a] major part of official documents [...] are intended only for a defined circle of legitimate or involved recipients” (Wolff 2004: 284). This idea is reflected in classification levels attributed also to OECD documents. This means that they are categorized according to their degree of “confidentiality”. Classification levels of documents range from “secret” ones, which are strictly confidential and accessible only for members of the respective group, to “unclassified official” documents, which can be accessed by the wider public either by searching the archives in case of microfiche documents or on the OECD database⁶ in the case of digitalized documents. In between, there lies a range of “confidential” and “restricted” documents. With the exception of documents classified “secret”, the classification level attributed to documents changes over time. After a period of seven years, OECD documents can be accessed for research purposes. As a result of these regulations, most documents used here date back to the year 2005 and prior. After 2005 only official documents are accessible. In addition, a considerable number of documents from Participants’ meetings that we requested have been held confidential to the present day and therefore, could not be retrieved – a peculiarity of the Participants Group that I will come back to later (Chapter 7.3).

It needs to be kept in mind that the documents used hereafter constitute only pieces of the puzzle. The lack of information on circumstances, a characteristic of most of the documents, combined with the very specific use of wording, which had been developed by groups of experts in a very specialized field and which were not streamlined across groups, represented a major challenge to interpreting them.

2.2.2. Conducting Expert Interviews

In view of the limited academic literature on tied aid credits, expert interviews appeared to be an appropriate method of collecting information on the instrument and a way of entering the

⁶ The OECD database of official documents can be accessed at <http://search.oecd.org/officialdocuments/>;

complex interface of export promotion and development policy. Professionals dealing in one way or another with tied aid credits were expected to have privileged access to information and profound knowledge of the institutional setting, in which tied aid credit disciplines were formulated (Bogner/Menz 2005). With the help of expert interviews information should be gained on the genesis and status quo of tied aid credit policies. Furthermore, they should help get an insight into the interviewees' perception of the usefulness of tied aid credits as an instrument of development policy. Following the typology of questions according to Gläser and Laudel (2006: 118 et seqq.) both factual and opinion questions were asked. Luckily, both the DCD/DAC and the Export Credit Division seem to be characterized by little staff fluctuation, so that most interview partners have been in the business for several years and proved to have profound institutional knowledge of the process of setting up rules on tied aid financing or were even personally involved in it.

In order to get a comprehensive picture of tied aid financing, experts with varying institutional backgrounds were selected and with regard to the export promotion and development policy perspective a balanced choice of the interviewees was made. In total, eight interviews were conducted at the OECD (Export Credit Division and Development Co-operation Directorate), the Austrian Ministry of Finance (BMF), the Austrian Permanent Delegation to the OECD and the Trade Union Advisory Committee (TUAC) to the OECD. In addition, informal consultation meetings were held with Mag.^a Hedwig Riegler (WP-STAT/Austrian Federal Ministry for European and International Affairs) and Mag. Klaus Steiner (Austrian Federal Ministry for European and International Affairs) as well as Dr. Michael Obrovsky (ÖFSE). Due to the low level of NGO involvement with tied aid credits, no representatives of Civil Society Organizations (CSOs) were interviewed.

Pfadenhauer argues that expert interviews require a considerable degree of competence regarding the subject matter on the interviewer's side and thus thorough preparation of the interview. Knowledge not only of the topic in question but also of the expert's institutional and theoretical background is indispensable for conceptualizing an interview guide that should be followed flexibly (Pfadenhauer 2005: 119). Also Meuser and Nagler suggest an interview guide, which can ensure "the openness" of an interview or conversation (Meuser/Nagel 2005:78). Following these recommendations from literature on expert interviews, an interview guide had been developed prior to conducting the interviews to ensure that all relevant issues were addressed in the conversations. Not only was this guide adapted to the specific field of expertise of the interviewee, but it was also continuously improved by integrating new information from preceding interviews into subsequent ones. While the guide was helpful in not losing track, most interviews ended in an open dialog, with the interview

partner giving his/her view on tied aid credits. The resulting openness also provided interviewees with some space to identify new subject matters and aspects.

In all but one case interviewees were contacted by email. My colleague Eva Schweiger and I sent interview requests to high-ranking officials and administrators, who had been identified with the help of OECD publications on the Arrangement in general and tied aid credits in particular. We got a very high rate of positive responses, which probably had to do with our affiliation with OEFSE as a respected research foundation. It certainly would have been a lot harder to gain the same access as individual students. Our status as research assistants rather than students clearly helped the research process. Bogner and Menz (2005: 47 et seqq.), for example, consider data production via expert interviews a social process. This is characterized by interactions between interviewer and interviewee as well as by the attribution of competences on both sides (Bogner/Menz 2005:47 et seqq.).

When setting the interview dates, interviewees were asked to suggest a location convenient to them. Consequently, most interviews were held in the interviewee's office or meeting rooms. In addition to these face-to-face interviews, one interview had to be rescheduled and was held via Skype. All interviews were held in either German or English (one started in French, but switched to English). Considering that all of our interview partners were used to work in an international environment and felt confident to express themselves in English, language per se did not pose any obstacles to our research endeavor. What was challenging, however, was the incoherent use of key terminology, which repeatedly required follow-up questions to properly understand the meaning of a certain term.

A recording of the interview was rejected in one case and in two other cases was perceived as inappropriate. In these cases, memos were written immediately after the interview had been conducted. It was especially in these situations that it proved advantageous that my colleague Ms. Schweiger and I conducted all the interviews together. While one was asking questions, the other one focused on taking notes. The recorded interviews were later transcribed with help of the software "f4".

Upon request of two interview partners, all interview extracts have been made anonymous. In order to distinguish statements taken from different interviews these are numerical codes have been attributed, i.e. Interview I, II etc. Where critical for the interpretation of the quote, the institutional background of the respective interview partner is mentioned to place the statement in its respective context (Flick 2009: 140). A list of all interview partners is provided in the Annex.

2.3. Data Analysis and Interpretation

Although the extensive amount of archive material consisting mainly of Aide-Memoires, Chairman Proposals and Notes by the Secretariat from 3 groups (Participants, ECG and DAC/FA) and ranging from the late 1970ies up to the 2005, seemed to pose a challenge at first, my colleague Ms. Schweiger and I found an appropriate way of processing the data. We decided to work with Atlas.ti, a QDA software that supports qualitative data analysis and is especially suited to process large amounts of data. This also provided the advantage of making codes, categories and quotes transparent and accessible to my colleague⁷ (Kelle 2004: 283). After having familiarized ourselves with the basic tools of the program, we fed the program with the digital documents (in total 950⁸ documents) Ms. Schweiger and I had collected at the OECD archives and started skim reading them with regard to certain codes, some of which we had pre-defined (basically so on the basis of the interviews we had conducted before hand). Others, however, were introduced only later during the process of constantly tightening the net. The older archive documents (160 documents in total), which had been available on microfiche only, were coded with the help of excel sheets. The underpinning methodology, however, was the same.

Simply put, we posed the same questions to the documents that we had also addressed in our interviews. Consequently, both descriptive and analytical categories resulted from the coding process.

2.3.1. The Coding Procedure: Computer-Assisted Qualitative Research

The first step of processing the gathered information consisted of “sorting the wheat from the chaff”, making sure that only relevant documents were considered in the subsequent analysis (O’Laughlin 2007: 142). Clarification gained through the interviews on tasks and duties of the groups involved and skim reading of some of the documents, led to the sorting out of the documentation of the work by the Export Credit Group, which proved to be not directly relevant to answer the research questions.

Once this sorting out had been done, the coding procedure started, i.e. the allocation of textual passages to codes “[...] that either are already available in the form of a schema of categories or are developed ad hoc in the course of the data analysis” (Kelle 2004: 279).

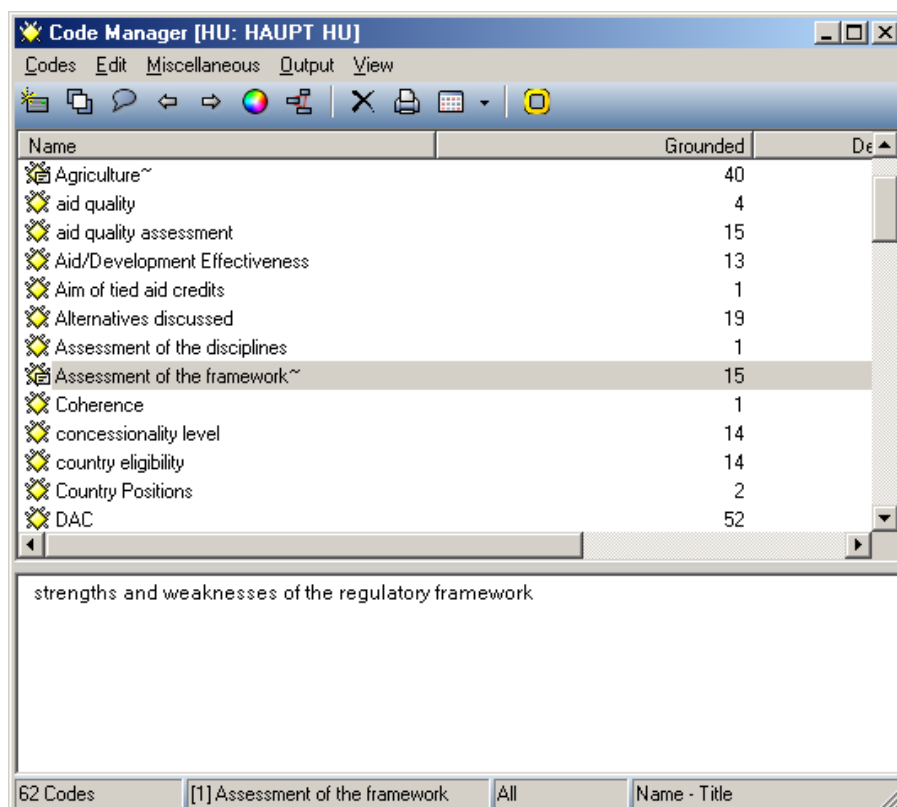
⁷ For example, in figure 1 below the code “assessment of the framework” is defined as referring to the “strengths and weaknesses of the regulatory framework”. Such descriptions of the codes helped to ensure a common interpretation of the codes.

⁸ At this point, documentation of the work of the ECG had already been sorted out.

While the first sets of codes were rather broad, aiming at a further reduction of the material "[...] in such a way that the essential contents [were] preserved, but a manageable [...] text [was] produced" (Mayring 2004: 269), the codes were refined in a second step and became more precise. As described by Böhm (2004: 271) codes became more differentiated in the course of analysis and eventually merged into more abstract categories (Böhm 2004: 271). Just as the codes, the categories evolved during the research project, and were merged with other sub-categories in order to reach a higher level of abstraction.

Figure 1 below shows an extract of the (early) codes used for the analysis of the archive material of the Participants Group. Clicking on any of the codes displays all quotations that have been attributed to the selected code. For example, when analyzing the role of aid quality aspects in the making of the Arrangement, I started by going through all the paragraphs that had been assigned the code "aid quality". In a subsequent step, the "network tool" of the program helped taking into account the relation of "aid quality" with codes such as "aid quality assessment" or "aid/development effectiveness". These basic tools of the program considerably facilitated filtering and structuring the great bulk of information and lay the grounds for further in-debt analysis.

Figure 1: Code Manger Atlas.ti: Extract from the Hermeneutic Unit "Participants Group"



As indicated above, the coding procedure per se was split in pre- and post-Helsinki documents. This was due to two factors, whereby the first one was purely administrative. The pre-Helsinki documents, roughly up to 1991, were available only on microfiche and even after OCR scanning not everything could be read entirely. Hence, they were not coded with the help of Atlas.ti, but manually through Excel sheets. The second reason is more content-bound since the Helsinki Disciplines adopted by the Participants Group required the incorporation of a whole new set of codes focusing on the newly introduced key tests for project appraisal and country eligibility.

Just like the archive footage, the interviews were coded with the help of Atlas.ti, which was particularly useful in grouping and later retrieving categories of quotes that could be associated with corresponding passages in the archive documents. The interviews were primarily used to contextualize and substantiate some of the findings from the archive material or to suggest interpretations. Particularly they helped to trace motivations driving tied aid practices, which are difficult to find in official documentation due to their implicit character. Since most interviews were conducted in parallel to the retrieval of archive material, but prior to coding them, they also gave some directions as of how to filter the bulk of documents collected from the archives.

Based on this analysis of the archive documents as well as the expert interviews, the extent to which the resulting framework, i.e. the Arrangement on Officially Supported Export Credits is consistent with the OECD's development policy guidelines and principles will be assessed.

3. Preparing the Grounds: Definition of Key Terminology

“Words means what I say they mean”

(The Red Queen, Alice in Wonderland, quoted in Raffer 1998: 1)

Today’s development finance reaches far beyond the Cold War image of aid, which could be described as one of wealthy northern states transferring aid flows either directly or via multilateral channels to southern developing countries, and has come to encompass a myriad of private and public actors not necessarily divided along the north-south line. While Official Development Assistance (ODA), both bilateral and multilateral, still holds a prominent position in the field of development finance, increasingly claims have been made that other and more innovative forms of financing for development are needed if profound changes are to occur in the international system (Atkinson 2004; Ketkar/Ratha 2009; OECD 2005: 30). Despite the acknowledgement of the fact that ODA constitutes only one component of the broader field of development finance, as a result of its research questions this thesis will focus on official bilateral aid flows. Tied aid credits claim their place not only among the instruments of development finance but of official development assistance. As a result the criteria established by the DAC for determining official development assistance as well as the development policy standards set on an OECD level constitute the most appropriate tangible benchmark against which tied aid credits can be assessed.

The fact that tied aid credits, or the concessional element thereof, are eligible as Official Development Assistance, is the most visible sign and direct link between the two sets of goals united in this policy instrument and illustrates the instrument’s *position* in-between two policy areas – export promotion and development policy. In a first step, this chapter thus defines the concept of Official Development Assistance. In a subsequent step, a working definition of “tied aid credit” will be given and its relation to other key terms, namely “soft loan” and “associated financing” will be explained.

3.1. The Concept of Official Development Assistance (ODA)

Understanding the concept of Official Development Assistance and the way the ODA numbers, which give the concept its political meaning, are produced is critical for any

analysis of the relevance of tied aid credits as an instrument of development policy. Clearly, accounting modalities do frame behavior and the resulting numbers are used not only by academics and evaluation bodies to discuss aid effectiveness (Severino 2010: 128, 129), but they also build the basis for international targets, such as the 0.7 of GNI target, which considerably shape today's development discourse. According to Renard and Cassimon (2001: 1) this “*political importance of statistics makes them [...] liable to efforts at ‘embellishment’*”.

The Development Assistance Committee (DAC) was created in 1961 as a separate institutional branch within the OECD and was given the mandate to “*perform the core functions of research and coordination among member states in the field of international development*” (Petermann 2013: 211). The DAC is responsible for the formulation of quality standards and the sharpening of definitions of various types of Official Development Assistance (ODA). Its Secretariat manages statistical reporting on aid commitments and disbursements and provides scientific analyses of development issues, recommendations for national policy making, monitoring and evaluation. An essential instrument of mutual monitoring used by the Committee is the so-called peer review process. Furthermore, as early as in 1962 the so-called “OECD Development Center” was created to supplement the exchange of views and foster debate between various stakeholders (Petermann 2013: 211).

The DAC is not only one of the main driving powers of international development discourse, but also dominates international development co-operation in quantitative term. Its 22 member states plus the European Commission make for approximately 90 to 95% of all ODA allocated worldwide (Petermann 2013: 211; Ruckert 2008: 100). The core measurement used to describe a country's commitment to international development is the share of national income devoted to ODA, ODA as percentage of GNI.

Since its inception in 1961, it has been one of the main tasks of the committee to measure resource flows to developing countries, both concessional and non- or low-concessional ones, stemming from public and private sources. In view of the general mandate of the DAC, special attention, however, has been given to the official and concessional part of these flows, labeled Official Development Assistance, in short ODA⁹ (Official OECD homepage). ODA was first defined in 1969, when the older concept of “Official Flows” was separated into two new categories: Official Development Assistance (ODA) and Other Official Flows (OOF). As will be shown in Chapter 6 these common roots of what is known today as OOF and ODA will be important in the context of tied aid credits. In 1972, the definition of ODA was slightly

⁹ In the DAC's usage of the term, ODA is largely synonymous to “aid”, whereas in the Participants' wording “aid” refers to official state support, regardless of whether it comes from the aid budget and is ODA reportable or not.

revised, when the minimum grant element was increased from 20 to 25%. Ever since, both the basic criteria as well as the method of computation have remained unchanged (Ray 1995: 59 et seq.).

In short, Official Development Assistance (ODA) comprises grants or loans to developing countries and territories defined by the *DAC List of ODA Recipients*. These grants or loans are carried out by the *official sector* (official agencies, including state and local governments, or their executive agencies). The main objectives of ODA transactions are *the promotion of economic development and welfare of developing countries*. They are provided at concessional financial terms, which means that they have to convey a “*minimum grant element of 25 percent and be concessional in character*” (DCD/DAC(2010)40/REV1, page 11; emphasis added).

The concept of ODA has become the “key measure used in practically all aid targets and assessments of aid performance” (OECD; Aid Statistics). The DAC’s “double monopoly on data production and performance evaluation”, to speak in Raffer’s terminology, has hardly ever been seriously challenged¹⁰ (Raffer 1998: 2). The political importance attached to the concept is probably most prominently illustrated by the self-obliged target of the international donor community of investing 0.7% of GNI in development assistance to be met by 2015. Understanding the *nature* of the ODA concept, which has become far more than a statistical term, is thus crucial if one wants to follow basically any debate on development co-operation, be it on a national, regional or international level.

¹⁰ Alternative approaches to measuring aid flows have been proposed, for instance, by Chang et al. (1999) (World Bank) in form of the so-called Effective Development Assistance. This idea is also investigated by Cassimon/Renard 2001. Furthermore, the Center for Global Development (cgdev) produces on a yearly basis the so-called Commitment to Development Index (CDI) as an alternative measurement. “The index rates governments on aid, trade, investment, migration, environment, security, and technology, and averages the seven for an overall score”. For further information please see the homepage of the Center, <http://www.cgdev.org/initiative/commitment-development-index>.

Figure 2: Definition of Official Development Assistance (ODA)

The DAC defines ODA as “those flows to countries and territories on the [DAC List of ODA Recipients](#) and to [multilateral institutions](#) which are:

- i. *provided by official agencies*, including state and local governments, or by their executive agencies; and
- ii. each transaction of which:
 - a) is administered with the promotion of the *economic development and welfare of developing countries* as its main objective; and
 - b) is *concessional in character* and conveys a grant element of at least 25 per cent (calculated at a rate of discount of 10 per cent).¹¹

(Source: OECD Homepage; Aid Statistics)

The conditions subsumed in criterion (i) of the above definition are rather straightforward and compliance therewith is relatively easy to assess. Likewise the Statistical Reporting Directives provide a list of ODA eligible multilateral organization and international non-governmental organizations in the annex. Furthermore, the OECD lists developing countries and territories which are eligible as recipients of ODA. The DAC categorizes countries in four groups according to their gross national income (GNI) per capita in USD. The current list, last updated in 2011, defines countries or territories with per capita incomes below 12,275 USD (in 2010) as potential ODA recipients (see OECD/DAC ODA Recipient Factsheet 2012¹¹).

In contrast to these rather clear-cut criteria on the eligibility of recipient countries or institutions, the criteria defining the eligibility of the transaction/flow itself (above subsumed under (ii)) are ambiguous and require further examination. While this section has demonstrated *where* flows must go to in order to qualify as ODA, it will now be shown *which* flows are reportable.

3.1.1. Economic Welfare and Development as the Main Objective

This criterion which rests on underlying motivations and intentions is often the decisive one in determining the ODA-eligibility of a transaction and is informally also referred to as “motivational test” (Consultation Meeting X). In order to ensure that the decision is not merely subjective and “arbitrary” certain additional criteria were adopted, for instance, military aid is excluded, assistance to refugees, in contrast, is reportable (OECD/DAC Factsheet 2008¹²). Despite these clear-cut limits on ODA, the criterion comes down to a

¹¹ The 2012 Factsheet on ODA recipient countries can be accessed under <http://www.oecd.org/dataoecd/13/58/49483614.pdf>;

¹² For the whole list excluded/reportable activities, please see the factsheet, available at <http://www.oecd.org/dac/stats/34086975.pdf>;

matter of intention and thus leaves broad discretionary powers to decide whether a transaction is administered with contributing to the development of the recipient as main objective. The decision might be unequivocal in the case of a project “exclusively” concerned with development and administered by the donor’s aid agency with the objective of promoting youth employment in Malawi, for example. However, the picture might be more ambivalent in the case of a tied aid credit when extended by a donor’s export credit agency with the aim of facilitating market access of an Austrian hospital supplier while simultaneously contributing to the development of health infrastructure and development in China’s Jiangxi province. The official definition does not give any guidance on how to proceed in the case of multiple officially stated goals as in the case of tied aid credits. For the time being, it appears that the institutional framework is used as a proxy of the motivation for making a transaction. Thus, it is likely to depend on the mandate of the agency administering the flow, whether the latter is considered to be trade/commercially or aid/developmentally motivated¹³ (Consultation Meeting X).

3.1.2. Concessional in Character and a Minimum Grant Element of 25%

Criterion ii)b) of the DAC’s ODA definition states that a transaction must *be “concessional in character and conveys a grant element of at least 25 per cent (calculated at a rate of discount of 10 per cent)”* (OECD/DAC ODA Factsheet 2009).

The rationale underpinning the concept of ODA is that it should reflect a donor’s budgetary effort “in favour of a developing country” (OECD/DAC Factsheet 2008). The DAC approach is based on a calculation of the “*opportunity costs to donors of using funds for aid loans as opposed to other uses, e.g. domestic investment*” (DCD/DAC/FA(2002)2, page 3). Thus, the grant element “is **not** intended to reflect any measure of *the benefit to recipients*, for instance, compared to other financial sources” (DCD/DAC/FA(2002)2, page 4, original emphasis). This budgetary effort is to be assessed with the help of the grant element calculation.

The grant element measures the “softness” of a loan and reflects three factors: the interest rate, grace period (the interval from the commitment date of the loan to the date of the first payment of amortization), and maturity (interval from the commitment date to the date of the last payment) (OECD/DAC Glossary of Key Terms and Concepts). It is defined by the DAC as the “*difference between face value of the loan and the present value of the stream of repayments on that loan [...], expressed as a percentage of the face value*” (Kuhn et al.

¹³ The thesis of Ms. Schweiger will examine the ODA qualification of flows in greater detail.

1995: 36). The present value of the borrower's payments is calculated on the basis of a uniform 10% discount rate, applied to all currencies (DCD/DAC(2010)40/REV1, page 9 et seqq.).

Both the 25% grant element threshold as well as the 10% discount rate were recommended by the DAC Working Party on Financial Aspects of Development Assistance and adopted at the DAC High Level Meeting in 1972 as part of a *Recommendation on Terms and Conditions of Aid* (DCD/DAC/FA(2002)2, page 2). In the DAC Glossary it is explained that the 10% discount rate¹⁴ “[...] was selected as a proxy for the marginal efficiency of the domestic investment, i.e. **as an indication of the opportunity cost to the donor**”¹⁵ of making the funds available. Thus, the grant element is nil for a loan carrying an interest rate of 10 percent; it is 100 per cent for a grant; and it lies between these two limits for a soft loan” (DAC Glossary of Key Terms and Concepts; emphasis added).

Today, with long-term interest rates in most OECD member countries well below 10%, attaining the 25% grant element has become much easier (OECD/DAC ODA Factsheet 2008). Therefore, it is increasingly being questioned whether the required grant element presently calculated automatically ensures that flows are also “concessional in character” – as such being the third ODA-eligibility criterion mentioned in the above definition, but not benchmarked and hence difficult to assess. Not only have external observers increasingly drawn attention to the potential erosion of the ODA concept (for instance Chang et al. 1999; Raffer 1998, Renard/Cassimon 2001; Vanheukelom et al. 2012), but also critical voices have been raised from within the DAC. In April this year an open letter by Richard Manning, former DAC Chairman, was published in the Financial Times, in which he sharply criticized the DAC's practice of recording loans by saying: “*The OECD is now quietly allowing large volumes of loans to be counted as ODA even though they **do not meet any reasonable definition of being 'concessional in character'**, which is the basis of the OECD's definition of aid*” (Manning 2013, Financial Times¹⁶). Implicitly he criticizes those donors which argue that not only subsidized loans can be reported as concessional, but any loan given on more favorable terms than what the developing country could get on the market. Hereby, it is

¹⁴ Analysis of the archive documents has shown that the choice of the appropriate discount rate has repeatedly been accompanied by discussions among the members of the DAC (see, for instance DAC/FA/M(82)(Prov.); DAC/FA(86)12; DCD/DAC(2002)4; DCD/DAC/STAT(2012)18/REV1).

¹⁵ This very assumption of the discount rate being an appropriate proxy for the opportunity cost to the donor also requires critical examination.

¹⁶ Manning goes as far as to suggest that the UN should take the lead in measuring international concessional flows, should the OECD not undertake the necessary steps to improve its statistics and regain credibility. The letter can be accessed under <http://www.ft.com/intl/cms/s/0/b3d73884-a056-11e2-88b6-00144feabdc0.html#axzz2U1AjlUfN>. Following Manning's letter the Guardian published an article with the title “The Value of Aid Overstated” see <http://www.guardian.co.uk/global-development/2013/apr/30/aid-overstated-donors-interest-payments?INTCMP=SRCH>;

irrelevant whether this entails a budgetary effort of the donor (see also the reaction of Jon Lomoy, Director of the DCD-DAC to the letter by Richard Manning¹⁷).

Furthermore, Richard Manning urges to rethink the underlying discount rate and calls for a revision of the “*definition of concessionality that reflects the real cost of capital and requires real fiscal effort*” (Manning 2013, Financial Times). In a similar vein the DAC Working Party on Statistical Aspects (WP-STAT) is currently investigating the issue (see for instance the draft paper “Benchmarking Concessionality in Character: Draft Report, DCD/DAC/STAT(2012)20/DRAFT). One way of bringing the budgetary effort reflected in the grant element closer to the characteristic of “concessional in character” would be to adopt the Participants’ method of computing their concessionality level on the basis of a market-based discount rate, the so-called DDR. This rate represents “a proxy for the funding cost to the donor for making the funds available” (DCD/DAC/STAT(2012)18/REV1, page 2). The Participants’ concept of a concessionality level, which borrows from the DAC’s grant element, will be addressed in several parts of this thesis, particularly in chapter 6.3.1.1.

The concept of ODA as it is defined today - based on motivations and built on concessionality – as well as its shortcomings will be crucial for the subsequent analysis of the developmental relevance and *potential* effectiveness of tied aid credits as an instrument of development policy. Before turning to the analysis of the international framework regulating tied aid credits, some further clarifications on terminology have to be made. The next sub-chapter will break the ODA definition down to the concrete level of instruments and flows and explain the basic mechanisms of tied aid financing.

3.2. Soft Loans, Tied Aid Credits, Associated Financing: Almost the Same But Not Quite?

"As Confucius told the Prince of Wei some 25 centuries ago, confused and diffuse definitions produce incoherent policies"

(Ray 1995: 5).

Weak definitions and inconsistent terminology used by the Participants Group and the DAC Working Party on Financial Aspects of Development Assistance, posed serious challenges at various stages of this research project. In order to avoid misunderstandings resulting from

¹⁷ For Lomoy's article “Yes, it is time to revisit the concept of development assistance”, see <http://insightsblog.oecdcode.org/?p=5554>;

incoherent wording, this section provides a working definition of “tied aid credit” and explores its relation to other key terms such as soft loan, associated financing and mixed credit. In addition, the DAC’s definitions of the core categories “tied” “partially (un)tied” and “untied” will be explained.

“**Soft loan**” can be considered a superordinate term for both tied aid credit and associated financing. The term “soft loan” per se has a very broad scope and designates any credit, the financial terms of which are more favorable than what the market would offer. They are considered to be soft because the credit is granted at concessional terms, that is, for instance, at lower interest rates (compared to market interest rates), with extended repayment periods or granting grace periods. In this broad definition any concessional credit can be subsumed under “soft loan”, hence the term alone does not give any indication of the donor or recipient institution involved or the geographical situation (i.e. at home or abroad) - the sole defining criteria are the financial terms (Handrich 1992: 30, 31).

Confusingly, the same term is also used in a much narrower sense. In the Austrian case, for instance, the term “soft loan” refers to the so-called “Rahmen-II-Kredite”, which essentially correspond with the Arrangement’s definition of tied aid credits (see below). In this particular case, the term “soft loan” is used largely interchangeably with “tied aid credit”, with a clear preference in official material¹⁸ for the former over the later. It is in this narrow definition that the term is to be interpreted, where applied in this thesis.

Since the Austrian program has been mentioned already, let us take a closer look in order to understand the basic mechanism of tied aid credit financing.

*“Soft loan financing is used in accordance with the soft loan policy of the Federal Ministry of Finance to **assist Austrian exporters competing in international markets** with the overall objective of **fostering sustainable development in recipient countries**. The financing is solely done in Euro”* (OeKB Homepage; emphasis added).

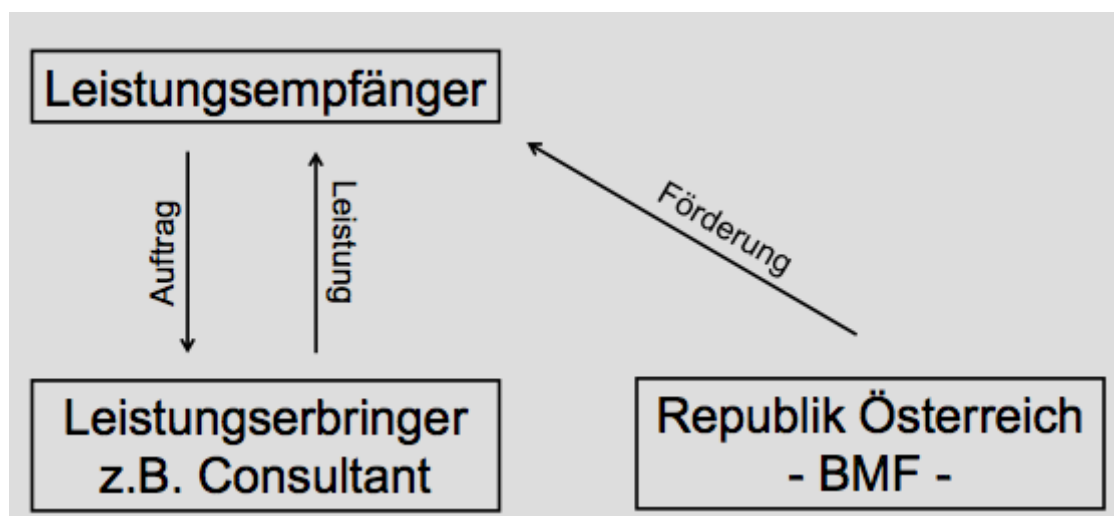
As shown in the above quote, the officially stated goal of the soft loan program is twofold: On the one hand, soft loans are used as a tool for export promotion facilitating market access for domestic enterprises in traditional commercially non-viable sectors. On the other hand (and in parallel with the first goal), donor countries aim at contributing to social and/or economic development in soft loan recipient countries by encouraging investments that might not have

¹⁸ See, for instance, the section on soft loans on the homepage of the OeKB: <http://www.oekb.at/en/export-services/financing/soft-loans/pages/default.aspx>;

been undertaken on market terms. The policy thus rests on the assumption that the two goals are complementary and can be achieved with a single policy instrument.

Leaving aside the potential intermediaries involved, the graph below illustrates the role of the main actors: the Austrian Ministry of Finance, the supplier or service provider and the beneficiary.

Figure 3: Basic Scheme Soft Loans



(Source: Maca/Schmied 2007: 33, Soft Loan Presentation¹⁹)

Without going into detail, the following hypothetical example shall help to see how the basic procedure might look like. Let us assume that Vietnam, a soft loan eligible country with which the Austrian Ministry of Finance has concluded an intergovernmental agreement for soft loans, invites to bid for the construction of a new hydroelectric power plant in its province An Giang. The project eligibility and other Arrangement and national criteria being fulfilled, the Austrian exporter that might want to participate in the bid can apply for soft loan financing provided by the Österreichische Kontrollbank (OeKB), which is acting on its export promotion mandate and on behalf of the Republic (Ministry of Finance). This state-supported concessional loan allows the exporter to offer the potential buyer concessional financing as part of the tender and might increase its chances of winning the bid. A specialized committee, the Exportfinanzierungskomitee (EFK), will make the final decision whether all criteria for the soft loan financing are met and if so the OeKB will provide the soft loan (Interview I).

¹⁹ The entire powerpoint presentation can be accessed at <http://www.oekb.at/de/osn/DownloadCenter/exportservice/finanzieren/Praesentation-Soft-Loans-Neuerungen.pdf>;

In this example eligibility criteria for soft loan/tied aid credit financing have been mentioned. These criteria can help grasp a definition of tied aid credits. The main definition of **tied aid credits**, as used hereafter, is provided by the minimum conditions laid down in the *Arrangement on Officially Supported Export Credits*. Following the Arrangement's eligibility criteria for tied aid, the so-called Helsinki tied aid disciplines²⁰, tied aid credits can broadly be defined as follows:

In short, they are **tied** to procurement in the donor countries, contain an element of **aid**, i.e. official support and are provided as **credits**, requiring – as opposed to grants – repayment of debt. In a more sophisticated definition, tied aid credits might be defined as official, state supported credits that are tied to the procurement of goods and services in the donor country, contain a concessionality level²¹ of at least 35% or 50%, which in principle is ODA eligible, and can be used to finance commercially non-viable projects in a limited pool of recipient countries. In order to assess the eligibility of a project for tied aid the Arrangement introduces the following two key tests:

- *“whether the project is financially non-viable, i.e. does the project lack capacity with appropriate pricing determined on market principles, to generate cash flow sufficient to cover the project's operating costs and to service the capital employed, i.e. the first key test; or*
- *whether it is reasonable to conclude, based on communication with other Participants, that it is unlikely that the project can be financed on market or Arrangement terms, i.e. the second key test”* (TAD/PG(2013)1, page 21).

²⁰ For a detailed description of the disciplines please see Chapter 6.4.1.

²¹ Just as the grant element, the concessionality level assesses the “softness” of a credit and reflects its financial terms i.e. the interest rate, maturity, and grace period of a commitment. While the basic method of computation is the same as in the case of the grant element, the discount rate is different. Unlike for the grant element, a market-based discount rate, a so-called differentiated discount rate (DDR) is used to calculate the concessionality level (DCD/DAC/STAT(2012)18/REV1, page 2).

Box 1: Basic Characteristics of a Tied Aid Credit

- concessional long-term credit
- conveys a minimum concessionality level of 35% or 50% if the recipient is an LDC
- is tied to procurement of goods and services in the donor country
- project is commercially non-viable
- limited pool of recipients (countries with a GNI p.a. below the upper limit for *lower middle income countries* according to World Bank data)

(TAD/PG(2013)1)

As a result of the minimum criteria and common characteristics (mainly the commercial non-viability) tied aid credits are especially used to finance large infrastructure projects that would not be undertaken on market terms, mainly in economically stronger developing countries that are expected to have sufficient debt repayment capacity and are commercially attractive for exporters. The definition of commercial non-viability such as stated in the Helsinki Package²² can be understood as a reaction to situations of market failures²³ and entails that primarily public sector projects which are thought to contribute to the improvement of economic welfare and thus to the overall objective of development are financed. Although no sectoral restrictions are made by the international regulatory framework, statistical evidence shows that projects eligible for soft loans are most frequently to be found in sectors such as water and sanitation, health, education, infrastructure and disaster prevention (Lammersen 1998: 63). As a consequence of this sectoral concentration in traditional public sectors with widespread influence on economic welfare, the budget funds attributed to the financing of soft loan projects are ODA eligible. Despite the fact that most “soft loan” programs officially declare sustainable development as a major goal, the definition of the latter seems - for the time being - to be reduced to the interpretation of commercial non-viability of a project (see Chapter 7.2).

Tied aid credits such as defined in the Arrangement might be provided as single-source financing, i.e. taken from the donor’s resources and extended to the recipient as a single flow (TD/CONSENSUS/86.53, DAC/FA(86)12, page 12), but mixed financing is also possible, meaning that the government funds are combined with a commercial credit extended either by an Export Credit Agency or provided by the capital market. In older DAC/FA documents, which this thesis will repeatedly draw on, mixed financing can further be divided into pre-

²² The disciplines laid down in the Helsinki Package will be discussed in Chapter 6.4.1 in great length.

²³ An extensive discussion of the public goods, market failure, subsidy nexus will be provided by my colleague Ms. Schweiger.

mixed financing and associated financing (TD/CONSENSUS/86.53, DAC/FA(86)12, page 13).

Box 2: Export Credit Agencies (ECAs)

Export Credit Agencies (ECAs) are the national institutions that undertake official export promotion activities (Kuhn 1995:6), i.e. by securing export transactions and export finance. Institutional arrangements and the structure of programs and terms of cover provided by an ECA vary considerably from country to country. ECAs can be part of a ministry, an independent governmental agency or a private company acting on behalf of the government. The latter is, for instance, the case in Austria, where Österreichische Kontrollbank (OeKB AG) - a specialized private bank - acts as agent of the Republic of Austria (Ministry of Finance) on the legal basis of the Export Promotion Act (see Homepage of the OeKB). Independently from the institutional setting, ECAs enjoy (varying but) generally high degrees of independence from their respective governments because they operate under charters that give them clearly defined powers and responsibilities. Nevertheless, they remain accountable to their governments (which finance them) and have so-called “guardian authorities” who are responsible for the overall policy formulation regarding official support. It is these “guardian authorities” that represent ECAs in most international fora such as the OECD (Kuhn et al. 1995: 6).

For a detailed description of the products and services offered by most ECAs see for instance Gatti 2008; Grath 2012.

The DAC speaks of **Associated Financing** whenever both ODA grants and loans are combined with any other funding to create financing packages. These packages have to meet the “*same criteria of concessionality, developmental relevance and recipient country eligibility as tied aid*” (DAC Glossary of Key Terms and Concepts).

The definition of associated financing and its relation to tied aid are laid down in the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* published in 1987 and has been used up to today. Following this definition “*associated financing with developing countries associates in law or in fact two or more of the following*:

- i) *Official Development Assistance*
- ii) *Other Official Flows with a grant element of at least 25%*
- iii) *Officially supported export credits, other official flows or other funds with a grant element of less than 25%*” (OECD/DAC 1987, para. 3)

Such associated financing transactions may occur in the form of mixed credits, mixed financing, joint financing, parallel financing or single integrated transactions (OECD/DAC 1987: 2, para. 4). The OECD's Glossary of Statistical Terms defines, for instance, a mixed credit as “[a] credit that contains an aid element, so as to provide concessional credit terms—such as a lower rate of interest or a longer credit period” (OECD Glossary of Statistical Terms). The main common characteristic of all these forms is that “either the non-concessional or the concessional component or the whole financing package, is in effect tied or partially untied and that the availability of concessional funds is conditional upon accepting the linked non-concessional component” (OECD/DAC 1987: 2).

It goes without saying that the precise terms of the tied transaction or financing package have repercussions on how the concessional element might be or not be reflected in the DAC's ODA statistics. The perils of statistical recording of ODA will be addressed at length in the thesis of my colleague Ms. Schweiger. By way of illustration, it shall be briefly shown at the example of Austria how tied aid credits are reported to the DAC and are hence reflected in ODA volumes. In the Austrian case, the national export credit agency, OeKB, provides tied aid credits in the form of mixed or pre-mixed credits. These are treated as so-called associated financing packages of which the official and concessional elements may be reported as ODA, provided they convey the required grant element of 25%. This being fulfilled, they are recorded as ODA Grant/Associated Financing Grant (Consultation Meeting X). In addition, “[s]uch contributions must also meet the special concessionality tests for associated financing, which are based on market interest rates and set out in the *Arrangement on Guidelines for Officially Supported Export Credits (OECD, 2008 Revision)*” (OECD/DAC ODA Factsheet 2008). If extended by an official government agency, the non-concessional elements will be recorded in the OOF category of the DAC statistics (Consultation Meeting X).

It shall be recalled here that this thesis is explicitly interested in those credits that are tied to the procurement of goods and services in the donor country. While this certainly is the case for tied aid credits, mixed credits might be tied, partially untied or fully untied. The DAC/FA's usage of the term (see in particular Chapter 7) suggests that mixed credits are thought to be most likely tied, and are as such included in the analysis provided throughout this thesis.

For the definition of tied in contrast to untied aid, the Arrangement relies on the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* (OECD/DAC 1987).

Figure 4: DAC Definitions of Tying Status of ODA, Other Official Flows and Officially Supported Credits

TYING STATUS CATEGORY	DEFINITION AND COVERAGE
UNTIED AID	Loans and grants whose proceeds are fully and freely available to finance procurement from all OECD countries and substantially all developing countries.
PARTIALLY UNTIED AID	Loans which are contractually or in effect tied to procurement of goods and services from a restricted number of countries which must include substantially all developing countries and can include the donor country.
TIED AID	All other loans and grants are classified as tied, whether they are tied formally or through informal arrangements.

(Source: Clay et al. 2009: 5; definitions based on OECD/DAC 1987)

While these definitions might seem quite straightforward, in reality, the borderline between them is blurry and difficult to assess (Jepma 1991: 20). Flows declared as “untied” might be de facto tied, i.e. through hidden contract clauses, by publishing calls for international bidding on national bulletin boards and in the donor’s official language only (Consultation Meeting X). However, the large grey area that de facto tying of aid constitutes, will only be marginally addressed in this thesis.

As will be shown in the next chapter the tying of aid has been a long lasting matter of concern within the DAC and one of the main debates shaping the Committee’s work since its very inception. In the past decade a minimum consensus was formalized among DAC donors saying that all other things equal untied aid is the most appropriate way of providing assistance. This seemingly broad donor consensus, coupled with other key concepts on *good* development policy, will be used in the subsequent chapter to set up a conceptual framework against which tied aid credit policies will be assessed.

4. Conceptual Framework: The DAC's Development Agenda

This section will present and analyze the major debates on development co-operation that were framed by the OECD's Development Assistance Committee²⁴ in the past two decades. The aim thereof is to identify key concepts of how development co-operation and policy should be designed so as to be of maximum effectiveness in recipient/partner countries. The conceptual framework derived from these debates will be used as benchmark against which tied aid credits will be assessed. Eventually, when compared with tied aid credit policies as framed by the Arrangement on Officially Supported Export Credits, this will also allow drawing conclusions on the OECD's internal coherence in the field of development policy.

As described in greater detail in the previous chapter tied aid credits have essentially three features: they are tied, they are credits (as opposed to grants)²⁵ and they contain a minimum grant element which –paired with an assumed development motivation and a concessional character - makes them ODA-eligible.

This chapter contextualizes these features and links them to OECD debates and ideas on what constitutes *good* development co-operation and finance practices. To some extent this literature review of dominant development discourses primarily, though not exclusively, within the OECD allows formulating preliminary hypotheses on the effectiveness of tied aid credits as an instrument of development policy. In addition, it lays the foundations for the subsequent analysis of the *Arrangement on Officially Supported Export Credits*.

²⁴ Despite the fact that international development discourse and ideas on what makes for *good* or *bad* development practice are shaped by a myriad of actors ranging from the civil society to multilateral organizations, the emphasis in the following will be put on the OECD's Development Assistance Committee. First of all this is justified with the central role of the DAC in producing ideas on development (policy) and in setting widely accepted standards and norms as well with the quantitative importance of its Members' contributions to worldwide ODA volumes. Secondly, this priority setting results from the fact that tied aid credit rules have been set up by a group – the so-called Participants Group – which is linked to the OECD and the members of which are majorly OECD member states. Hence, the analysis of DAC framed debates on development policy will eventually allow assessing the degree of coherence between and within OECD policies.

²⁵ The fact that the instrument in question is a credit-based financing form will be extensively discussed in the thesis of my colleague Ms. Schweiger and will not explicitly be examined here. Furthermore, the "grants vs. loan debate" was steered by multilateral organizations such as IMF and World Bank in the wake of the devastating debt crisis of the 1980ies and 90ies and entered the DAC only to a lower extent. Later, in 2000, the Meltzer report clearly advocated for the use of highly concessional financing forms, i.e. declaring a clear preference for grants over loans (see Lerrick/Meltzer 2002). In any case it appears that the answer to the question whether loans or grants are more appropriate financing forms for development can only be: it depends (for a discussion thereof see, for instance, Cohen et al. 2006; Klein/Hardford 2005; for an earlier analysis of the issue see Schmidt 1964).

It is under the umbrella of “*the aid effectiveness debate*” that the Paris Principles as well as untying initiatives will be examined. Although the Paris Declaration is the key document referring to aid effectiveness, this term will hereafter be applied in a broader sense, subsuming all measures (not necessarily only those reflected in the Paris Declaration) that are thought to improve the quality of official development assistance. Last but not least this means that the effectiveness of aid is dependent on the design and implementation of other policies directly or indirectly impacting on development processes. In this respect, *Policy Coherence for Development* is to be seen as both, a process leading to greater effectiveness and a result in itself²⁶.

All these debates are interwoven and in the name of coherence are thought to mutually reinforce each other so as to jointly achieve the main objective of a greater impact of invested aid resources. With regard to this, they are also to be interpreted as combined efforts to achieve the overall goals declared at the Millennium Summit in 2000.

Considering the importance subsequently attributed to the evolution of tied aid credits since the late 1970ies, (in terms of coherence) this chapter also adopts a “historical” approach. Not only the status quo on aid quality and effectiveness will be addressed, but also some major steps towards the making of this broad, though not uncontested, “consensus” will be taken into account.

4.1. The Aid and Development Effectiveness Debate

“Ever since the DAC was founded in 1961, disputes about the nature and extend of appropriate measures to enhance the efficiency of bilateral ODA have been a recurrent fact”
(Petermann 2013: 211).

Despite the fact that controversies surrounding development concepts and development practices have been apparent ever since and have been discussed vividly by academia, political and civil society actors²⁷, it was above all in the 1990ies²⁸ that criticism on the aid

²⁶ Of course the DAC has also been pushing for other, less techno-managerial, issues during the last decade, e.g. governance and development, tax and development, conflict and fragility etc. For example, the *Working Group on Participatory Development and Good Governance*, established in 1993 when various aspects of aid-related governance entered the DAC’s agenda, should become one of the main fora for “information-sharing and policy dialogue for aid donors” (Robinson 1999: 426; quoted in Petermann 2013: 218). This paper only marginally touches upon these since they are not directly relevant to the assessment of the appropriateness of tied aid credits as an instrument of development policy. See the DAC’s homepage for more information on the respective topics, <http://www.oecd.org/dac/>;

²⁷ See for instance the “Pearson Report” 1969 (Commission on International Development 1970);

system in place gained momentum. This was widely due to widespread frustration on both recipient and donor side with the poor results²⁹ development cooperation had shown. The resulting discontent manifested itself in concerns voiced regarding costly tying practices of aid procurement, the overloading of recipients with a miscellaneous set of donor requirements, the failure of technical assistance to strengthen indigenous capacity and the like. In this context, Wood et al. argue that the unfulfilled promise of development paired with tensions arising from structural adjustment policies and other aid conditionalities “had taken their toll on confidence in aid regimes and resulted in a genuine crisis in the field of aid” (Wood et al. 2008: 5). This malaise or elsewhere called “fatigue” of the aid system was reflected in a decline in international development spending (Wood et al. 2008: 5).

Broadly speaking, this unsatisfying diagnosis lead on the one hand, to the formation of “radical” positions united by a general rejection of the belief in aid as an adequate tool for poverty eradication and on the other hand, to a call for reform of the existing aid system. Although “radical” critique of aid is not at the centre of this thesis, not even of this chapter, some clarifications on different diagnoses of the status-quo of the aid system are crucial if one wants to understand “the” aid effectiveness debate (or rather the various debates that evolved around the impact of aid).

Subsumed under the container term “radicals” are positions as diverse as liberal market advocates for whom aid as such is distorting the allocation mechanism of markets (Easterly 2006; Moyo 2009) to the so-called post-developmentalists who fear the reproduction of power imbalances and western dominance through development practices (Escobar 1995, Esteva 1992)³⁰. These criticisms rooted in diverging ideological standpoints led its respective advocates to denounce either lacking results or even perverse effects of development aid.

²⁸ Also the end of cold war is thought to have erupted the international aid system and provoked a shift in its underlying rationale. In this respect, Petermann’s regression analysis suggests, for instance, that “[...] donors’ motivations for a gradual untying of aid have undergone a marked change from the primacy of ‘donor interest’ to a growing significance of ‘recipient need’” (Petermann 2013: 406). The author argues that the external shock of 1989/90 has decisively contributed to the reorientation of aid politics towards efficiency and ownership (Petermann 2013: 208).

²⁹ How to assess the impact of aid has, however, itself been a matter of contention (for an analysis of the difficulties encountered when assessing the impact of aid see, for instance, Fielding/McGillivray/Torres 2007). Not only have indicators such as GDP/capita been questioned and gradually complemented by more holistic concepts such as the Human Development Index (HDI), but also the difficulty of isolating the effects of aid from the effects of other factors such as political and economic situations has been pointed out. Likewise attributing all poor development outcomes solely to aid is yet another inappropriate oversimplification. For a more differentiated analysis of what development has and could have achieved see Owen Barder (2009).

³⁰ For a thorough overview of post-developmental positions see Ziai, Aram 2006 and 2007;

Albeit development and development aid remain contested concepts and practices, the mainstream in both intellectual and policy-driven debates have followed the reformist track. Accordingly, the emphasis will be put on more reformist stances – a priority setting that results from the fact that this study is primarily interested in discourses driven by development “practitioners” or “designers”, i.e. by those working in the aid business who – one might assume - quite naturally have an interest in reviving the concept of aid rather than in declaring its death³¹.

It is in the context of the reformist pledges that aid effectiveness debates discussed hereafter are embedded. Or differently put - the aid effectiveness debate can partly be considered a reaction to the disillusionment of the “international aid community” considering the limited effects their past aid efforts have had (Clay et al. 2009). The reasons for this “failure” have of course been attributed to different factors with accusations ranging from corrupt recipient countries to contradictory donor policies.

4.1.1. Evolution and Principles: From Rome to Busan via Paris and Accra

The aid community’s and especially the DAC’s continuing concern with the quality of aid led to international principles that (should) guide today’s development practice, in particular the 2005 Paris Declaration on Aid Effectiveness as well as its companion, the Accra Agenda for Action, adopted in 2008. The documents referred to and discussed in greater detail below are road-maps for efficient and effective aid. They shall help countries to take responsibility for their own development (incarnated in so-called Poverty Reduction Strategy Papers - PRSPs), simplify procedures and thus reduce transfer costs and enable both donors and developing countries to efficiently and effectively achieve results (Clark 2011: 52).

While often the first association with the aid effectiveness debate, the 2005 Paris Declaration (see Chapter 4.1.2) was not the starting point of international efforts dedicated to increasing aid effectiveness. The Paris Declaration is mainly rooted in a 1996 DAC document titled “*Shaping the 21st century: the contribution of development co-operation*”. In this document the DAC’s “strategy” for the new century is built around 3 pillars: “the vision (the MDGs in embryo), Partnerships and making aid work better (the aid effectiveness process in embryo) and Bringing our policies together (policy coherence, not in embryo - a long standing key issue)” (De Milly 2012: 1; OECD/DAC 1996).

³¹ This refers to Dambisa Moyo’s (2009) book “Dead Aid” in which she strongly advocates for a replacement of aid by market-based policies. By doing so, she argues, the roots of poverty linked to a lack of access to capital as well as deriving from inadequate trading policies can be disclosed (Guljarani 2011: 201). In contrast, Jean-Michel Severino speaks of the “resurrection of aid” (Severino 2011). In a similar vein Riddell speaks of the “reinvention of aid” (quoted in Barnes/Brown 2011: 170).

Based on this publication, the DAC Working Party on Financial Aspects (DAC/FA³²), a group that had only just successfully completed major work on untying³³, in conjunction with the World Bank, took the lead in pushing forward the harmonization of donor procurement practices (De Milly 2012: 1 et seqq.).

To trigger the aid reform agenda an additional DAC Task Force on Donor Practices (TFDP) was set up and the Comprehensive Development Framework (CDF), which had meanwhile been established by the World Bank, gave further valuable impulses to the aid effectiveness agenda (De Milly 2012: 2). The CDF upgraded poverty reduction to a core goal for public policies and suggested the drafting of national strategies by recipient countries (PRSPs) (FRIDE 2008: 16). Also, the UN conference in Monterrey 2002 had built a consensus among the "aid community" that not only additional and more innovative aid resources were needed, but above all that these resources had to be channeled in a more effective way (UN 2003: 1-17). This gave further momentum to the aid effectiveness agenda

The parallel initiatives in both World Bank and United Nations show that although the DAC was and is the main driving power behind the aid effectiveness agenda, the Committee has never been operating in a vacuum, but is subject to outside influences – an argument we will come back to when analyzing the evolution of today's regulatory framework covering tied aid credits.

All these efforts culminated in the first High Level Forum in Rome in 2003, where the first declaration on effectiveness on a ministerial level was proclaimed, the so-called Rome Declaration on Harmonization³⁴) (OECD/DAC 2003). This declaration provided the first set of "Paris Principles" building the basic framework for co-operation between donors and recipients (De Milly 2012:2).

After the Rome Declaration, the afore mentioned TFDP merged with the DAC/FA to become the Working Party on Effectiveness and Donor Practices (WP-EFF)- not at last a symbolic appreciation of the growing weight attributed to the aid effectiveness agenda in the DAC's work. According to De Milly, a senior researcher at the OECD - this group became "an actual partnership of donors and recipients, with the participation of the main multilateral

³² This group will play a crucial role in the Chapter 7, which will analyze the influence of development policy on the Arrangement because it figured as main DAC body monitoring Participants' negotiations on tied aid credits; it worked in parallel on disciplines for associated financing and tied and partially untied aid.

³³ For information on the first untying recommendation signed in 2001 see below (Chapter 4.1.3).

³⁴ Therein Ministers, Heads of Aid Agencies and other senior officials declared the following: "Our deliberations are an important international effort to harmonise the operational policies, procedures, and practices of our institutions with those of partner country systems to improve the effectiveness of development assistance, and thereby contribute to meeting the Millennium Development Goals (MDGs)" (OECD/DAC 2003).

organizations and, from 2004 onwards, 14 developing countries" (De Milly 2012:3). Rome was followed by a series of High Level Forums the outcomes of which were documented most prominently in the 2005 Paris Declaration on Aid Effectiveness (Kindornay/Morton 2011: 1). Midway through the Paris cycle (2005-2010), in Accra ministers of developing and donor countries declared to deepen and accelerate their implementation of the Paris Declaration. De Milly summarizes the priority setting at the respective HLF as follows: *"If Rome can be seen as symbolised by 'harmonisation', and Paris by 'alignment', Accra brought more flesh to 'ownership'"* (De Milly 2012: 3).

One might add the outcomes of the latest HLF in Busan 2011, which has been portrayed as an important step in the conceptual shift from aid to development effectiveness³⁵ (Keijzer 2012: 4; see also Homepage of the "Open Forum for CSO Development Effectiveness"³⁶). The extent to which this transition from aid to development effectiveness – pushed for especially by NGOs³⁷ - truly occurred is yet to be seen. Furthermore, an agreement reached at the Busan Summit led to the emergence of the *Global Partnership for Effective Development Co-operation*³⁸, which considers itself an "an inclusive, political forum" that gathers 160 countries and 46 organizations "around a set of principles that form the foundation of effective development co-operation". In the summit Declaration called *Busan Partnership for Effective Development Co-operation* older commitments such as Policy Coherence for Development and the untying of aid are reiterated and special emphasis is put on the variety of actors and stakeholders in the development co-operation architecture (OECD/DAC 2011, Busan Declaration). In line with the idea that development is to be understood as a multi-stakeholder process, the Declaration calls for a global partnership, thereby enlarging the "traditional" conceptualization of partnership between North and South essentially by two additional dimensions: South-South cooperation and the inclusion of these "new" actors into the aid architecture as well as public-private partnerships.

³⁵ More information on whether this truly is a new paradigm entailing behavioral changes or a mere rhetoric shift can be found in a paper by the North- South Institute (Kindornay 2011). ActionAid, for instance, was skeptical about the outcomes of Busan and reacted with an article titled "Africa let down by Busan Aid Agreement" (see <http://www.actionaid.org/2011/12/africa-let-down-busan-aid-agreement>).

³⁶ The Open Forum is a platform that "brings together civil society organisations from around the world to discuss the issues and challenges to their effectiveness as development actors", See <http://www.cso-effectiveness.org/4th-high-level-forum-on-aid.080?lang=en>;

³⁷ See for instance BetterAid, an umbrella advocacy platform of Civil Society Organizations engaged in development cooperation (very active in the run up to Busan, dissolved, however, in December 2012); see www.betteraid.org;

³⁸ For more information on the "Global Partnerships" as well as for its mandate and targets, please see <http://effectivecooperation.org/about.html> and <http://www.oecd.org/dac/effectiveness/globalpartnership.htm>;

Box 3: The Idea of Partnership in Development Co-operation

Today, “partnership” has become part of the mainstream discourse on development co-operation and “has come to dominate the development lexicon” (Barnes/Brown 2011: 165 et seqq.). This is reflected in the fact that the term “partnership” is to be found in virtually all policy texts of aid donors and recipients alike (Barnes/Brown 2011: 172).

Although the idea that aid should “reflect a partnership of equals between donor and recipient governments” has long tradition in development discourse and can be traced back to the 1969 report of the Pearson Commission, it is in the immediate post Cold War era that the concept gains momentum (Fraser/Whitfield 2009: 76).

Several authors (e.g. Barnes/Brown 2011; Fraser/Whitfield 2009) explain the rise of the partnership idea in the 1990ies with the radical changes in the international system brought about by the end of the Cold War. A shift in the climate for development aid from rather “stable” to “one of apparent ‘crisis’ [...] seems to have created ideal conditions for the rise of the idea of partnership” (Barnes/Brown 2011: 167). With the end of the Cold War, also development aid – hitherto a strategic means to secure spheres of influence – faced a severe crisis of legitimacy³⁹ paired with a “growing anxiety about the ‘effectiveness’ of development aid” (Barnes/Brown 2011: 168). As has already been addressed in the introduction to this chapter, there was widespread consensus by the mid-90ies that the neoliberal approach to aid followed most prominently with the so-called structural adjustment programmes “had not only been ‘ineffective’ in driving economic growth, but had also entailed considerable social costs” (Barnes/Brown 2011: 168). Concomitantly, criticism on aid conditionality in general gained momentum and various NGOs and academics criticized aid and development policies for being “‘symptomatic’ of the paternalistic, neo-colonial and therefore unequal way in which aid was governed” (Barnes/Brown 2011: 169).

In an attempt to bring about the reorientation of the heavily criticized international aid system and to give aid practice a new *raison d’être* a new story of aid was invented. It is in this context that the DAC produced the document “*Development Partnerships and the New Global Context*”, in which *inter alia* the necessity of partnership was highlighted (Fraser/Whitfield 2009: 77). Subsequently, a “Groupe de Réflexion” was given the task to develop a “more coherent narrative that would ‘sell’ development aid to a broad constituency of support” (Barnes/Brown 2011: 170). The Group’s members’ attempt of constructing a “convincing and persuasive story about aid, which would enrol the support of a range of different actors who might have competing perspectives about the future need for, and role of, development aid in the post-cold war era” led to the drafting of what should henceforth be

³⁹ Fraser and Whitfield (2009: 76) detect the same removal of reasons for aid giving and argue that especially “fiscal conservatives urged that the end of the Cold War should allow for a ‘piece dividend’ and pressed for cuts in the defense and diplomatic budgets”. And indeed aid statistics show a decline of aid flows in the period of 1992 to 1997 (Fraser/Whitfield 2009: 76).

a key reference document for the DAC: *Shaping the 21st Century: The Contribution of Development Co-operation* (Barnes/Brown 2011: 170). Therein, the idea of partnership appears as one of the central pillars of any future aid efforts – Barnes and Brown (2011) go as far as to conclude that “partnership comes across as the ‘master’ concept” and leitmotiv of the “reinvention of aid” (Barnes/Brown 2011: 170). The following quote, taken from the document “Shaping the 21st Century” sheds light on the DAC’s early understanding of partnership:

*“In a partnership, development co-operation does not try to do things for developing countries and their people, but with them. It must be seen as a collaborative effort to help them increase their capacities to do things for themselves. **Paternalistic approaches have no place in this framework. In a true partnership, local actors should progressively take the lead while external partners back their efforts to assume greater responsibility for their own development**” (OECD/DAC 1996: 13; emphasis added).*

Gradually the idea, of who the partners in development co-operation were, was broadened and became to encompass a miscellaneous set of actors ranging from recipient governments to civil society and private companies (OECD/DAC 2011, Busan Declaration). How this theoretical and normative shift should be translated into development practices, however, remains somewhat obscure. According to the Barnes and Brown (2011: 166) the idea of partnership remains – despite its popularity and omnipresence – “[...]an impoverished theoretical appeal, which is under-defined, poorly scrutinised and rather unconvincingly utilised as a guiding concept in applied practices”.

4.1.2. Paris Declaration on Aid Effectiveness as a Benchmark

The Paris Declaration, today broadly considered a “landmark international agreement“, was endorsed in 2005 by over a hundred ministers, heads of development agencies and other senior officials from a variety of countries and international organizations (Wood et al. 2008: 1). This Declaration went beyond previous joint statements on aid harmonization and alignment in that it set out measurable targets to be met by 2010 (De Milly 2012). More specifically, the Declaration presents an action-oriented road-map and contains 56 commitments which are organized around the principles of ownership, alignment, harmonization, managing for results and mutual accountability (OECD 2005-2008). Progress⁴⁰ in implementing the presented principles (and their more detailed sub-

⁴⁰ For a detailed account of progress made so far and difficulties encountered see Clay et al. (2009); also see <http://www.oecd.org/dac/aideffectiveness/48742718.pdf>;

commitments) is to be measured nationally and monitored internationally with the help of 12 indicators (OECD 2005-2008: 10 et seqq.).

The figure below, taken from an OECD report on the implementation progress of the Paris Declaration (OECD 2011a: 18), illustrates the “Paris Principles” – in the Declaration labeled “Partnership Commitments”⁴¹ - as the five pillars of a new and more effective aid delivery system (OECD 2005-2008: 3).

Figure 5: Paris Principles



(Source: OECD 2011a: 18)

Given the centrality of these principles in current aid discourses and development practices, they shall briefly be described here.

1. Ownership: “*Partner countries exercise effective leadership over their development policies, and strategies and co-ordinate development actions*” (OECD 2005-2008: 3).

The concept of country ownership lies at the core of the Paris Declaration, in the sense that a legitimate and accountable government capable of articulating its own development strategies is thought to be the prerequisite of any effective partnership between donor and partner country⁴². These priorities and strategies are ideally to be formulated in a so-called

⁴¹ The fact that they are given the label “Partnership Commitments” illustrates that the idea of partnership figures as underwriting principle of the Declaration (Barnes/Brown 2011).

⁴² Throughout the Paris Declaration developing countries are referred to as “partners” or “partner countries”. These terms are here used interchangeably with the word recipient (country) since, I believe, underlying relationships remained essentially the same. In this respect we follow Fraser and Whitfield (2009: 89), who conclude their analysis of the Paris Declaration by saying that “[...] although the donor community has produced a shared consensus around how aid should be delivered, has devised new tools to implement it, and has produced a dizzying array of new policy instruments and acronyms, **the impact on the overall balance of power between donors and recipients may be very small**” (emphasis added).

Poverty Reduction Strategy Paper (PRSP) – a mechanism already introduced and discussed in the context of the Comprehensive Development Framework of the World Bank– which donor interventions should then be aligned with (Harmer/Ray 2009: 7). With regard to country ownership the Paris Declaration sets the target of 75% of partner countries having operational development strategies by 2010. These strategies are expected to “have clear strategic priorities linked to a medium-term expenditure framework and reflected in annual budgets” (OECD 2005-2008: 9). The problem that arises if it is assumed that ownership itself results from development processes is not addressed in the Declaration. Furthermore, criticism has been raised that ownership per se does not tell anything about the political dynamics constituting the ability of a recipient state to formulate development strategies. Hence, ownership cannot be equaled with democratic ownership, which according to critics should be the aspired goal (The Reality of Aid Management Committee 2012: 10).

2. Alignment: *Donors base their overall support on partner countries’ national development strategies, institutions and procedures”* (OECD 2005-2008: 3).

Under the heading of alignment donors are expected to put their intervention in line with the poverty reduction strategies of the recipient country well as the thematic and sectoral priorities (Harmer/Ray 2009:8). With the principle of alignment donors committed to use partners’ Public Finance Management (PFM) and procurement systems, make their aid allocations more predictable, long-term and free from donor conditionalities (Harmer/Ray 2009: 8). Furthermore, it is agreed that untied aid is generally the better aid (OECD Paris Declaration 2005: 5). Aiming at a greater amount of aid channeled through local systems has led to the creation of several assessment tools such as CPIAs (Country Policy and Institutional Assessment) (FRIDE 2008: 4). According to a research paper published by FRIDE (a European think-tank for global action), alignment links ownership and harmonization and is the most technical part of the Declaration reflected in the dedication of 7 out of 12 indicators assessing progress in implementation (FRIDE 2008: 4). The below table, taken from the Paris Declaration, shows some of the alignment indicators on national procurement systems and exemplifies the complexity and technical nature of the targets set by the *international community*.

Figure 6: Extract from the Paris Declaration – Indicators 5a and 5b

5a	<i>Use of country public financial management systems</i> – Percent of donors and of aid flows that use public financial management systems in partner countries, which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.	PERCENTAGE OF DONORS	
		TARGET	SCORE*
		All donors use partner countries' PFM systems.	5+
		90% of donors use partner countries' PFM systems.	3.5 to 4.5
5b	<i>Use of country procurement systems</i> – Percent of donors and of aid flows that use partner country procurement systems which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.	PERCENTAGE OF AID FLOWS	
		TARGET	SCORE*
		A two-thirds reduction in the % of aid to the public sector not using partner countries' PFM systems.	5+
		A one-third reduction in the % of aid to the public sector not using partner countries' PFM systems.	3.5 to 4.5
		PERCENTAGE OF DONORS	
		TARGET	SCORE*
		All donors use partner countries' procurement systems.	A
		90% of donors use partner countries' procurement systems.	B
		PERCENTAGE OF AID FLOWS	
		TARGET	SCORE*
		A two-thirds reduction in the % of aid to the public sector not using partner	A
		A one-third reduction in the % of aid to the public sector not using partner countries' procurement systems.	B

*Note on Indicator 5: Scores for Indicator 5 are determined by the methodology used to measure quality of procurement and public financial management systems under Indicator 2 above".

(Source: OECD 2005-2008: 9)

3. Harmonization: *"Donors' actions are more harmonized, transparent and collectively effective"* (OECD 2005-2008: 6).

The harmonization component of the Paris Declaration is aiming at increased coordination of donor implementation practices and commits donors to establish more effective system of labor division based on their respective strengths. Moreover, it spells out the goal of simplifying and aligning funding and disbursement mechanisms and monitoring and evaluation requirements (Harmer/Ray 2009: 9). Furthermore, it contains a section on "delivering effective aid in fragile states" as well as on the "promotion of a harmonized approach to environmental assessments" (OECD 2005-2008: 6, 7). The targets set for 2010 spell out that "66% of aid flows are provided in the context of programme-based approaches", that "40% of donor missions to the field are joint" and that "66% of country analytic work is joint" (OECD 2005-2008: 10).

4. Managing for Results: *"Managing resources and improving decision-making for result"* (OECD 2005-2008: 7).

The principle “Managing for Results” commits both donors and partner countries to monitor and evaluate progress in meeting development goals. To do so, the Declaration obliges donors, amongst other things, to improve the statistical capacities of partner countries (Harmer/Ray 2009: 10) and to “reduce the proportion of countries without transparent and monitorable performance assessment framework by one-third” until 2010 (OECD 2005-2008: 10).

5. Mutual accountability: *“Donors and partners are accountable for development results”* (OECD 2005-2008: 7).

With the adoption of the principle of “mutual accountability” donors and recipients declare to be mutually accountable to each other as well as to their respective constituents (Harmer/Ray 2009: 10). The target set for 2010 (Indicator 12) expects all partner countries to have mutual assessment reviews in place (OECD 2005-2008: 10).

Together these five principles of ownership, alignment, harmonization, managing for results and mutual accountability build the basis of the DAC’s development architecture. Along with these principles the call for the evaluation⁴³ of programs and projects entered the international development discourse. It will be an integral part of Chapter 8 to assess whether the Arrangement and thus the basic design of tied aid credits is coherent and compatible with or at least take into account these principles.

4.1.3. Untying Aid: A Long-lasting Matter of Concern

“Member countries should jointly and individually endeavour [...] to reduce progressively the scope of aid tying with a view ultimately to removing procurement restrictions to the maximum extent”

(DAC 1965: 120; quoted in Ray 1995:28).

“When the political rationale of a government for the application of tying is rooted in a desire to satisfy the ‘national interest’ articulated by domestic firms and voters, export subsidization with the help of tied aid appears to be hardly justifiable in an era of economic globalisation”

(Petermann 2013: 114).

⁴³ The emphasis put on evaluations of all kinds evokes Michael Power’s notion of an “audit society”. Borrowing from accounting, the author argues that society today is characterized by a constant checking and verifying of “accounts” in various spheres of life (Power 1997: 2, 3), in education or health, for example.

Also Martens (2002) critically examines the role of evaluation in foreign aid programs with help of game theory. He argues that evaluations often serve the purpose of maintaining a political equilibrium, regardless of whether this equilibrium is “efficient in terms of satisfying taxpayers’ objectives of genuine wealth transfers” (Martens 2002: 155).

This chapter briefly examines how the politics of untying has been formed over decades and eventually led to the declaration of a set of measures, spelled out in a DAC Recommendation on Untying. The practice of tying aid to the procurement of goods and services in the donor country is a long and established practice and a frequent phenomenon in donor-recipient relations (La Chimia 2004: 1). Historically, bilateral aid from individual DAC members was commonly linked to the granting of preferences for donor companies, consultants, and products; that is procurement was not channeled through an open and competitive market. According to Holland half of ODA typically used to be “tied”, with distortion, cost escalations and decreased value for ODA money as negative effects of such practices (Holland 2008: 357).

The example of untying illustrates that what we see in the Paris Declaration and the Accra Agenda for Action is only the tip of a solid iceberg of long-lasting discussions among DAC donors, or as Richard Manning, former DAC Chairman, puts it – they are the fruits after “decades of pain” (Manning 2011: 29). Clearly, this long-lasting resistance against untying can, as will be shown later, only be understood in light of domestic interests driving donor policies.

The introductory quote above dates from 1965 and shows that untying has been an issue of controversy basically from the 1960ies onwards, that is, since the Committee’s very inception⁴⁴. Yet it is still timely. In 2002, for instance, the European Commission identified tied aid as one of the most hotly debated cases of policy incoherence and one of the main obstacles on the way to greater aid effectiveness (EC 2002: 68).

Some years after the establishment of the Committee, at the High Level Meeting (HLM) in 1973, DAC members agreed to untie their contributions to multilateral institutions and in a Memorandum of Understanding⁴⁵ the same year they declared their preference for procurement in recipient countries rather than in the donor country (DAC/FA(86)11). However, in 1977 further moves towards an agreement on the mutual untying of aid –

⁴⁴ Founded in 1961, the Development Assistance Committee is entitled to carry out the following mandate: “[...] promote development co-operation and other policies so as to contribute to sustainable development, including pro-poor economic growth, poverty reduction, improvement of living standards in developing countries, and to a future in which no country will depend on aid” (DCD/DAC(2010)34/FINAL, page 3).

⁴⁵ In this “Memorandum of Understanding on Untying of their Bilateral Development Loans in Favour of Procurement in Development Countries” the therein participating countries (Denmark, Germany, Italy, Japan, the Netherlands, Norway, Sweden and the United States and later Australia and Switzerland) submitted their own list of procurement-eligible developing countries (TD/CONSENSUS/86.52, DAC/FA(86)12, page 33). Furthermore, the document contained “target quotas” and time frames for the partial untying of aid, laid down “several concepts of competitively organized procurement of aid-financed goods and services and suggested new measures to strengthen tendering systems in recipient countries” (Petermann 2013: 214).

according to the DAC/FA Working Party the ideal solution to aid and trade distortions - had to be abandoned due to resistance of member states (DAC/FA(81)1, page 19).

And indeed it would take the DAC members 30 more years⁴⁶ to agree on a more comprehensive recommendation to untie their aid to the Least Developed Countries (LDCs) and to Highly Indebted Poor Countries (HIPC) to “the greatest extent” (DCD/DAC(2001)12/FINAL, page 4). The underlying philosophy is straightforward: through untying competition would increase, the local private sector would develop and donors would symbolically show their commitment to development even if it was not in their immediate self-interest (Holland 2008: 357). This *2001 Recommendation on Untying Official Development Assistance to Least Developed Countries and Highly Indebted Poor Countries* for sure is to be considered a success⁴⁷, but it also leaves remarkable loopholes and suffers numerous limitations that considerably restrict the scope of the agreement⁴⁸ (La Chimia 2004: 11). Most prominently, the *Recommendation* does not cover food aid, technical co-operation⁴⁹ and donor administrative costs (Clay et al. 2009: 1), and to some degree obscures the transparency of aid financing practices⁵⁰. The latter concern stems from the fact that untied aid credits are not subject to the Arrangement’s transparency provisions. As reflected in the title of the Recommendation, this declaration of intent only deals with ODA flows to LDCs and HIPC. In a short article on “The future of international concessional flows”, the former DAC Chairman Richard Manning argues that direct national donor interests behind giving ODA “are most likely to predominate when the gap between the national income levels of the provider and recipient countries is relatively smaller” and vice versa. This also explains why DAC donors were willing to agree on untying their financial aid

⁴⁶ According to Jan-Henrik Petermann the DAC *Guiding Principles for Associated Financing and Tied and Partially Untied ODA*, concluded in April 1987, mark the official starting point “of the untying aid initiative as it has been known in the post-Cold War period”. This, however, is not to be equaled with donor countries’ willingness to actually undertake the necessary steps to fully untie their aid programs (Petermann 2013: 215, 216).

⁴⁷ Clay et al. speak of 2001 Recommendation as an “aid success story” (Clay et al. 2009: 55).

⁴⁸ According to La Chimia’s calculation the Recommendation only covers 12% of total ODA flows (La Chimia 2004: 29).

⁴⁹ According to the DAC Glossary technical co-operation is “provided specifically to facilitate the implementation of a capital project [and] is included indistinguishably among bilateral project and programme expenditures, and not separately identified as technical co-operation in statistics of aggregate flows” (DAC Glossary of Key Terms and Concepts). The loophole of technical co-operation is frequently targeted by criticism. La Chimia (2004: 15), however, mentions that the Recommendation makes a distinction between Investment Related Technical Co-operation (IRTC) and Free-Standing Technical Co-operation (FSTC), the former of which is covered by the Recommendation.

⁵⁰ This newly arising problems stem – as will be shown later on – partly from imprecise definitions of tied and untied which allow for de-facto tying of aid. Jepma, for instance, argues that “while these definitions [given in the 1987 Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance] may seem quite straightforward, in practice they are weak when it comes to precisely assessing the nature of tied aid relationships [...] because] tying is not only determined by formal arrangements, but also informal understanding, or even as a secondary consequence of an arrangement already in effect” (Jepma 1991: 20). To curb these practices the Participants and the DAC jointly work on transparency initiatives for untied aid.

to LDCs and HIPCs but no to middle-income or indeed to all low-income countries (Manning 2011: 112).

The second agreement that had its birth pangs in the 1990ies and aimed at discouraging tying practices, is the Helsinki Package⁵¹. This Package – which will be discussed in great detail in the next chapter - is part of the *Arrangement on Officially Supported Export Credits* negotiated under OECD auspices, and considerably constrains the use of tied concessional financing for projects⁵² (Lancaster 2007: 54).

These two respective agreements (legally speaking they do not have any power to enforce compliance though) are rooted in two different, albeit overlapping, sets of concerns. While the DAC was primarily concerned with the development implications of tying, the Participants Group, which negotiated the Helsinki Package, was worried for export competition reasons and feared the potential trade distorting implications of concessional lending tied to the exports of goods and services from the donor (Clay et al. 2009: 5). Besides, both bodies are, albeit to different degrees, linked to the OECD, and pursue the goal of contributing to a liberalized, non-discriminatory international aid and trade system (OECD Convention 1961, quoted in Jepma 1991: 2). Interestingly, the tying of aid, thus, unites critics from various fields and with potentially diverging ideological backgrounds. On the one hand proponents of the free market philosophy argue that tying practices have trade-distorting effects that need to be eliminated. On the other hand, development “experts” criticize tied aid for being an inadequate, donor-driven, instrument for promoting development which decreases aid’s value for money and undermines recipient ownership. Therefore, they want to see it being abolished.

While the next chapter will be primarily concerned with the Participants’ perspective on tied aid credits, i.e. the “trade consideration”, Chapter 7 will primarily show the developmental side of the coin, the “aid considerations” (DAC/FA(82)2). Here, an overview of the untying debate, drawing both on economic arguments and development concerns, shall be given.

Concerns over adverse effects of tying practices on the effectiveness of aid have been raised for decades. In this respect, the untying debate can be considered both, a predecessor and a core concern of the aid effectiveness agenda. Resulting from the

⁵¹ According to Petermann agreement on the Helsinki Package, which further realigned regulations on export credits, is considered by the OECD itself as “the beginning of multilateral consultations on a jointly coordinated phasing-out of tying requirements” (Petermann 2013: 211).

⁵² Leaving exemptions of the Helsinki Package aside, the use of tied aid financing is essentially restrained to commercially non-viable projects and has to contain a minimum concessionality level of 35 and 50” respectively depending on the classification of the recipient country.

underlying assumption that untying contributes to increased effectiveness of aid resources, the issue was taken up by the Millennium Development Goals (target 35) as well as by the Paris Declaration (Clay et al. 2009: 60).

In the context of alignment efforts the Paris Declaration states the following:

“Untying aid generally increases aid effectiveness by reducing transaction costs for partner countries and improving country ownership and alignment. DAC Donors will continue to make progress on untying as encouraged by the 2001 DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries (Indicator 8)” (OECD 2005-2008). Indicator 8, referred to in this quote, sets the vaguely formulated target of “continued progress over time”⁵³ to be met by 2010 (OECD 2005-2008: 10).

Although the Paris Declaration attributed the case of untying to the principle of alignment, the tying status of aid and calls for untying, respectively, are without doubt closely intertwined with ownership claims. In Accra donors reaffirmed their commitment to untie their aid and declared, among other things, their will to *“promote **the use of local and regional procurement** by ensuring that their procurement procedures are transparent and allow local and regional firms to compete”* (OECD 2005-2008: 18; emphasis added). This add-on to the Paris Declaration reflects concern over an increase in informal, de-facto tying practices due to the lack of transparency in procurement practices.

The main argument brought forward against aid tying, mainly by economic analysts (Chilchiniski 1983; Bhagwati et al. 1983; Kemp/Kojima 1985; Schweinberger 1990; Jepma 1991; Hatzipanayotou / Michael 1995; Lahiri/Raimondos 1995; Brakman and van Marrewijk 1995; all quoted in Clay et al. 2008) was and still is that goods and services procured under tied aid regimes are on average 15-25% more costly than those provided in an untied and hence competitive system (Gibson et al. 2005)- with estimations ranging up to 50% for food aid (Interview V). While in earlier times a political argument brought forward for tying was the benefit concomitantly transferred to the donors’ constituents (and thus their increased support⁵⁴ for development aid), more recent studies show that the macroeconomic impact of

⁵³ Progress in implementing the untying target varies among donors. For a detailed account of “[...] why some donors liberalised their ODA, while others have hitherto seemed “to be politically unwilling – or institutionally unable- to do so”, see Petermann (2013).

⁵⁴ In this regard Jepma (1991: 38) speaks of a *juste retour* and La Chimia (2004: 5) compares this argument to the idea of “buying political support”.

tying on the donor country (e.g. in the form of increased employment) is rather limited (Clay et al. 2008: 28)⁵⁵.

Box 4: The Case against Tying

*“Tied aid represents only a small percentage of the donor countries’ total exports. Thus, it is improbable that aid tying provides significant macro-economic benefits to any donor’s domestic employment or BOP⁵⁶-aggregates. **The case for tying is therefore essentially political rather than macro-economic**” (Jepma 1991: 13; emphasis added).*

In 1988 Catrinus Jepma conducted a study⁵⁷, commissioned by the DAC Working Party on Financial Aspects and largely financed by USAID, in which he examined the potential effects of tying on both donor and recipient country (Jepma 1991). Some of his key arguments, which guided the DAC/FA’s discussions on untying, are summarized below.

The various arguments presented in favour of or against official export support schemes, including the tying of aid, can basically be grouped in three major categories.

The first set of arguments explains from a national welfare point of view of the country engaged in the export support policies that such schemes are in the long run often counterproductive and highly cost intensive.

The second category consists of a number of arguments evaluating the impact of export support schemes from an international perspective. “Their main thrust is that the various governments involved are basically competing with each other in a defensive process which commonly creates only an overall welfare loss”.

The last set of arguments takes the recipient countries’ perspective and argues that their interests are *“almost always hurt by tying, either directly, i.e. by adversely affecting the delivery terms, or indirectly because the commodities and services supplied do not sufficiently meet the recipients’ priorities. However, it may well be that tying bears some relationship to the overall domestic support for aid in the donor country”* (Note by the Secretariat – DCD/DAC/FA(92)8/REV1, para. 4; emphasis added).

⁵⁵ Petermann explains that “[w]henver commercial gains derived from return follow-up orders, maintenance works or project-related investments occurred, they were usually centered on a small number of highly specialized companies” (Petermann 2013: 113). According to Clay et al. the ‘limited’ commercial benefits may, however, be considerable to *particular* domestic interest groups (Clay et al. 2008: 28).

⁵⁶ BOP is used by the author as abbreviation of “balance of payments”.

⁵⁷ In 1991 the OECD’s Development Centre published Jepma’s study with the title “Tying of Aid” (Jepma 1991).

Thus, in a way tying is seen as unfavorable for both, donor and recipient (cost for subsidy respectively higher costs of the purchased good). Furthermore, several authors show that these purchases are largely supplier driven⁵⁸ and might result in the delivery of inappropriate technologies⁵⁹ (Morrissey 1998: 249 et seqq.). According to Morrissey (1998: 25) these negative effects are likely to be more pronounced in the case of associated financing because the aid is not only tied to procurement but also to the acceptance of the non-concessional part of the financing package. Morrissey argues that as a result, “[...] *projects are initiated by companies rather than aid agencies, and there may, in practice, albeit not in principle, be less stringent appraisal of development impact than for normal aid*” (Morrissey 1998: 249, 250). Tied aid in general and associated finance in particular are thus judged to be incompatible with ownership principles and inconsistent with the call for demand-driven purchasing as particularly stressed in the Accra Agenda for Action (OECD 2005-2008: 16, para. 14a; Gibson et al. 2005: 117).

Although Clay et al. (2009: 30) confirm in principle the above findings, they conclude their extensive literature review on the effects of tied and untied aid by saying that *“there has been little formal investigation of the effectiveness of tied versus untied aid or on the impact of untying. [...] The discussion about untying has also failed to take into account the evidence about aid modalities for which untying is a necessary condition”* (Clay et al. 2009: 30). These findings are also confirmed by Jepma, who argues that establishing direct causalities is a dangerous undertaking and states that in the end aid effectiveness of a given project or program will depend on a variety of factors. Jepma concludes that *“[...] since there is no clear link between the developmental impact of aid and its tying, one cannot, a priori, conclude that tied aid, whether or not procured on competitive terms, is necessarily worse for the recipient than untied aid”* (Jepma 1991:16).

With regard to diagnoses of the effects of untied aid, it has to be mentioned that the scientific community (with the exception of some economists) has paid fairly little attention to this issue. Consequently, the equation of untied aid with better aid is based on rather old studies, which rely on data collected when the effects of *untied* aid could only be roughly estimated

⁵⁸The *choice* of inappropriate technologies is a prime example used by several of our key informants to illustrate how tying practices can undermine ownership. With regard to the purchase of non-tailored goods and equipment, Petermann (2013: 110, 111) gives the example of capital-intensive machinery that “may be of little developmental use and strategic priority to the beneficiaries of aid”. Maybe even more importantly, Petermann goes on, “it charges recipients with regular maintenance costs, absurdly favouring premature discontinuation of projects and aggravating dependence on Northern technologies [...] and follow up imports” (Petermann 2013: 111).

⁵⁹ In his book “Lords of Poverty” Graham Hancock (1989) gives several examples of technologies and high-tech schemes unable to meet the needs of the receiving countries. One of the examples, a delivery of British Westland W-30 helicopters to India will be addressed again later in this thesis (Chapter 6.3). Another example, taken up also by Petermann (2013: 111), concerns an irrigation project in Niger, which eventually had to be abandoned because the government that had received the project as aid could not meet the costs.

because most aid was still tied. Furthermore, except for tied food aid the varying effects of different types of tied aid have hardly been studied. With regard to tied aid credits it would be interesting to see whether foreseen practices of “advance bidding”⁶⁰ have effects on procurement prices.

Given the presumably negative repercussions of tying practices, the long-lasting resistance of DAC members to agree on untying can only be interpreted as an expression of the multilayered interests behind development cooperation (the non-development aspects of aid). Considering that the main intention of aid tying is to give an advantage to suppliers in the donor economy compared to the rest of the world (Clay et al. 2009: 27), discussing the tying of aid must go along with an examination of motivations and interests driving foreign aid in general.

The existence of different actors with polyvalent interests behind the tying of aid is reflected in the following statement made within the DAC/FA Working Party: *“We know each member country faces many **domestic difficulties such as the internal opposition from the business community to the adoption of fully general untying**”* (DAC/FA(86)11; emphasis added). This statement evokes the influence of business interest over development interests. It has been widely recognized (Christiansen/Rogerson 2006; Lancaster 200; Morrissey 1998; Rao 2003; Riddell 2007) that motivations behind aid are manifold ranging from political and strategic interests and security concerns of all sorts to economic considerations⁶¹. Regarding the myriad objectives pursued also with tied aid credits – the instrument in question throughout this study - we are here primarily interested in what Lancaster calls “commercial motivations” behind aid. In the “commercial use of aid” Lancaster sees one explanation for the ineffectiveness of the assistance in promoting development and argues that often these interests not only *“collided with development concerns, they could also undercut development by funding overpriced, inefficient, and low-priority projects that left behind little development but lots of debt”* (Lancaster 2007: 54).

Concerns about the commercial motivations and the difficulty of disclosing them have been voiced on a regular basis by the DAC/FA. In a Note by the Secretariat distributed to both Participants and DAC Working Party on Financial Aspects of Development Assistance in 1982, for instance, it says: *“The extent to which a given transaction is intended to serve aid objectives or trade objectives, or both is not objectively verifiable, since intentions cannot be*

⁶⁰ “Advance bidding” would, for instance, mean that mixed credits are provided only if a domestic supplier has already won an export order in an International Competitive Bidding procedure (DAC/FA(82)2, TC/ECG/82.4, page 22). Financing terms should only be considered in a subsequent step.

⁶¹ For a detailed account of motivations of tying see Petermann 2013, especially Chapter 2 and 3.

*monitored. The following paragraphs, however, will suggest that **the developmental and the commercial motivations for associated financing**, as they are revealed in practice, while sometimes coinciding, **are frequently divergent and even incompatible***” (DAC/FA(82)2 and TC/ECG/82.4, page 9 et seqq.; emphasis added). Throughout their work the Participants Group and the DAC/FA were – as will be shown later - confronted with this difficulty of verifying or falsifying an officially stated motivation.

In view of the centrality of untying in discussions of both the Participants and the DAC/FA on how to proceed with tied aid credits, subsequent chapters will elaborate on that issue in a more differentiating manner. Especially Chapter 7.1.4.4 will break the untying debate down and see how members of the DAC/FA and the Participants Group took up the “scientific” arguments presented in this chapter and in parallel sought to eliminate the aid and trade distorting effects of tied aid financing.

The arguments presented above against the tying of development aid to the procurement of goods and services in the donor country suggest that tied aid financing is not compatible with some of the core principles of the DAC’s approach to development policy. Hence, the untying discourse can undoubtedly be interpreted as a partial answer to the question whether tied aid credits are an effective instrument for development policy. Not least of all, the case against tying also argues that donors’ economic policies should not contradict their aid efforts. This argument will be key to the concept of Policy Coherence for Development introduced in the next subchapter.

4.1.4. Policy Coherence for Development (PCD)

“Yet this interdependence is a reality and therefore the unit to be considered is the totality of all measures in execution at a given moment or proposed to be taken simultaneously; this we shall call a system of economic policy or an economic policy”

(Tinbergen 1952: 68).

Tying practices as exemplified in the previous chapter have shown that potentially contradictory policy goals (e.g. donor export promotion vs. development of *local* economies) might reduce the effectiveness of official development assistance and might hurt the credibility of both a donor’s aid and trade policies⁶². Departing thereof and guided by Jan

⁶² Petermann (2013: 115) emphasizes that “a donor’s external trade policy loses credibility if the government pursues contradictory strategies like Private Sector Development (PSD) and the tying of aid in the same recipient country”.

Tinbergen's⁶³ quote, in which he urges that a policy be considered in its relation to other policies, this chapter elaborates on the concept of Policy Coherence for Development (PCD).

The discussion on the effectiveness of aid is to be seen in the context of achieving the Millennium Development Goals and is inextricably linked with the major "systemic questions" of international development. These "systemic questions" concern matters of coherence on a European and a global level, but also of different intra-national policies. A broader definition of effectiveness clearly goes beyond the domain set by the Paris indicators and encompasses all policy areas that have repercussions on the goals of development policy. Eventually, the behavior of global players within the WTO or the trading policies of the European Union, for instance, is the central policy arena in which the effectiveness of development efforts is fought (Six 2006: 27). In this respect, Policy Coherence for Development is rooted in the frustration of the aid community that saw its efforts being spoiled by contradictory policies in other policy fields. Most prominently this criticism was directed at the Common Agricultural Policy (CAP) or to the trade policy of the EU⁶⁴.

Although the idea of coherence was already spelled out in the Maastricht Treaty⁶⁵ of the European Community (1992), it was the Millennium Summit in the year 2000 that gave fresh wind to the coherence debate. Donor administrations realized that aid alone was not enough and that other policies having an effect on development countries had to be addressed as well. Consequently, the goals formulated at the Summit went beyond the realms of development cooperation. This broader scope is probably best reflected in Goal 8, which aims at the establishment of a "Global Partnership" between industrial and developing countries (Obrovsky 2006: 72). By targeting, for instance, the development of a "*trading system that is open, rule-based, predictable and non-discriminatory*"⁶⁶, MDG 8 appeals to the necessity of coherent policies for development. This idea of a "Global Partnership" also

⁶³ The Dutch economist Jan Tinbergen came to be known in particular for his contribution to macroeconomic modeling and economic policy decision-making. Interestingly, Tinbergen was also Chairman of the United Nations Committee on Development Planning and estimated, based on his macroeconomic models, "[...] the capital inflows developing economies needed to achieve desirable growth rates." Based on his findings he proposed a target for concessional and non-concessional official flows together of 0.75% of GDP. Based on his idea the Pearson Commission later adopted the target of 0.7% of GDP to be invested in development assistance, which is up to today *the* target against which donor efforts are assessed (OECD/DAC 2002: 1, 2).

⁶⁴ For a detailed discussion of policy fields that are particularly likely to interfere with each other, see for instance the OECD publication (2005a) "Policy Coherence for Development. Promoting Institutional Good Practice", in particular Box 7.1. on page 164.

⁶⁵ In the treaty it states: "[...] the Community shall take account of the objectives referred to in Article 130U [which refers to development cooperation] in the policies that it implements which are likely to affect developing countries" (see Treaty on European Union, Official Journal C 191, 29 July 1992). The 2005 "European Consensus on Development" further upgraded PCD and attributed it a central role in European Development Cooperation (for a more detailed discussion see Keijzer 2012: 2 et seq.).

⁶⁶ For more detailed information on the eight Millennium Development Goals, see <http://www.un.org/millenniumgoals/>;

made its way into the 2002 Monterrey Consensus on financing for development, in which development is referred to as a shared responsibility (UN 2002: 38). “*Developing countries committed themselves to good governance, good policies and conflict resolution*”, while developed countries declared their commitment to increased and more effective aid and policy coherence (OECD 2005: 22; FRIDE 2008: 3).

Given the DAC’s mandate, discussions about PCD on both the European and the international level are very much steered by the OECD. This political mandate was agreed upon in 2002 and outlined in the so-called “OECD Action for a Shared Development Agenda” (DCD/DAC, Final Communiqué 16/05/2002). In 2008 this mandate was enlarged with the adoption of a ministerial declaration on PCD, which put special emphasis on the need to invest in measuring impacts of OECD members’ policies and evaluate results achieved through joined efforts to promote PCD. Since 2000 PCD has also been given a more prominent role in the Peer Review Process⁶⁷ by paying attention to efforts made with regard to overall policy changes (Keijzer 2012: 3; OECD 2005: 39, 135 et seqq.). Most recently the ‘OECD Strategy on Development’, presented in 2012, has stressed the importance of promoting PCD and has mentioned “*[s]trengthening OECD Members’ capacities to design policies consistent with development*” on top of the listed options for action (OECD 2012: 9).

Despite this accumulation of recent events centering on coherence, it goes without saying that the term policy coherence and even the claim of harmonizing political decision making with development agendas are much older than the concept of PCD (Obrovsky/Schlögl 2011: 11). Borrowed from physics and philosophy⁶⁸, the term ‘coherence’ has not entered social and economic sciences until very recently (Picciotto 2004: 4). In combination with the term development, the newly created buzzword Policy Coherence for Development found its way into development discourse and was coined by the DAC in the early 1990ies (OECD 2005: 39 et seqq.). Despite the vast amount of reports on PCD, an official definition of the concept does not exist (OECD 2005: 27). It can broadly be defined in the following way: “*Policy coherence [...] involves the systematic promotion of mutually reinforcing policies across government departments and agencies creating synergies towards achieving the defined objective*” (DAC Guidelines for Poverty Reduction 2001, quoted in OECD 2005: 28). This also implies that donors work “*[...] to ensure that the objectives and results of a government’s (or institution’s) development policies are not undermined by other policies of*

⁶⁷ Roughly every four years each DAC member is peer reviewed by examiners of two fellow DAC member states. The aim of these reviews is on the one hand to show the reviewed country areas of improvement of its policies and on the other hand to share good practices (see OECD/DCD Homepage).

⁶⁸ While in physics the term is used to refer to “the force by which molecules are held together, the ‘constant phase relationship’ of waves or the viscosity of a substance”, philosophical “coherence theory holds that ‘the truth of a proposition consists in the coherence of that proposition with all other true propositions’” (Picciotto 2005: 323).

that government (or institution), which impact on developing countries, and that these other policies support development objectives, where feasible” (OECD 2005: 28).

More advanced definitions of Policy Coherence for Development differentiate between internal coherence, intra-country coherence, inter-donor coherence and donor-partner coherence (Van der Hoeven 2010: 30 et seqq.).

Figure 7: Dimensions of Policy Coherence for Development According to Picciotto

Picciotto defines the different dimensions of coherence as follows:

“(i) internal coherence: the consistency between goals and objectives, modalities and protocols of a policy or program carried out by an OECD government in support of development (e.g. aid).

(ii) intra-country coherence: the consistency among aid and non-aid policies of an OECD government in terms of their contribution to development.

(iii) inter-donor coherence: the consistency of aid and non-aid policies across OECD countries in terms their contribution to development.

(iv) donor-recipient coherence: the consistency of policies adopted by rich and poor countries to achieve shared development objectives.”

(Picciotto 2004: 8)

While traditionally development evaluation put its focus on type *(i) coherence*, that is the alignment of means with goals in development assistance, increasing emphasis is now put on managing for results, which has led to greater preoccupation with type *(ii) coherence* – also called “whole of government” approach. In parallel, the diversification of actors within the aid system was accompanied by a greater need to reduce aid transaction costs entailed by uncoordinated actions and resulted in calls for type *(iii) coherence* through harmonization. Furthermore, as the limits of aid conditionality became more apparent and ownership became a main pillar of development effectiveness, donor-recipient coherence came to the fore (Picciotto 2004: 8). This description of the different dimensions of coherence reminds us of the wording used in the Paris Declaration (in particular ownership, alignment, harmonization) and illustrates once more that the debates and concepts discussed in this chapter are intertwined with each other.

With regard to implementation, the *Commitment to Development Index* (CDI), published on a yearly basis by the Center for Global Development, (OECD 2005: 134 et seqq.), reveals that as with other non-binding recommendations and declarations, the implementation of the concept of PCD proves difficult⁶⁹. Existing hierarchies of policy fields might be disadvantageous to development policy and hence hinder the full deployment of PCD. In this respect Christiansen and Rogerson stress that coherence presents not only opportunities, but also threats for development goals. They state:

“This is not necessarily a win-win game, and development may well lose to more powerful domestic political constituencies. Like it or not, the aid industry is part of this broader context, both defined by and constitutive of it. The current debate around ‘harmonisation’ of donor policies and systems, for example, is part of the aid subcomponent of the coherence agenda and needs to be seen as such. Progress in some of its key dimensions, such as aid untying, presupposes the demand for parallel policy changes elsewhere” (Christiansen/Rogerson 2006: 14; emphasis added).

That these parallel changes are not always easily provoked can, to a certain extent, be exemplified by policies for tied aid credits and associated financing. The hierarchy of policy areas and their respective ministries and the obstacles to progress existing “power imbalances” represent is reflected at several occasions in Participants’ negotiations. Chapter 6 will analyze the predominance of national interests and resulting deadlocks in negotiations on tied aid credits in greater detail.

The Austrian example – tied aid credits are dealt with by the Export Credit Agency OeKB (Österreichische Kontrollbank) – illustrates the importance of studying both, the institutional split of competences in a given country and the potential incoherence resulting from the international policy framework for tied aid credits. Quotes like the following extract from Austrian parliamentary documentation demonstrate the *problematique*:

*“Das Exportfinanzierungskomitee (EFK) agiert nach den internationalen Richtlinien für staatlich unterstützte Exportkredite. Daraus ergibt sich, daß [sic!] eine **Kohärenz mit dem 3-Jahresprogramm der österreichischen Entwicklungszusammenarbeit nicht immer gegeben sein kann**. Das Bundesministerium für auswärtige Angelegenheiten (Sektion*

⁶⁹In its publication “Policy Coherence for Development: Promoting Institutional Good Practice”, the OECD, for instance, addressed implementation difficulties with regard to the MDGs and international commitments in general (OECD 2005: 31). Therein it states that “[h]eads of state sign up to the MDGs and further international commitments, but they often face political constraints on ratification and implementation” (quoted in Obrovsky/Schlögl 2011: 34).

Entwicklungshilfe) ist im EFK mit Sitz und Stimme vertreten" (Parlamentarische Materialien 1997, 3369/AB XX.GP, page 2; emphasis added).

The international guidelines for officially supported export credits referred to in the above quote are spelled out in the *Arrangement on Officially Supported Export Credits*. Whether this reference document truly provides the breeding ground for incoherence with development policy goals and how it tries to ensure coherence respectively, will be examined in Chapter 8.

Another related example of implementation difficulties is the afore-mentioned slow progress in untying and the exception of food aid from the 2001 *Recommendation on Untying of Bilateral Development Assistance to Least Developed Countries*. Despite vivid declarations on paper for increased policy coherence, agriculture - and along with it food aid – is neither covered by the 2001 Untying Recommendation nor by the Arrangement on Officially Supported Export Credits. This loophole prepares the breeding ground for incoherent policies (one might just think of the potentially perverse effects of agricultural subsidies in the EU on local production in developing countries). In this respect, mixed credits and agricultural credits are explicitly referred to in the DAC's *Illustrative Checklist on Policy Coherence for Poverty Reduction* which identifies policy areas requiring due diligence with regard to coherence (OECD 2001: 103).

While traditional official export credits are addressed in most articles dealing with PCD and have repeatedly been the target of criticism by NGOs⁷⁰ (e.g. in the form of letters to the Export Credit Division of the OECD), tied aid credits raise concern about coherence on yet another level. Given their proclaimed development motivation and the resulting ODA-eligibility, the question is not only whether tied aid policies are coherent with other policy areas, but whether they in themselves are consistent with the principles and procedures of development policy. In this respect, it is above all the internal coherence of aid policies that will be of interest here.

To conclude let us come back to Tinbergen, who shaped the idea of "each goal, its policy". According to Tinbergen each of these somewhat separated goals requires policies especially designed to achieve the respective goal (Tinbergen 1986: 14). Considering that in the case of tied aid credits (at least) two policy goals are to be achieved with a single instrument, we

⁷⁰ Especially ECA-Watch tries to attract public attention to perverse effects of export credit practices on human rights and social and environmental developments and advocates for reform of ECA practices (see <http://www.eca-watch.org/>). Calls of ECA-Watch for bringing ECA policies in line with social, economic and environmental goals are best summarized in the so-called Jakarta-Declaration, endorsed by over 300 NGOs (<http://www.eca-watch.org/goals/jakartadec.html>).

will later have to ask ourselves to which extent the Arrangement equally provides the tools for achieving both – or to speak with the language of the Participants whether the guidelines are sufficiently “balanced” (see Chapter 8).

4.2. Critical Remarks and Conceptual Framework

Chapter 4 has departed from the three core features of tied aid credits (tied to procurement in the donor country, concessional and provided in form of a loan rather than a grant) and put them in the context of OECD framed discourses on *good* development aid. Broadly speaking, three different, but highly interlinked debates have been identified: the aid effectiveness debate as incarnated in the Paris Declaration, long-lasting discussions on and hesitant steps towards the untying of aid as well as the call for Policy Coherence for Development.

In a first step the evolution of the aid effectiveness debate and its culmination in the 2005 Paris Declaration was examined. The principles on aid effectiveness – harmonization, alignment, ownership, mutual accountability and managing for results - will be taken up in Chapter 8, which will provide an assessment of tied aid credits from the angle of development policy.

After an examination of the wide debates on aid effectiveness, one specific feature of tied aid credits, namely their tying status was discussed in greater detail. This analysis demonstrated that on the level of official statements, a general consensus exists within the “donor community” that untied aid is the better type of aid. Following this “technical discussion” of Paris Principles and the tying status of aid, the ambitious concept of Policy Coherence for Development was analyzed. The latter calls for a more “holistic” approach to development policy, taking into account interferences with other policy areas potentially thwarting development co-operation efforts.

All three of the presented “debates” give us partial answers with regard to the potential of tied aid credits as an instrument of development policy. Without wanting to anticipate, this literature analysis suggests that the nature of tied aid credits is at least partially at odds with today’s DAC consensus on what constitutes good development cooperation. This stems primarily from the fact that these concessional loans are tied to procurement in the donor country and thus undermine efforts to improve the ownership of recipient countries and might hamper the development of local/regional economies, which in turn is thought to decrease the positive impact of the invested money.

The subsequent assessment of the aid quality of tied aid credits against these largely OECD homemade criteria shall not be interpreted as naïve belief in the pertinence of these principles and recommendations. Also, a smooth implementation of them is not taken for granted. However, a detailed discussion of the phases of implementation of the different guidelines is not considered to be fruitful for the purposes of this thesis, which at this point is more interested in the making of the underlying discourses. Progress made in implementation will be more relevant on a case study level.

The call for greater effectiveness as embodied in the Paris Declaration implicitly presumes a mutual and uncontested understanding among all actors of what aid shall achieve. Yet, as demonstrated in particular in the subchapter on untying, motivations behind and purposes of aid are manifold. This raises questions with regard to what is considered greater “effectiveness” of aid (and subsequently on how to measure it appropriately). UNIDO’s Evaluation Office, for instance, defines effectiveness as “[t]he extent to which the development intervention’s objectives were achieved, or are expected to be achieved” (UNIDO 2008: vi)⁷¹. Taking such an interpretation of effectiveness as starting point shows that defining principles of how to increase the effectiveness of development aid, presumes a mutual understanding of all actors on the very goals and purpose of their aid efforts. This assumption, however, masks diverging interests behind aid and the multiplicity of goals aspired. As precisely this assumption is not fulfilled, Christiansen and Rogerson argue that if aid “*in practice serves a wide range of interests and objectives, then assessing its fitness in terms of any single purpose is of limited utility*” (Christiansen/Rogerson 2006: 13). Summing up, Christiansen and Rogerson’s argue that improving the way in which aid is delivered presupposes an examination of why this aid is delivered⁷². Whenever we talk about motivations of actors behind certain practices and behavior, we, however, get into hardly tangible waters.

Bringing motivations behind aid to the spotlight means addressing the political roots of the aid business. According to Nilima Gulrajani – a scholar at the London School of Economics and Political Science – current OECD/DAC debates on aid, however, fail to do so. In this respect, she sees the aid effectiveness debate and its manifestation in the Paris Declaration as an illustration of aid reformers’ attempts to push for reforms that are meant to stay beyond political dynamics (Gulrajani 2011: 209). Other scholars also voice similar concern about the de-politicization entailed by the Paris Principles. With regard to one of the pillars of the Paris

⁷¹ A detailed account of the DAC’s criteria for international development evaluations is given by Thomaz Chianca (2008).

⁷² Inspired by such criticism especially civil society actors in the aid community try to shift the focus from aid to development effectiveness (Kindornay/Morton 2009) – a broadening of the concept especially addressed in Busan 2011.

Declaration, Rosalind Eyben, for example, states that “[...] *harmonisation becomes a vice when it strengthens long-standing donor habits of pretending that poverty is not political*” (Eyben 2010: 219). Concern over the de-politization of the intrinsically political action of aid-giving is also raised by Clemens Six. He recognizes that the Paris Declaration addresses decades of deficits of international development cooperation, but also warns of the degradation of essentially political questions to techno-administrative levels by the Paris principles and indicators (Six 2012: 27).

This criticism is linked to the meaning given to aid effectiveness by the Paris Declaration through which the “[...] *prescriptions for better delivery and management of foreign aid are divorced from political dynamics and relations that impinge, for better or worse, on aid*” (Gulrajani 2011: 209). Accordingly, the Declaration fails to provide “[...] *either a tool for assessing change in aid relationships towards the new principles or a tool with which recipient countries can pressure donors to do so*”. As result, the commitments made in Paris in 2005 remain on a technocratic level without any means to bring about more fundamental changes (Fraser/Whitfield 2009: 89).

In a similar vein, Gulrajani argues that by defining aid effectiveness in terms of 5 principles reflected in 12 indicators (for description see Chapter 4.1.2), the Paris Declaration reduces aid effectiveness to a techno-administrative matter and hence largely ignores power structures and politics, which are inherent to all aid relations. Considering that, for instance, reporting practices of the indicators have been subject to political dynamics on both donor and recipient side, Gulrajani concludes that the Paris Declaration represents an “*unhelpful ideal of how aid could be better managed as it appears to exaggerate the ease with which aid can be reformed to deliver development outcomes*”. In this respect, the Declaration on Aid Effectiveness figures as prime example of *the aid community’s* conviction that business managerialism, as she calls it, is the main vehicle for improving the effectiveness of foreign aid (Gulrajani 2011: 209). A more profound transformation⁷³ of the aid system is not envisaged. Similarly, Owen Barder describes the changes implemented with Paris and Accra as a “planning mindset” and argues that long coordination meetings between donors and recipient countries will not change the institutional and political constraints under which aid

⁷³ Fraser and Whitfield (2009: 89) similarly criticize that the Paris Declaration only scratches the surface. They interpret this as the logic result of the functioning of the “donor community”. They state: “Perhaps we should not be surprised that the Paris process has not promoted radical reform of the international aid system. The key institution driving it forward is the DAC, a forum run and dominated by the interests of donor countries” (Fraser/Whitfield 2009: 89). A more inclusive forum to discuss development assistance, providing developing and emerging countries with a means to express their views, would, for instance, be the Development Cooperation Forum within the UN Economic and Social Council (Fraser/Whitfield 2009: 89).

agencies operate (Barder 2009: 1)⁷⁴. Political answers to overarching questions such as coherence or ecological sustainability are essential (pre)conditions under which “operative details” such as harmonization and alignment only become truly meaningful (Six 2006: 27). The concept of Policy Coherence for Development is to be interpreted as a more holistic approach to the aid effectiveness debate and can – at least in its conceptual ideal - be considered an attempt of shedding light on the “political embedding” of development (aid).

In this respect, Policy Coherence for Development in its multiple dimensions can be considered a strategic approach by means of which the MDGs shall be better and faster achieved. While the Paris Declaration aims foremost at increasing efficiency through harmonization of aid activities and through alignment of donor strategies with recipient policies, PCD can enlarge the political room for maneuver and thus widen the potential for efficiency increase. Without growing efforts to implement the concept of PCD, the principles of harmonization and alignment will remain processes limited to the optimization of development cooperation, which as such will then be limited by the lack of a political framework (Obrovsky 2006: 79). In that sense PCD reminds us that development is not a mere business undertaking, but an intrinsically political act.

Being fully aware of these shortcomings of and criticisms on recent OECD framed discourses on development aid, they still remain the most appropriate – or better put, the most tangible - benchmark against which the intended assessment of the developmental fitness of tied aid credits can be made. Taking DAC concepts as starting point is appropriate not only because of the Committee’s function as *clearing house* for definitions on what aid is and should be (FRIDE 2008: 3), but also because it allows to make statements about the OECD’s internal coherence, i.e. whether the Organization lives an example of its own concept of Policy Coherence for Development. Furthermore, keeping the addressed criticism in mind helps placing potential criticism on the *Arrangement on Officially Supported Export Credits* (and the way it has been negotiated) in the broader development context. This might contribute to disclosing some of this criticism as “systemic” rather than as individual cases.

⁷⁴ According to Barder moving from a planning rationale to a system of *collaborative market* would be a step towards overcoming the challenges of the aid system. He uses the term collaborative market as a “shorthand for a market governed by collective regulatory agreements and complemented by symmetric and accessible information. Specific measures to move towards a collaborative market could include unbundling funding from design and implementation of aid programmes, to create explicit markets for aid delivery; improving international competition in the supply of development services; new standards for aid transparency; mechanisms to allow aid beneficiaries to provide feedback about the services they receive; penalties for negative spill-overs (such as entry fees to discourage proliferation) and subsidies for positive spill-overs (such as independent and rigorous evaluation); and the establishment of a more effective regulatory mechanism, backed if necessary by treaty” (Barder 2009: 2).

4.2.1. The Conceptual Framework: Guiding Questions

Keeping their weaknesses in mind, the discourses and debates analyzed above a minimal consensus among the OECD donor community on what encompasses *good* development policy and co-operation. The following set of questions can be derived from the debates, which have been dominating OECD work in the field of development co-operation in the last decade. These provide the conceptual framework against which an assessment of tied aid credit disciplines will be undertaken in Chapter 8:

Are the disciplines covering tied aid credits (the Helsinki Disciplines) in line with and broadly consistent with the Paris Principles? To which extent do they foster alignment, harmonization and ownership? Are these principles referred to in the Arrangement text? Have projects been challenged by the Consultations Group with regard to any of those principles? In pre-Paris times, which DAC guidelines have been referred to in and had influence on negotiations of the Participants Group?

To which extent do tied aid disciplines contribute to the establishment of development policy and practice built on a global partnership in its multiple dimensions?

Which role does the untying debate play in the shaping of tied aid credits as a development instrument? Is the OECD coherent in its call for untying of aid “to a maximum extent”?

Are OECD disciplines in the field of tied aid credits coherent with the organization’s own development policies, i.e. is the OECD’s development policy in itself coherent? Is the institutional set-up conducive to coherence or does it leave considerable loopholes potentially provoking incoherence? That is – are tied aid policies coherent for development as suggested by the OECD’s own call for Policy Coherence for Development?

When trying to find answers let us, however, keep the following quote taken from Richard Woodward’s analysis of the role of the OECD in international policy making in mind: “*The parsimonious language of international diplomacy produces guidance and commitments susceptible to differing interpretations, making precise correlations between the OECD’s counsel and national economic policies difficult to ascertain*” (Woodward 2009: 62).

It goes without saying that some of the above questions require a profound analysis of national variations in soft loan/tied aid credit policies respectively even of specific projects and thus cannot be answered in this thesis. They will, however, be at the centre of a follow-up ÖFSE research project that will build on the findings presented in this thesis.

Mainly guided by these questions, categories for the document analysis of OECD archive material as well as the framework for the semi-structured interviews we conducted, were formed (see Chapter 2.3). Chapter 7 and even more so Chapter 8 will be exclusively dedicated to the assessment of the regulatory framework for tied aid credits against the questions/criteria mentioned above and will open the black box to see in greater detail how this hybrid instrument of export promotion and development policy has been designed.

Having these OECD framed discourses in mind, we will now turn to the regulatory framework covering tied aid credits to find more answers regarding the weight of development goals and policy in the design of the instrument. This inquiry into the roots of tied aid credits will lead us way back into the jungle of the export credit world of the late 1970ies.

5. An Introduction to the International Regulatory Framework

Keeping the recent OECD discourses in mind and with first hypotheses on the developmental orientation of tied aid credits in our baggage, we will now travel back to the roots of this instrument. To understand the history of tied aid credits some introductory words on the current state of affairs will be provided in the following paragraphs. The aim thereof is to give an introduction to the complex sets of rules for tied aid credits, which have evolved over almost four decades.

In a first step the status quo of the regulatory framework that determines tied aid credits will be presented briefly. This shall help understand why in the following so much attention is paid to the *Arrangement on Officially Supported Export Credits*. Departing from that brief description the subsequent chapter will ask how this “Consensus” on official support for export credits including tied aid credits came into being.

Before going into Arrangement details and their historical genesis the reader shall be given a little tour through the institutional scenery of export credit and tied aid financing. This chapter gives a first grasp of the overlapping sets of rules existing in the field of official support for export credits. For that purpose this chapter will locate the Arrangement within the international trading system. It will touch upon its complementary function in relation to WTO legislation and EU law, its link to DAC principles, as well as its legal character. Finally, the main mechanisms and provisions of the Arrangement will be presented.

5.1. The Institutional Setting

Most prominently export credits and tied aid credits are regulated by the so-called *Arrangement on Officially Supported Export Credits*, hereafter simply referred to as the Arrangement. The Arrangement, however, has interfaces with several other sets of rules and guidelines. Touching upon these embeddings of the Arrangement into other policy frameworks is not only interesting for its own sake, but crucial if one wants to assess the afore-mentioned attempt to create Policy Coherence for Development (see Chapter 4.1.4).

With the table below (Figure 8) Evans illustrates the complexity of institutional arrangements governing trade finance⁷⁵ and along with that tied aid credits. The structure of this chapter follows, in essence, Evan's table on the "Dimensions of Official Trade Finance", but shifts the emphasis from trade finance to development finance. The three most important forums where officially supported export credits are being discussed are the OECD (the Export Credit Group and the loosely linked Participants Group), the World Trade Organization (WTO) as well as the Development Assistance Committee (DAC). While in some areas the activities of the respective institutions overlap, loopholes exist in other instances (as the case of untied aid will show) (Evans 2003: 6 et seqq.).

Figure 8 below illustrates that in the case of mixed credits and tied ODA the Helsinki rules-core part of the Arrangement on Officially Supported Export Credits - overlap with DAC guidelines. This in itself is a manifestation of the fact that tied aid credits have been a matter of concern for different groups out of different reasons ranging somewhere on the spectrum between containment of aid respectively trade distortion.

⁷⁵ It shall, however, not be forgotten that all these provisions only apply to forms of export credits in which the state is involved, the growing private market for export credits is not covered. In the following exclusively those export credits that contain elements of official support will be treated.

Table 2. Dimensions of Official Trade Finance

Institution	ECA	ECA + ODA (mixed credits)	ODA		Non-ODA
Procurement Policy	Tied ^a	Tied	Tied	Untied	Tied
Subsidy level	<div> <div>Moderate</div> <div>Substantial</div> </div>				
	<div> <div>> 0</div> <div>100%</div> </div>				
Trade finance rules	<div> <div>Helsinki Rules</div> </div>				
	<div> <div>OECD Arrangement^b</div> <div>OECD DAC^c</div> </div>				
	<div> <div>WTO/ SCM Agreement^d</div> <div>no rules^(e)</div> </div>				
Purpose	Trade Promotion		Development		

Note: ECA = Export Credit Agency; ODA = Official Development Assistance; Non-ODA refers to bilateral financial transfers such as Japan's Green Aid Plan and the United State's support for Isreal, which are not reported as ODA.

a. Domestic content requirements vary from country to country, ranging from 50 to 80 percent.

b. OECD Arrangement on Guidelines for Officially Supported Export Credits established in 1978.

c. OECD Development Assistance Committee established in 1960.

d. World Trade Organization Agreement on Subsidies and Countervailing Measures established in 1979.

e. The blank areas indicate areas where trade finance rules have not been developed because they are generally considered to be free from problematic trade distortions.

Figure 8: Dimensions of Official Trade Finance

(Source: Evans 2003: 5)

5.1.1. The Participants Group and “their” Arrangement

Following the above table this section will give a short introduction to the trade finance rules laid down in the *Arrangement for Officially Supported Export Credits* in general and its Helsinki disciplines in particular. Understanding the institutional framework, in which this rule set is embedded, will later be of importance when its compatibility with the DAC's development policy standards will be assessed.

5.1.1.1. Purpose and General Provisions of the Arrangement

The Arrangement is the regulatory framework for officially supported export credits and tied aid credits. Its scope covers any form of official support for the export of goods or services, or both, including financial leases. This means that the provisions explained hereafter only apply to official support provided by governments or by institutions acting on behalf of a government whereas private forms of export promotion are excluded from the provisions. Forms of official support, which are defined by the Arrangement (article 5) are export credit guarantee or insurance, direct credit/financing and refinancing, interest rate support, or any

combination of the listed. The Arrangement applies to officially supported export credits of a repayment term of a minimum of 2 years (OECD 1998: 17).

The main purpose of the Arrangement is to limit market distortions created by officially supported export subsidies. This shall be achieved by fostering competition among exporters, meaning that competitors should compete in quality and price, rather than on the best financial terms and conditions (OECD 1998: 17). Limitations on the terms and conditions of officially supported export credits are set through defining minimum interest rates, risk fees and maximum repayment terms. In addition, the Arrangement regulates the provision of tied aid credits (OECD Homepage of the TAD⁷⁶). The part of the Arrangement which particularly addresses tied aid credits is called the Helsinki Package (see Chapter 6.4.1). It comprises rules, which aim at limiting the use of concessional financing for projects that otherwise could be financed on commercial terms (financial viability). These are usually projects which are commercially viable (OECD Homepage of the TAD). Whether a project is eligible for an officially supported export credit can be assessed with the help of two key tests on commercial viability set out in the Helsinki Package. Furthermore, in 1996 an *Ex Ante Guidance for Tied Aid* was published to give additional practical guidance to potential exporters and financial institutions in assessing whether a project can be expected to be eligible for tied aid financing or whether it should be financed on commercial or Arrangement terms (see Chapter 6.4.3).

The Arrangement is not a legal act of the OECD. Derogations of the rules and exceptions are technically possible, since there is no official body which enforces the rules. Peer pressure appears to be the force disciplining the Participants' compliance with the rules. Within the scope of the Arrangement procedures for prior notification, consultation, and information exchange are in place. Exceptions and derogations of the rules, as well as tied aid offers are continuously being reviewed by the Participants (OECD Homepage of the TAD).

The core Arrangement text is supplemented by various sector understandings, which provide specific provisions for projects in the following sectors: nuclear power plants, civil aircraft, ships, and renewable energy, climate change mitigation and water projects. Military equipment is not covered by the disciplines of the Arrangement. Despite extensive negotiations for including agricultural commodities, the Participants have also failed to incorporate these in the Arrangement up to today (TAD/PG(2013)1).

⁷⁶ Please see <http://www.oecd.org/tad/xcred/about.htm>;

5.1.1.2. *The Masters of the Arrangement*

As explained above officially supported export credits are dealt with in two separate groups, linked in different ways to the OECD, more precisely to the Export Credit Division: the Participants to the Arrangement (Participants Group) and the Export Credit Group. According to Nicola Bonucci, former Director of the OECD's Legal Directorate, the unusual relationship between these two groups is a specificity difficult to understand as an outsider (Bonucci 2011: 52). This diffuse relationship and blurry split of competences between the Export Credit Group and the Participants requires some explanations. They should contribute to a better understanding of how national actors grouped themselves to seek political answers to and put in place international regulations for what were thought to be harmful protectionist subsidy policies.

Although the first version of the Arrangement, adopted in 1978, had initially been drafted by members of the Export Credit Group, in the very year - following a Communiqué from the Ministerial Council Meeting - a new body, the Participants Group (PG), was established and given the task of monitoring and developing further the Arrangement text. This informal group, *"while not an OECD body, would meet in the OECD and be serviced by the OECD secretariat"* (West 1998: 22). Due to this loose link to the OECD, the Participants are not legally bound by the OECD rules of procedures. This allows them to invite non-OECD members to join the Arrangement – as it was the case when Brazil signed the sector understanding for civil aircraft. The Arrangement text explicitly states that other *"OECD Members and non-members may be invited to become Participants by the current Participants"*⁷⁷ (TAD/PG(2012)9, page 5). This also reflects concerns of the Participants over how to adapt to changing realities and newly emerging competitors – a concern voiced by the majority of our interview partners (without specific questions directed at this topic from our side).

As of January 2013 there are nine Participants to the Arrangement. These are:

Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland and the United States (TAD/PG(2012)9, page 5).

⁷⁷ Brazil was the first non-OECD member-state to become a Participant to parts of the Arrangement when it signed the new Sector Understanding on Export Credits for Civil Aircraft in 2007. Negotiations leading up to this signature had been surrounded by the so-called "Embraer case" – a WTO dispute case between Brazil and Canada. For further information see Sanchez 2008.

In Participants' meetings the European Commission represents EU member states⁷⁸ – another peculiarity that results from the informal status of the Participants Group (Bonucci 2010: 52). In addition to the above mentioned participants, Israel and Turkey are observers to Participants' meetings. Also other organizations, the International Union of Credit and Investment Insurers (the Berne Union⁷⁹), the Secretariat of the World Trade Organization (WTO), the European Bank for Reconstruction and Development (EBRD), the United Nations Environment Programme (UNEP) or the International Monetary Fund (IMF) are invited to participate “*when issues of mutual interest are discussed*” (OECD/TAD Homepage, section on export credits⁸⁰).

The parallel existence of a so-called Export Credit Group (ECG)⁸¹ might be somewhat misleading. The ECG does influence and is related to the Participants' work, but the ECG – contrary to what its name might suggest – does not hold the competence over the *Arrangement on Officially Supported Export Credits*. Instead, the ECG deals with complementary issues such as anti-bribery, environmental standards or sustainable lending⁸².

While, strictly speaking, the Participants are not part of the OECD, the Export Credit Group, founded as early as in 1963, is an ordinary OECD Working Party (albeit with somewhat unusual reporting practices) under the Trade and Agriculture Directorate (TAD⁸³). Due to its direct link to the TAD and the formal character of the group, EU member-states participate with their “own vote and voice” (Bonucci 2010: 52).

The work done by the two groups is usually complementary- a feature that results from the fact that generally the same people/country delegates represent a state or Export Credit Agency in both ECG and Participants' meetings (with the exception of EU countries which are represented by the Commission in Participants' meetings). A brief glance at the lists of

⁷⁸ This results from the fact that the Commission holds the competence for trading issues of its member states – a split of competences that came into effect after a long dispute, especially between France and the Commission had been settled on the question of competences (Geberth 1998: 31).

⁷⁹ The Berne Union, formally known as The International Union of Credit and Investment Insurers, was founded in 1934 as a forum for the exchange of information on the export credit industry and on specific countries. Its main purpose is to design sound principles of export credit insurance and maintenance of discipline in the terms of credit in international trade (Kuhn et al. 1995: 35). Unlike at OECD meetings, the Berne Union brings together export credit agencies alone, that is guardian authorities are not represented as would be the case at OECD meetings (Kuhn et al. 1995: 6). Consequently, discussions on some policy issues are limited (Kuhn et al. 1995:13). Furthermore the Berne Union also includes export credit agencies from non-OECD countries (Kuhn et al. 1995: 6).

⁸⁰ Additional information can be found at <http://www.oecd.org/tad/exportcredits/participants.htm>;

⁸¹ The full name of the ECG is “Working Party on Export Credits and Credit Guarantees”.

⁸² Sustainable lending is a topic originating from the World Bank and the IMF; in 2008 OECD members adopted sustainable lending principles for official export credits; for the Press Release see <http://www.oecd.org/general/oecdcountriesagreesustainablelendingprinciplesforofficialexportcredits.htm>;

⁸³ Formally called Trade Directorate, hence the abbreviation TD used in most archive documents.

participants in both the Participants' and ECG meetings (attached to each Aide-Memoire) shows that usually representatives of either the Ministry of Finance and/or of the respective Export Credit Agency participate in meetings and negotiations (often held in the same week).

While no clear-cut rules exist determining which topics are to be discussed in either the ECG or the Participants Group (Interview VII), some norms and practices have evolved over the years. One of our interview partners of the Export Credit Division describes the distribution of competences as follows: *"The Participants deal with financial disciplines in a wider sense and the ECG deals with underwriting practices and non-financial disciplines, so the ECG sets the rules, for instance, for environmental assessment, it will discuss rules on combating bribery, and such things"* (Interview VII). This appraisal corresponds with the description found on the official homepage of the ECG, which says that the group *"is responsible for discussing and progressing work on good governance issues, such as anti-bribery measures, environmental and social due diligence, and sustainable lending"* (Homepage OECD/TAD⁸⁴).

5.1.1.3. Legal Status of the Arrangement

The *Arrangement on Officially Supported Export Credits* is often referred to as the "OECD Arrangement" (see for instance the figure 8 above by Evans 2003: 5). Strictly speaking, it is, however, not an "act of the Organisation" [OECD], but rather an "arrangement between certain countries which are all Members of the OECD" (Ray 1998: 33). It has already been mentioned above, however, that OECD membership is not imperative. Although the Arrangement text is to be found on the OECD homepage and the Council provides the Participants' budget, the Arrangement "is owned" by the Participants and the "OECD serves as a mere administrative home" (Levit 2004: 77).

Several observers such as Ray (1998: 3) and Bonucci (2011: 49) argue that the legal status of the Arrangement – also considered a "Gentlemen's Agreement" – is deliberately ambiguous and not too tight⁸⁵. Since the disciplines are non-binding, the Arrangement is considered "soft law" and its Participants feel politically bound rather than legally obliged (Bonucci 2011: 50, 51).

Despite the loose link of the Participants to the OECD and the soft law character of the Arrangement, Richard Woodward considers export credits an area where "legal

⁸⁴ For the section on export credits see: <http://www.oecd.org/tad/exportcredits/ecg.htm>;

⁸⁵ Although the OECD Council and the Council of Ministers have legal instruments at their disposal, soft instruments such as recommendations, declaration, arrangements or understanding are used way more frequently by the Organization (Martens/Jakobi 2010a: 6 et seqq.).

governance⁸⁶ of the OECD takes precedence. While in general, the role of the OECD in the field of trade policy is one of supporting the WTO and the United Nations Conference on Trade and Development (UNCTAD) in norm building processes, it sets the “rules” itself in the case of export credits (Woodward 2009: 85).

Existing literature does not answer the question as to why this precedence occurred in the first place and why export credits were not from the very onset the domain of the GATT or why the authority over official export credits was not transferred to the WTO later.

One of our interview partners affiliated with the Export Credit Division shared with us his hypothesis on this matter and presented two reasons why the Arrangement was negotiated by the Participants and not the WTO. Firstly, the authority of the Arrangement over export credits results from the simple fact that at the time it was negotiated the WTO had not yet been set up and its predecessor, the GATT, was concerned more with competitiveness issues and not with broader trade policy (Interview VI). This historical argument will be examined in Chapter 6, which gives a detailed account of the context in which the Arrangement was established.

Secondly, it was, in the view of our interview partner, negotiated by the Participants and not in a more inclusive framework out of political calculation. The following quote illustrates the political reasoning stressed by our interview partner:

*“So the donors, there is a strong view on this in the US and I have **a strong view that the donors should control the discipline.** Because you know it’s coming out of donor tax payers’ money, you know, **he who provides the money should have the say in how it is used.** And the recipients may have mixed feelings but in the end there is a financial incentive to try to get as much as they can and so not to be so anti-subsidy” (Interview VI)⁸⁷.*

⁸⁶ The appropriateness of speaking of truly “legal governance” might be questioned considering the “toothlessness” of the Arrangement (as one of our interview partners from the ECG put it; similar expressions used in literature to describe the relative lack of “hard instruments for enforcement” are “talking shop” or “debating society” (Martens/Jakobi 2010a: 6). This, however, does not devalue the core argument of Woodward’s observation, being that the rules are set by the OECD and not e.g. the WTO (Woodward 2009: 85). The author does not explain his interpretation of this term legal governance. Here it is assumed that the emphasis lies more on the governance part, the regulatory role of the OECD in the field of export credits.

⁸⁷ Early documentation of the discussions on the impact of mixed credits in the DAC Working Party on Financial Aspects of Development Assistance (DAC/FA) in a way feeds arguments like those brought forward by our interview partner. In a note by the DAC Secretariat it says that “[d]eveloping countries draw substantial benefit from the subsidisation of export credits” (DAC/FA(81)1, page 17). In another note they are even considered the sole beneficiaries from such policies. However, in later DAC/FA documentation it becomes clear that these benefits might be rather short-term effects that only occur in case of true “additionality” of the resources provided in the form of mixed credits (see Chapter 7).

The assumption of a circumvention of the GATT/WTO out of political tactics is also reflected in Richard Woodward's analysis of the functioning of the OECD, albeit formulated in a more diplomatic manner. According to him, states negotiate legal agreements (in our case rather an informal agreement with elements of hard law) at an OECD level (in our case a group loosely linked to the OECD), because it enables them to deal with issues affecting disproportionately OECD countries. He argues – and this could be applied to the export credit case – that “[...] especially in areas where divergences between OECD and non-OECD members would obstruct a formal treaty in an international institution with a wider membership” (Woodward 2009: 72 ff.), the OECD figures as negotiation framework. In a similar vein, Steven Hall argues that the OECD was chosen as a forum because it “[...] allowed the US to target key tied aid players while excluding potentially obstructive third parties. [...] More importantly, **confining negotiations to the OECD precluded the presence of aid recipient countries**. Such states benefiting from aid diversion into export promotion and donor competition over terms would have a strong incentive to block agreement” (Hall 2011: 660 et seqq.; emphasis added). How this line of argument can be placed in the context of the DAC's (global) partnership approach will be examined in Chapter 8.

Despite its legal softness the Arrangement seems to have been working effectively over a considerable period of time. To some degree compliance with the Arrangement might be due to the legal mechanisms induced to the Arrangement as a consequence of its integration into other legal frameworks, above all into EU law and GATT respectively WTO law.

Since most EU legislation on export credits is based on texts elaborated within the Export Credit Division of the OECD, in particular the Arrangement, the latter became legally binding for a vast majority of the Participants Group. The main EU-internal legislation dealing with export credits is laid down in the “*Council Directive 98/29/EC on harmonization of the main provisions concerning export credit insurance for transactions with medium and long-term cover*”. This directive is based on Articles 132 and 133 of the “Treaty on European Union and of the Treaty Establishing the European Union” and spells out common principles for insurance and guarantee arrangements, premia and cover policies⁸⁸.

Paragraph 1 of Article 132 states the following: “1. *Without prejudice to obligations undertaken by them within the framework of other international organizations, Member States shall progressively harmonize the systems whereby they grant aid for exports to third*

⁸⁸ Documentation of discussions on officially supported export credits in the European Parliament can be found at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2010-0364&language=EN>;

countries, to the extent necessary to ensure that competition between undertakings of the Community is not distorted" (EU 2006 -essentially no changes made with Lisbon Treaty). This paragraph explicitly deals with aid for exports to third countries only and hence does not include intra-Union trade. The latter is covered primarily by EU law on state aid⁸⁹ (Martenczuk 2008: 182).

5.1.2. WTO Legislation

"Up to now development aid policies have been immune from any scrutiny of compatibility with free trade rules"

(La Chimia 2004: 7).

As illustrated by Evan's table presented earlier in this chapter (Chapter 5.1), in some areas the activities of the Participants (and the OECD) overlap with rules and practices of the World Trade Organization⁹⁰. This can be shown most prominently by the example of the Arrangement and the WTO's Agreement on Subsidies and Countervailing Measures (ASCM) (Evans 2003: 6 et seqq.).

In 1980 the Subsidies Agreement of the GATT came into effect, prohibiting the use of subsidized export credits to gain competitive advantages. Up to the present the Agreement, now having the status of a WTO Agreement, has provided a "safe harbor" for those export credit practices that are in conformity with the Arrangement. This means that violating the Arrangement also entails a violation of the Subsidies Agreement, which provides legal remedies (Mendelowitz 1989: 5). This "safe harbor" is most evidently expressed in item (k)⁹¹ of the ASCM, which prohibits the use of export subsidies with the exception of export credits in conformity with the Arrangement. The Agreement text states the following:

"Provided, however, that if a Member is a party to an international undertaking on official export credits to which at least twelve original Members to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original

⁸⁹ After the then EU Competition Commissioner in 1991 had "indicated that 'tied development aid' should be treated as a type of 'state aid'" (ActionAid 1999:13), ActionAid together with 40 other European NGOs submitted a legal complaint to the European Commission on the grounds that aid tying was violating EU competition and internal market rules (for the ActionAid briefing paper see http://www.actionaid.org.uk/doc.lib/71_1_competition_policy.pdf). This action was thought to be "crucial to galvanizing the international donor community to untie aid" (ActionAid/Milligan 2001: 26).

⁹⁰ The issue of tied aid and the relation of tying practices with the current WTO legal framework have so far been very little studied from a legal perspective. With their article "Addressing Tied Aid: Towards a More Development-Oriented WTO?" La Chimia and Arrowsmith attempt to fill this gap (Arrowsmith/La Chimia 2009).

⁹¹ Furthermore item (j) contains some provisions on officially supported export credits.

Members), or if in practice a Member applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement“ (WTO 1995: 263 ⁹²).

Although not referred to explicitly, with the term “international undertaking” the Arrangement on Officially Supported Export Credits is meant. Bonucci concludes that the Arrangement has hence “multilateralised”⁹³ its scope, meaning that any WTO member – Participant to the Arrangement or not – “would be deemed to comply with WTO obligations” (Bonucci 2010: 51). In this respect, the incorporation into WTO law gave international effect to what used to be (and in itself still is) a non-binding agreement, which has been negotiated by an elitist circle of countries over decades. The rather closed and secretive character of this group might thus be confronted with concerns considering the democratic nature of the resulting discipline and especially raises questions with regard to the OECD’s self-obliged premise of partnership in its relationship with developing countries. The latter were not part of the negotiating group during the 1970ies, 80ies and 90ies. The question whether they were given the chance to propose changes to the Arrangement at a later stage, will be dealt with in Chapter 8, in which the regulatory framework is assessed against the backdrop of DAC principles and ideas on development (aid).

5.1.3. Development Assistance Committee (DAC)

Tied aid credits and associated financing have traditionally also been a matter of concern within the DAC and fall due to their proclaimed development goals into its field of competence.

For the purpose of increasing the development policy content of the financing transactions and/or packages in question a *Working Party on Financial Aspects of Development Assistance* (DAC/FA)⁹⁴ was created within the DAC as early as 1975 (DCD/DAC/FA(99)6, page 5). From the early 1980ies onwards, it was the main task of this Working Party to follow and monitor the Participants’ work and to ensure that development aspects were considered appropriately in their negotiations (DAC/FA(85)2, page 21). The DAC/FA also took a more active role in regulating tied aid credits. First guidelines were adopted already in the 1980ies

⁹² The Agreement can be found on the WTO’s homepage under: http://www.wto.org/english/docs_e/legal_e/24-scm.pdf;

⁹³ A “way of proceeding” that – up to the Doha Round – can also be observed in other fields of WTO/GATT rule making.

⁹⁴ The DAC/FA Group replaced the Working Party on Terms of Aid. According to former DAC-Chairman Helmut Führer this took place in 1964 (Führer 1996: 16; OCDE/GD(94)67), documents available to me, such as the above quoted “DAC Review of Working Parties: Draft Report on the Working Party on Financial Aspects of Development Assistance, however, suggest otherwise and speak of 1975 as the Group’s inception year.

and continuously developed in parallel to the Participants' work. The most important ones were the *DAC Guiding Principles for the Use of Aid in Association with Export Credits and Other market Funds* (1983) and their successor the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* (1987). The DAC/FA's efforts culminated in the adoption of *New Measures in the Field of Tied Aid* in 1992.

The overlap of competences, as described above, results from the fact that official export credits and tied aid credits, as such both official flows to developing countries, are inextricably linked at their origin. Consequently, tied aid credits can only be understood in their relation to export credits. In somewhat broader terms this argument is also brought forward in a Note by the DAC Secretariat circulated to the Members of the DAC/FA in 1992: "*Considered that way from an analytical point of view, tying of aid can be viewed as way to in fact establish an official export subsidy to promote the own trade or at least to defend the existing national market shares on faraway markets. **The debate on tying should therefore be placed in the perspective of the OECD countries' export credit support schemes in general***" (DCD/DAC/FA(92)8/REV1, para.3; emphasis added).

While the next chapter will approach tied aid credits from the Participants' angle and will hence investigate the broader context of export credit schemes, Chapter 7 will put the DAC's role in designing and regulating associated financing and tied aid credits at the centre stage. Despite the DAC's engagement in the field of tied aid credits and especially associated financing, it seems that the Committee was not in full possession of its "development mandate". Whether this gives reason for concern or whether the Participants took good care of the developmental orientation of tied aid credits remains to be assessed in the chapters to come.

6. Historical Genesis of the Arrangement on Officially Supported Export Credits: Evolution and Status Quo of the Tied Aid Disciplines

With these general provisions in our toolkit, we will now look deeper into a specific part of the Arrangement on Officially Supported Export Credits, namely the disciplines on tied aid credits.

This analysis of the international regulatory framework covering tied aid credits is split into two parts. The first part - dealt with in this chapter - adopts a historical and somewhat more “descriptive approach”. It aims at tracing tied aid credits back to their historical roots. The underlying question of this chapter is whether tied aid credits originate from a development corner or were designed from an export credit finance perspective. Understanding the original motivation is crucial for two reasons. Firstly, it explains why the Arrangement’s disciplines on tied aid credits are the way they are since they try to disincentive certain practices. Secondly, it partially gives an answer as to whether it is legitimate to consider tied aid credits an instrument of development policy. This inquiry of the original motivation behind tied aid credits also paves the way for our later analysis with regard to the ODA-eligibility of these flows – a concept fundamentally based on the motivation and intention of the donor to make a certain transaction.

The second part of the examination, which will be dealt with in Chapter 7 makes use of the information gathered in this chapter and analyses tied aid credits and the “legal” framework regulating them from the perspective of development policy.

As has been shown in the literature review provided in Chapter 1.2.1, academic literature on tied aid credits in general and their historical genesis in particular is limited. By far the most insightful publication on the genesis of tied aid credits is John Ray’s book “Managing Official Export Credits: The Quest for a Global Regime”, on which this chapter heavily draws. Resulting from the unsatisfying number of scientific literature available, the chapter is also based on archive footage, primarily on Aide-Memoires of Participants’ meetings as well as on Notes by the OECD Secretariat (Trade (and Agriculture) Directorate). This is done so as to fill important information gaps. Claims of giving a full historical account of the events are, however, not made. For the part on motivations driving tied aid practices – as such difficult to

find in official documentation due to their implicit character – analyses of the expert interviews conducted at the OECD will be provided.

The account that will be given is also partial in the sense that the focus is put on a narrow part of the Arrangement, namely the provisions on tied aid credits. That is also why I concentrate on two “packages” – the Wallén and the Helsinki Package – as well as the resulting Ex Ante Guidance for Tied Aid. While also other more “general” provisions of the Arrangement might be relevant for development policy, the Wallén and even more so the Helsinki Package are the two rule sets explicitly designed for tied aid credits. In total, four so-called packages⁹⁵ have been adopted, which are basically amendments to or revisions of the Arrangement. Other changes made to the Arrangement, like the adoption of sector understandings as well as the redrafting of the whole Arrangement text, completed in 1997, are not grouped in specific “Packages”. Although highly interesting from a development perspective, the attempt and eventual failure to adopt a sector understanding on agriculture will be addressed only briefly because an in-depth inquiry would easily fill the pages of another master thesis. This is because the aim is to capture as best as possible development policy issues and not necessarily effects of the general Arrangement provisions on recipient development. This would have simply gone beyond the scope of my possibilities because such an undertaking requires a lot more information from the recipient side.

Since the Participants have, so to speak, the primacy over the regulation of tied aid credits (Evans 2003: 6 et seqq.), the focus of this chapter lies on the work of this group. It aims at examining how the Arrangement has evolved and what role development aspects played in its formulation and later evolution. Despite this focus on the Arrangement, parallel and at time complementary work done within the DAC and especially the DAC/FA⁹⁶ is addressed whenever appropriate. After all, these different bodies and their respective work relate to each other and cannot be understood in isolation.

The complexity of the issue demands a high degree of flexibility from the ones studying it. In this respect, I follow John Ray's book, although some criticism has been voiced concerning his approach. One reviewer, for instance, states the following: *“However, it may be unavoidable that readers may feel lost. It would make the arguments stronger and help carve them into readers' minds if the book had a clearer theme”* (Wang 1997: 827). In defense of Ray's insightful account it is argued that this feeling of “being lost” rather results from the

⁹⁵ These, with the exemption of Helsinki named after the Participants' Chairman at the time, are the following: Wallén Package (1987), Helsinki Package (1992), Schaerer Package (1994), Knaepen Package (1997) (see OECD 1998).

⁹⁶ The DAC side of the tale will be addressed in greater detail in the subsequent chapter. A more detailed examination of this Groups' influence on Participants' negotiations will be provided in Chapter 7.1.3.

hybridity of the instrument and the complex regulatory answers to it and is not necessarily result of an author having lost track. It will be shown in the course of this chapter that at their roots tied aid credits and export credits are inextricably linked. Although I will first examine trade consideration and then aid consideration, jumping from export credits to tied aid credits as well as from development aid to export promotion is unavoidable at times – after all these practices are not worlds apart. Every now and then the reader will find information boxes that shall help them orientate in the “jungle of the export credit world”, as one interviewee put it (Interview VII).

The Arrangement says: *“Tied aid policies should provide needed external resources to countries, sectors or projects with little or no access to market financing. Tied aid policies should **ensure best value for money, minimize trade distortion, and contribute to developmentally effective use of these resources**”* (TAD/PG(2012)9, CHAPTER III, page 19; emphasis added).

An attentive reader might have noticed that the aim of contributing “to the developmentally effective use of tied aid credits” in the above quote is only listed last. The following chapters enquire whether this order is mere coincidence or reflects the priority setting of the Participants. If development concerns indeed play a subordinate role, the question arises what this means for the quality of development assistance, which is delivered in the form of tied aid credits.

6.1. Contextualization: an Export Credit Race on the Rise

To understand negotiations on tied aid credits one needs to go almost half a century back into the 1970ies, a time when “survival of the fittest”⁹⁷ in a somewhat perverse sense was common practice in the jungle of officially supported export credits.

⁹⁷ Perverse in the sense that the fittest therein was not the most competitive player on a free market, but the strongest, that it best state-supported, Export Credit Agency.

Box 5: “Trade Considerations”

The trade considerations step-by-step leading to the below analyzed rules have to be understood in the context of the OECD’s overall “liberalization agenda”.

In Article 1 of the OECD Convention, signed in December 1960, contributing “*to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations*” is declared as one of the Organization’s main goals” (quoted in Jepma 1991: 2)⁹⁸.

Accordingly, the international trading system which is built around the basic principle that competition for export sales should be determined by price, quality and services and be free from government interventions likely to distort competition. Departing from this commercial viewpoint, subsidizing financial terms be it through associated financing⁹⁹ or any other form of export subsidy that lowers the cost to the buyer, goes against this “philosophy” (DAC/FA (82)2, TC/ECG/82.4, page 14).

In this vein, a Note by the Secretariat states that from a trade policy view point, associated financing raises a broader spectrum of concerns than those directly relevant for aid policy. “It is immaterial to the commercial impact of a financing package whether its subsidy element derives from the aid program, or from some other source of concessional public funds. What is of concern, in the end, is the potential trade distortion resulting from a subsidized concessional financing package, rather than the specific nature of the package’s component” (DAC/FA (82)2, TC/ECG/82.4, page 15).

It was in the wake of oil crisis in the early 1970ies that international negotiations over export credits were taken up (Rosefsky 1994: 446). The four-fold increase in oil prices in 1973 provoked drastic trade deficits in many OECD countries – most of which traditionally were oil-importing states (Levit 2004: 75). In view of steeply increasing oil prices industrialized countries needed more and more hard currency to be able to satisfy their oil consumption (Geberth 1998: 27). In order to curb their exports in a situation of worldwide economic depression, most industrialized countries heavily subsidized their exporters via their Export Credit Agency. Since at that time no detailed rules were in place regulating the terms that ECAs could offer¹⁰⁰, an export credit “war” became a threatening and conceivable scenario

⁹⁸ Petermann (2013: 212) argues that “[t]hese recommendations may have been rather abstract and general, but they became the foundation on which the DAC’s free-trade philosophy was to be built. The institution’s efforts to liberalize trade and aid flows, in turn, were to become a central normative pillar of the unttying aid initiative”.

⁹⁹ A definition of associated financing is provided in Chapter 3.2.

¹⁰⁰ The only exception was the subsidies code of the GATT. An analysis of the treatment of tied aid in general under the GATT and its successor is provided by Arrowsmith and La Chimia (2009) in their article “Addressing Tied Aid: Towards a More Development-Oriented WTO?”.

(Cutts/West 1998: 12). The macro-economic changes which were reflected in large trade deficits were accompanied by sharp increases in interest rates and made official interest rate subsidies ever more expensive for already heavily burdened governments. Given these economic conditions “[...] -high interest rates, large trade deficits, and limited government resources- all OECD ECAs braced for an inevitably costly export credit race, but also recognized that their own internal budget situation might not permit unfettered participation in that race” (Levit 2004: 75). In response, those politically responsible – mostly finance ministers - undertook first steps towards leveling the playing field.

Although not discussed in the literature on official export credits at hand, these early developments in the use and regulation of export credits were linked to major changes in the world economic system brought about by the abandoning of the Bretton Woods system of a gold standard in favor of a “managed float regime” in 1971. By that time the value of the dollar was being undermined by an increasing American trade deficit and inflation in the USA, while Germany and Japan both had positive balances of payment and undervalued currencies. The transition to a freely floating dollar led to a devaluation of the dollar, which provoked radical changes in the international competitive environment (Conte/Karr 2001)¹⁰¹. The resulting drawback in the relative competitiveness of German and Japanese exports, had, one might assume, repercussions on the export credit policies of these countries. More precisely, European states and Japan began subsidizing export credits on a large scale in order to match the terms the U.S. Ex-Im Bank could offer without subsidization due to low interest rates (Fernald 1984: 438).

6.2. The Early “Consensus”: Establishing a Level Playing Field

When industrialized countries realized that their race for export credits would be to their own detriment, slowly but nonetheless steadily forms of cooperation between the rivals emerged. In a study conducted for the Austrian Institute of Economic Research (WIFO) Bayer et al. explain this emergence of cooperation¹⁰² with the help of game theory. To overcome the “prisoner’s dilemma”, in which industrialized countries found themselves, the different actors sought to eliminate information asymmetries and allow for cooperation¹⁰³ which eventually

¹⁰¹ The information are drawn from the “Outline of the U.S. economy” prepared for the U.S. Department of State.

¹⁰² Andrew Moravcsik (1989) gives a somewhat more thorough account of why states agreed on the Arrangement and proposes “theoretical explanation for the formation, maintenance, and success of this regime”. Game theory is thereby only one of the theoretical concepts he draws on (Moravcsik 1989: 174). He, moreover, examines in great detail different country positions in the course of negotiations (in the beginning above all diverging positions of the USA and France).

¹⁰³ Such a move to cooperation in order to avoid “spiraling escalation of spending” proves particularly difficult, “when preferences over levels of expenditures vary” considerably between the competitors. In such a situation cooperation

would improve the position of all ‘players’ (Bayer/Stankovsky/Url 1992: 11; Moravcsik 1989: 199; Petermann 2013: 205; Ray 1995: 156).

With the growing realization of the adverse effects of excessive use of export promotion, several informal agreements within the IMF, the OECD and at G5 summit meetings were concluded, all of which were attempting to regulate export subsidies and to bring an end to the export credit race that started taking its toll on government budgets (West 2011: 21). At the G8 summit at Rambouillet in 1975, “[t]he Heads of State and Government of France, the Federal Republic of Germany, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland, and the United States” declared that they “[...] will also intensify [...] efforts to achieve a prompt conclusion of the negotiations concerning export credits” (*Rambouillet Declaration 1975*).

It was this declaration that provided the basis for an informal consensus – the “Consensus on Converging Export Credit Policies” - agreed on in 1976 by a limited number of OECD countries on how to subsequently deal with export credits (West 2011: 21). This early consensus would, however, only be the beginning of difficult and long-lasting negotiations¹⁰⁴. The minimum consensus of 1976 set targets for maximum duration and minimum down payments (Ray 1995: 52) and fixed a common minimum rate of interest for credits with a maturity of more than two years below which credits should no longer be extended. This rate varied in accordance with categories established for borrower countries, essentially being higher for richer than for poorer countries (Byatt 1984: 163 et seqq.). Furthermore, the “Consensus” provided early rules for credits linking commercial and aid credits, so-called mixed credits (Ray 1995: 52).

The “Consensus”¹⁰⁵ was formalized in 1978 in the so-called *Arrangement on Officially Supported Export Credits* (West 1998: 9). At this early stage the Arrangement only set modest limits for interest-rate subsidies and banned maturity terms above ten years (Moravcsik 1989: 199). With the help of these measures, the Participants temporarily “contained what was a rapidly developing credit race” (Stafford 1998: 45). Detailed provisions on tied aid credits were not yet included in the Arrangement – it only gave some guidance with regard to notification procedures in accordance with the percentage of the

will only evolve when also “governments with sufficient budgetary resources prefer subsidy reduction, but can mobilize domestic constituencies to make subsidy retaliation credible” – as will be shown later this was exactly the USA’s position and role in negotiations (Hall 2011: 346).

¹⁰⁴ This Consensus was not yet spelled out in a multilateral declaration, but only declared in unilateral statements by individual governments (see for instance Fernald 1984: 443). For a very detailed discussion of how this first Consensus emerged see Geberth 1998.

¹⁰⁵ Somewhat misleadingly the term “Consensus” is still widely used to refer to the Arrangement (Bayer et al. 1992: 12).

grant element (Fleisig/Hill 1984: 341). While tied aid credit practices were not restricted, it was expected that through the notification procedures, which were strengthened in 1981, their transparency would be enhanced (DAC/FA(82)2, TC/ECG/82.4, page 6).

6.3. Packages Adopted and Alternatives Discussed up to Helsinki

This tightening of rules for “traditional” export subsidies – especially so the sharp increase in so-called matrix interest rates as well as the no-derogation agreement¹⁰⁶ – put limits to the Participants’ capacity of giving direct subsidies to export credits. As a result national export credit programs decreased steadily. Additionally confronted with a severe debt crisis in most of the developing world, industrialized countries were in search of alternative ways of keeping their export levels up (Ray 1995: 66).

In this dismal situation they more and more frequently took recourse to tied aid credits, which allowed them for some time to continue their subsidy policies under the disguise of giving (development) aid. This trend also manifested itself in a growing number of OECD countries putting tied aid schemes in place. While in the 1960ies only few Participants (including France and Switzerland) had such systems in operation, in the early 1980ies the majority of the then 22 OECD member countries participating in the Arrangement had the opportunity “to blend export credits with concessional aid loans” (DAC/FA(81)1, page 15). This *renaissance* of tied ODA in the late 1970ies and early 80ies was also due to the fact that “the untying problematique lost much of its salience in the day-to-day development politics”, which were overshadowed by more pressing issues resulting from the oil crisis (Petermann 2013: 214).

John Ray, for instance, makes this point and argues that in reaction to the falling demand for export credits, most OECD countries maintained, if not increased, their offers of tied aid credits with higher grant elements. Most of these aid credits were extended for long-term projects in countries hit the hardest by the debt crisis – which tended to be the richer developing countries. Increasingly, tied aid credits became a distorting factor of competition among the OECD countries and replaced interest rate subsidies as prime source of trade distortion (Ray 1995: 67). Also within the DAC Working Party on Financial Aspects concern was raised that “*the spreading use of mixed credits [...] threatens the basic discipline of the Arrangement*” and will lead to the relaunch of “*the export credit terms race under another*

¹⁰⁶ Matrix interest rates - the system in place before the introduction of CIRRs – were fixed uniform interest rates for financing exports (TD/CONSENSUS/86.53, DAC/FA(86)12, page 38). Prior to the no-derogation agreement, Participants could derogate (e.g. from maximal duration) as long as prior notification was given. The only derogation henceforth still in place was the matching mechanism (Ray 1995: 55).

guise" (DAC/FA(82)2, TC/ECG/82.4, page 15). In a similar vein, our interview partners also made the observation that, as the early Arrangement tightened rules for traditional export credits but neglected tied aid credits, the latter were soon seen as way of circumventing the Arrangement (Interview V, VI, VII). One interviewee, however, specified that "circumvent" was not the best word because there was not yet much to circumvent. This is why this interview partner repeatedly described the practices as follows: "*They were used to play competitive games*" (Interview VII). Similarly, other observers see early tied aid credits as "*subsidy by the back door*" (Stafford 1998: 46).

Ray uses the example of the UK's Export Credits Guarantee Department (ECGD) to explain that in the immediate post-war period officially supported credits were thought to be a proper and logical way of promoting development in the poorer countries of the world (Ray 1995: 58 et seqq.). Documentation of DAC/FA meetings in the early 1980ies gives credential to the observation that some member countries "consider the use of ODA in association with export credits to be a **normal and useful way of increasing the flow of development financing and improving its terms**" (DAC/FA/M(81)1(Prov.), page 4; see also DAC/FA(85)2, page 5).

Gradually, however, both export credit agencies as well as aid agencies came to the realization that the two programs should be separated for as to avoid both trade and aid distortions. The greatest distortions, they thought, were being emanated from tied aid credit practices (Ray 1995: 59). At the DAC High Level Meeting in 1981, for instance, the Secretary-General stressed that putting undue emphasis on short-term export or employment benefits of mixed credit practices "[...] *could raise unrealistic expectations in public opinion and was bound to produce distortions in both trade and aid effectiveness*" (quoted in DAC/FA(82)2 and TC/ECG/82, page 5, see also DAC/FA(81)1, page 16). The Byatt Report published in 1982 (named after the chairman of the responsible research team I.C.R. Byatt) also voiced concern about the harmful effects of subsidies given to the export of capital goods. Above all, in the long-run they were considered "[...] *an extremely expensive way to reduce unemployment*" (Byatt 1984: 177). The report provoked a considerable controversy in the UK, but – as Ray puts it – "[t]he world economic climate in the first half of the 1980ies was not propitious to cutting back on the use of tied aid" (Ray 1995: 68).

In a first attempt to curb these practices, Participants agreed to increase the minimum permissible grant element to 20%, thereby rendering tied aid credits more expensive. Furthermore, notification requirements for tied aid credits were strengthened, which "*reduced the competitive advantage that could be gained*" by employing tied aid credits (Moravcsik 1989: 186).

Box 6: Associated Financing and Aid and Trade Distortion

The association of aid funds and export credits leads to aid and/or trade distortion, if the transfer of the ODA element is made conditional upon the acceptance by the recipient of the export credit (and hence the exports) of the donor country that the recipient in the absence of an effective association would not necessarily have taken (or would not have taken from the same donor which extends the aid transfer). *“The problem therefore rests on tying the less concessional part of the financing package to procurement in the donor country and making the transfer of the more concessional part of the financing package conditional on such procurement”* (DAC/FA(82)2, TC/ECG/82.4, page 13).

The key challenge repeatedly evoked in meetings (see for instance DAC/FA(82)2) consisted in the separation of aid and trade flows. According to John Ray, reaching an agreement on the proper relationship of officially supported export credits to official development aid was one of the most difficult tasks. To a certain extent the belief that these flows should be separated was also reflected in an earlier DAC decision (1969) to divide its concept of official flows into two distinct types of flows: Official Development Assistance (ODA)¹⁰⁷ and Other Official Flows (OOF) (Führer 1996: 21). In the same year the idea of weighing members' contributions according to their respective grant elements¹⁰⁸ was introduced (Ray 1995: 59 et seqq.), a concept which would later also play an important role in the work of the Participants.

Before the Participants could take up negotiations on the difficult issue of tied aid credits, they had to agree on a common understanding of the term “tied aid”. Differentiating between and agreeing on definitions of tied and partially untied aid turned out to be a cumbersome undertaking. The DAC was working on these definitions in parallel and when it agreed on the revision¹⁰⁹ of its old definitions in 1985, the Participants also declared that their disciplines would henceforth refer to both tied and partially untied aid (Ray 1995: 69 et seqq.).

Following a Ministerial Council Meeting in 1984 in which major concerns about the ongoing subsidy race via tied aid credits were raised, both the Participants and the DAC worked to

¹⁰⁷ The criteria along which flows are separated as well as more general information on the DAC's concept of ODA are provided in Chapter 3.1.

¹⁰⁸ Three years later, in 1972, the DAC introduced the requirement, valid up to today, that financial have to contain a grant element of at least 25% calculated on the basis of a 10% discount rate for as to be counted as Official Development Assistance (Petermann 2013: 213 et seqq.).

¹⁰⁹ The revisions concerned primarily the required grant element. Henceforth tied aid was supposed to have a 25% instead of a 20% grant element in order to count as ODA (Führer 1996).

fulfill the Ministers' Mandate of bringing these harmful practices to an end. In the corresponding Ministerial Communiqué it says:

"Ministers affirmed their commitment to avoid any de jure or de facto financing practices which give rise to trade distortions and to diversion of aid flows from development objectives and to apply fully the guiding principles they have agreed upon. They enjoined the competent bodies of the Organization to take prompt action to improve existing arrangements so as to strengthen transparency and discipline in this area by all appropriate means" (OECD Ministerial Communiqué 1984, 18 May, para. 22, quoted in DAC/FA(85)2, page 4).

The afore-mentioned decision by both Participants and the DAC to include partially untied aid in the Arrangement guidelines was an important step towards the fulfillment of the Ministers' Mandate (Ray 1995: 73 et seqq.).

While in the 1984 Communiqué it was not yet clear whether an increase in the minimum permissible grant element (MPGE¹¹⁰) was the right step forward, the 1985 Communiqué announced the agreement on an increase of the grant element to 25%. Despite this progress ministers declared that *"[m]easures aiming at strengthened transparency and discipline in the field of tied-aid credits and associated financing of exports will continue to be pursued expeditiously"* (OECD Ministerial Communiqué 1985, 11 April para. 14(a), see Annex Ray 1995: 295).

It would take the Participants, however, another decade to agree on drastically cutting back on the use of tied aid credits (Ray 1995: 68). Especially the USA, whose aid program¹¹¹ was less focused on capital goods than it was the case with their European counterparts (Mendelowitz 1989: 3) and whose exporters thus felt disadvantaged, got frustrated with the standstill in negotiations and decided to leverage its negotiating position with a more

¹¹⁰ Austria, for instance, was long hesitant to agree on an increase of the MPGE arguing that it "[...] feared that such an increase might be counterproductive, both to exporters and to LDC's [sic!]" (TD/CONSENSUS/85.88, page 3). This opposition to an increase of the MPGE was reiterated at several meetings in 1986 (for instance TD/CONSENSUS/86.11 or TD/CONSENSUS/86.66). The Swiss Delegate also stressed that trade distortion was not a function of the grant element, and that hence with higher grant element thresholds trade distorting practices would continue, albeit higher cost level. Consequently, the Delegate emphasised the need for additional measures (TD/CONSENSUS/86.66, page 3)

¹¹¹ This focus of the U.S.' foreign aid program on basic needs rather than on capital goods was also emphasized by two of our interview partners. This diverging aid policy was presented as one of the main reasons for the USA's strong commitment to design more comprehensive rules (Interview VI and VII). More information on the U.S. position can be found in the note by the U.S. delegate (DAC(88)11).

persuasive argument: a “war chest”¹¹² (Mendelowitz 1989: 4). The money provided through this chest – established in 1985 - should be and was used to extend mixed credits specifically targeted to outbid offers by France, which according to the USA was blocking negotiations (Ray 1995: 75). Ronald Reagan himself is reported to have said in this context that the war chest shall be used to combat foreign credit subsidies that “[...] *deprive US companies from fair access to world markets*” (New York Times, 26 September 1985, quoted in Ray 1995: 75). The fact that tied aid credits were even addressed on a presidential level gives further credit to the assumption that this instrument was touching upon core national interests of the participating countries.

The same year also the UK announced that it intended to use tied aid credits more aggressively (Ray 1995:75). A perfect example of soft loan practices in the mid-80ies are what Ray titles “Helicopter Follies”¹¹³ - the procurement imposed by the UK on the Indian government of 21 Westland W-30 helicopters completely unsuitable for their intended duties in the natural gas and oil sector (Ray 1995: 76, 77). Understanding that these practices had little to nothing to do with sound development projects or the more general intention of promoting development in the recipient country does not require detailed examination. It clearly illustrates that in the 1980ies the “[...] *possibility of a full-fledged export credit war became a probability*” (Ray 1995: 74).

Most authors who have examined the formation of the Arrangement seem to attribute, albeit to different degrees, an important role to the war chest in the run up to the Wallén Package. Like in Ray’s (1995) and Mendelowitz’s (1989) account, also in Katherine Rosefsky’s portrayal the U.S. is seen as the major actor pushing for further regulation of tied aid credit practices via its war chest. Moravcsik (1989: 199, 200) even goes as far as to say that “[a]greements were possible in 1978, 1983, and 1985 because the United States threatened to use a unique power resource, grounded in the greater depth of North American capital markets, which permitted it to extend very long term loans. [...] **Breakthroughs in the negotiations in 1983 and 1987 followed explicit American threats of retaliation**” (emphasis added).

¹¹² Already a couple of years earlier, in 1980 the U.S. had threatened to offer credits with longer repayment terms than those allowed under the Arrangement should negotiations on strengthened disciplines not be intensified (Ray 1995: 54). Also after agreement on the Helsinki Package had been found the now called “Tied-Aid Capital Fund” was continued to be used as a competitive tool (see GAO 2002; also Ray 1995: 106 et seqq.). An insightful account of the usage of the “war chest” is also provided by Steven Hall (2011).

¹¹³ In his book “Lords of Poverty” Graham Hancock (1989) gives a detailed account of this alleged “aid transfer” (Hancock 1989: 163 et seqq.).

In a similar vein, two of our interview partners described the search for regulation of tied aid credits as a U.S. led project (Interview VI and VII). In this respect, their narrative of agreement on the Arrangement fits into the conceptualization of a “Pax Americana” or can, according to Moravcsik, at least be interpreted as an “[...] *expression of hegemonic stability represented by the neoliberal international aid and trade system which has been backed by the U.S. since the 1970s to prevent ‘American decline’*” (Petermann 2013: 230). Similarly, Hall argues that the U.S. was not only crucial in the making of an early consensus but also in pushing for agreement on the Helsinki Disciplines (Hall 2011: 346). He concludes his analysis by saying that “[d]espite an apparent decline in international influence, the U.S. was able to compel accession to the Helsinki agreement by threatening substantial increases in its spending” (Hall 2011: 346).

6.3.1. The Wallén Package (87)

“Final results cannot be better than the lowest common denominator. One has to take the opportunity to find a better solution when it rises but also be realistic enough to see when the best is the enemy of the good. Progress is the art of the possible” (Chairman Report Wallén; quoted in Ray 1995: 81, 82)¹¹⁴.

The above situation led to tough negotiations which eventually – after the change in position of France - culminated in an agreement on the Wallén Package in 1987. This Package, named after the then Chairman of the Participants, Axel Wallén, of the Swedish Ministry of Finance, introduced a new method of calculating the grant element, from then on referred to as “concessionality level”¹¹⁵. Henceforth, the Participants no longer followed the DAC’s way, but used a Differential Discount Rate (DDR), which should ensure that market interest rates for each currency were better reflected¹¹⁶. The decision to adjust the basis for the calculation of the grant element had been preceded by difficult negotiations between Low Interest Rate Countries (LIRCs), such as Austria, and High Interest Rate Countries (HIRCs). The main matter of contention thereby was that for LIRCs it was easier to provide the 25%

¹¹⁴ This quote also hints to another important point that will briefly be touched upon later: the political reality of negotiations between independent nation states within a system built on consensus. It is important to keep this in mind because it is critical for understanding negotiation outcomes.

¹¹⁵ The “name change” can be seen as an attempt to signify underlying methodological differences (DAC/FA/M(87)1(Prov.)).

¹¹⁶ Another, yet older, difference with regard to the calculation of the grant element persisted: While the DAC used the commitment date of an ODA loan for measuring its maturity, Participants count maturity from the Berne Union starting point – the latter yields, according to the DAC Secretariat – a somewhat lower grant element (DAC/FA(85)2, page 13; DAC/FA(87)6, page 3).

grant element because their CIRRs¹¹⁷ were below the uniform 10% used to calculate it¹¹⁸ (Ray 1995: 79).

Concomitantly with these changes in calculation, the minimum concessionality level was increased once more, from 25 to 35% (OECD 1998: 19). Again, the Participants expected that by increasing the costs linked to the extension of tied aid credits, aid agencies “[...] *would be less willing to allow their scarce aid funds to be used to improve the competitiveness of their exporters in bidding for commercial projects of limited development interest*” (Timonen 1998: 53).

Simultaneously, the Participants as well as the DAC worked on fulfilling the Ministers’ Mandate. To that end the 1986 *Good Procurement Practices* as well as the 1987 revised Guidelines for *Associated Financing and tied and partially untied ODA* were adopted. Chapter 7.1.4.2 discusses these DAC set of rules in greater detail.

Box 7: The Wallén Package in a Nutshell

- “- The minimum permissible concessionality level for tied and partially untied aid was increased to 50 per cent for credits to LLDCs and to 35 per cent for other countries;
- The discount rate for calculating the concessionality level was changed from a standard 10 per cent to differentiated discount rates and
- Matrix rates were abolished for Category I countries and increased by 30 basis points for other categories” (TD/CONSENSUS/88.25).

6.3.1.1. An Inquiry into the Logic of Concessionality

As mentioned before the Participants borrowed their concept of a concessionality threshold from the DAC’s grant element. While at first they entirely followed the DAC’s example of setting a 25% grant element as threshold for flows to be counted as ODA (Ray 1995: 61), the Participants as of 1987 used a derived concept – the so-called concessionality level. The reasoning behind it, however, essentially remains the same. While the DAC’s approach is

¹¹⁷ According to the Arrangement, the minimum interest rate applied for official financing support for loans with a fixed interest rate is the Commercial Interest Reference Rate (CIRR). CIRRs should represent, inter alia, “final commercial lending interest rates in the domestic market of the currency concerned” and should “correspond to a rate available to first class foreign borrowers” (TAD/PG(2013)1, page 11).

¹¹⁸ A similar discussion on whether the 10% discount represented market realities should later also pop up in the DAC – albeit accompanied by astonishingly little public debate and NGO engagement.

based on a calculation of the opportunity costs to donors, the Participants' approach measures the financial costs of the loan to donors. Both approaches, however, do not reflect any measures of the benefit to recipients (for instance in comparison to other financial sources) (DCD/DAC/FA(2002)2, page 4).

By the mechanism of the concessionality level the Participants aim at reducing trade distortions through tied aid credits while still allowing for sound development projects to be financed this way. Following this line of reasoning a higher concessionality level is equaled with greater development content of a project. With higher levels of concessionality, the budgetary sacrifice of a given amount of national exports grows and the use of aid subsidies for commercial purposes becomes more expensive. Consequently, so goes the argument, they are not mindlessly (ab)used to promote exports (Tvardek 2011: 210) and trade distortion is reduced. While any tied aid (including tied grants) is liable to involve some trade distortion, Participants in the Arrangement accept this at a high level of concessionality because of the presumed development orientation of a high grant element transaction¹¹⁹. Up to the adoption of the Wallén Package it was expected that by increasing the minimum concessionality and the cost to donors, aid would be used more carefully for high priority projects (TD/CONSENSUS/86.53 p. 29/30).

Steve Tvardek labels the concept of concessionality a "typical economist's solution" and compares it to a tax that is designed to discourage a certain activity or behavior (Tvardek 2011: 210). As a by-product of this "tax" resource transfers to aid recipients are thought to increase and a more valuable contribution to the aid product is expected. At first glance it might seem irrational to try to resolve a problem resulting from aid subsidies by asking for a higher degree of the very subsidy that one actually wants to prevent. However, a closer examination of the political realities of tied aid credits quickly shows that black and white rules, that is rules banning the extension of such credits altogether, simply were not a feasible option (Interview VI)—a somewhat pragmatic stance which is also reflected in Axel Wallén's statement above according to which "progress is the art of the possible" (Chairman Report Wallén; quoted in Ray 1995: 81, 82).

¹¹⁹ Economists disagree on whether every aid is by its very definition distorting market mechanisms; for an examination of whether it is the tying status or also the grant/loan feature that determines the degree of distortion, see the ODI (2009) report "The Trade Implications of Aid Instruments and Tying Practices".

6.3.2. Failure of the Wallén and Negotiation of the Helsinki Package

Soon after the implementation of the Wallén Package (done in two phases¹²⁰) the Participants were confronted with limited and partially even adverse effects of the measures they had taken.

Already in 1988 the then Chairman of the Participants, John Coleman, drew attention to the fact that the effects of the newly adopted disciplines in the field of mixed credits were questionable in important export markets. He gave the example of Indonesia, where mainly trade-motivated mixed credits were offered at an average of 40% concessionality level. “[...] *Indonesia has succeeded in imposing very high costs on export credit activity in its market - indeed effectively forcing many export credit agencies to become large aid donors - and our governments do not seem to be deterred by these increased costs*” (TD/CONSENSUS/88.14, page 4)¹²¹. In this respect one of our interview partners argued: “*Whatever color the Indonesian list of projects is, they became routinely requiring aid for any capital goods project. That shows you how bad the situation got*” (Interview VI). David Stafford, former Chairman of the Participants’ Nuclear Sector and Aircraft Sector Groups, examines the situation in greater detail and explains that by Presidential Decree Indonesia made aid credits a precondition for all public-sector infrastructure projects (Stafford 1998: 47). “*Gone were the days of unsophisticated buyers when a low interest rate without regard to currency often determined the award of contracts. Procurement agencies are adept at evaluating finance offers as one element of an overall package and playing willing suppliers off against one another*” (Stafford 1998: 47)¹²².

In a Note by the Secretariat in 1988 “[e]xperience with the new rules of the Arrangement on tied aid and partially untied aid financing” was evaluated (a series of three of such notes were distributed to the Participants). The Note confirmed Coleman’s appraisal and concluded that the package had not delivered the expected results. Statistical analysis provided in this note suggested that the new disciplines had triggered a move from poorer to richer developing countries as main “beneficiaries” of tied aid credits and gave reason to presume that the terms of aid credits for the LLDCs had hardened (TD/CONSENSUS/88.25). Figure 8

¹²⁰ The implementation of the new method took place in two steps, on 15 July 1987 and on 15 July 1988 (Ray 1995: 80).

¹²¹ In this same report he proposes to limit trade-related tied aid credits to an agreed maximum threshold which could be set as a proportion of a donor’s overall ODA disbursement (TD/CONSENSUS/88.14). This proposition was, however, not taken up by the Participants.

¹²² Keeping the historical context of the Cold War in mind, the “strategic use” of tied aid credits, indicated by Stafford, appears as common practice. Petermann (2013: 116, 117) examined recipients’ strategies of gaining the greatest advantage from the competition between the superpowers – a fight over influence, which was also fought in the development aid arena.

below shows a sharp increase in the volume (in billion SDR) of tied aid credits with a concessionality level between 30-35% and a reduction in those with softer terms (45-100%).

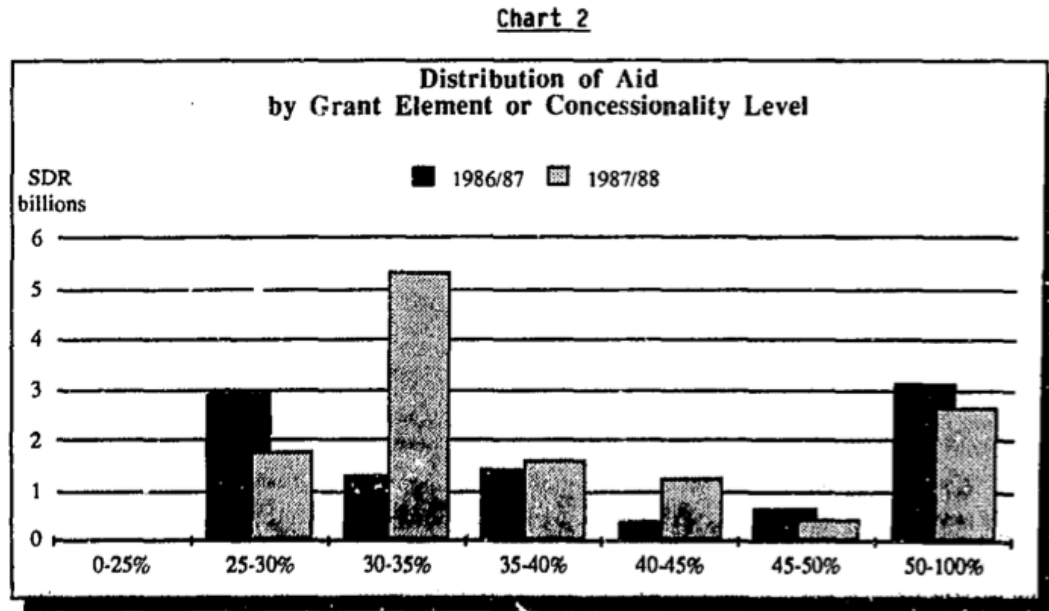


Figure 8: Hardened Terms after Agreement on the Wallén Package

(Source: TD/CONSENSUS/88.25, page 4)

A year later, still no changes to the better had occurred. In its note the Secretariat stated that the package contributed to a sharp decrease of credits at very hard terms¹²³, but “*caused a bunching up just above the new minimum concessionality level*” (TD/CONSENSUS/89.24). In the same report concern was again voiced with regard to the regional distribution of softer tied aid credits. “*Richer developing countries seem to have profited more from the package than the poorer ones. On the one hand, richer countries' share in total aid notifications increased steadily and, on the other hand, the weighted average concessionality level for richer countries increased noticeably, while that for poorer countries did not show the same development*” (TD/CONSENSUS/89.24; see also TD/CONSENSUS/89. 17).

With regard to these trends, one of our interview partners spoke of a “second anti-development twist”, meaning that resources were taken away from poorer countries to faster developing countries for the purpose of boosting donors' capital goods sector. As a result, he argued, not only trade but also aid was being distorted (Interview VI).

¹²³ In this paper “hard aid is defined as credits with a concessionality level of 50 per cent or less” (TD/CONSENSUS(89)24, page 8).

In addition, there was evidence that the number of prior notification of low-concessionality aid credits had increased since 1987. In its analysis of size effects, the Secretariat explained that the observed increase could have resulted from better reporting or could be due to the substitution of grants by loans and better reporting of the latter compared to the former or to tying of previously untied aid (TD/CONSENSUS/88.25, page 7). While, according to Ray, the reasons for this trend were not fully understood, “[...] it seemed plausible that development projects that would otherwise have been financed by grants or by high-concessionality loans were now being financed by loans with a lower level of concessionality” (Ray 1995: 85). This meant that the Wallén Package had failed to achieve one of its main goals, namely a decrease in the use of tied aid credits as an instrument of export promotion (Ray 1995: 85 et seq.).

In a statement before the U.S. General Accounting Office's Subcommittee on International Development, Finance, Trade and Monetary Policy of the House Committee on Banking, Finance and Urban Affairs, Allan Mendelowitz¹²⁴ also enquired the reasons for the limited effectiveness of the disciplines. The answer he gives, however, is not much more precise than Ray's tautology above. He explains the observed increase in offers of tied aid credits with the following factors: Firstly, the numbers might simply reflect greater adherence to the Arrangement and its transparency provisions. Secondly, they might be a manifestation of donors' willingness to continue their subsidization policies at higher costs. Finally, Mendelowitz argues, that the “*increased volume of offers may reflect reduced market opportunities in which tied aid offers compete*” (Mendelowitz 1989: 12).

In light of the failure of the Wallén Package to meet the aspired goals, the Participants decided already in 1989 –barely two years after the adoption of the package - to seek agreement on a new, “balanced package” of disciplines covering (a) export credits, (b) aid credits and (c) selected problem sectors¹²⁵ (e.g. agriculture, iron and steel as well as telecommunications) and spoiled markets (Timonen 1990, see Ray 1995: 304). This package, proposed by the then Chairman Eero Timonen, should later in its fifth version become to be known as the Helsinki Package – also Helsinki V (Ray 1995: 86).

The following year export and tied aid credits were also on the agenda of the Ministerial Council Meeting – although somewhat overshadowed by debates on the GATT Uruguay Round (C-M(90)11-Prov.). The representative of the Netherlands (Mr. Bukman), for instance,

¹²⁴ Allan Mendelowitz was the Director of the Trade, Energy, and Finance Issues National Security and International Affairs Division of the United States Accounting Office.

¹²⁵ The terms “problem sectors” was mainly used to refer to those sectors, in which the “use of aid financing for exports [was] widespread and expected” (Ray 1995: 90).

addressed the issue of tied aid credits in his statement and pointed out that further rules improving the Wallén package of 1987 were needed. “*We need such improved rules not only to reduce the trade distorting effects of a growing number of export credits for agricultural products, but also **to prevent excesses in official support for exports under the guise of official development assistance***” (C-M(90)11-Prov., page 84; emphasis added). Such an undertaking, he urged, required close cooperation between the DAC and the Trade Committee (C-M(90)11-Prov., page 84).

The fact that this argument is also reflected in the Ministerial Communiqué¹²⁶ proves that the above statement represents not a minority or even single opinion but captures the general sentiment among the Participants. In this Communiqué the Ministers declared that they “[...] welcome that these bodies [the competent bodies] have started negotiations on a balanced package of measures to reduce substantially, through improved discipline and transparency, those distortions resulting from the use of officially supported commercial and tied-aid credits. They urge that negotiations should be expedited and that a final report should be submitted to Ministers in 1991” (Ministerial Communiqué 1990, 31 May (para.31), see Annex Ray 1995).

Despite the accumulation of evidence proving the “failure” of the Wallén Package, the quest for a truly balanced package, satisfying both sides- those concerned with trade-distortion as well as those worried about effects on foreign aid flows-, would become a huge challenge for the Participants – by then already tired of negotiations - and their Chairman Eero Timonen. Since repeatedly increasing the concessionality level had not shown the expected results, the Participants had to come up with alternative mechanisms to further sharpen the distinction between aid and trade motivated flows - terms used in the Arrangement, without ever being properly defined.

Already in their first negotiating meeting on the new proposal made by Eero Timonen in 1989, the Participants agreed that a renewed increase in the minimum concessionality level could not bring the needed improvements (Ray 1995: 88). In search of the most effective additional mechanisms the Participants discussed a miscellaneous set of ideas¹²⁷ ranging from a ban of tied aid credits for spoiled markets and problem sectors, to a “simple” checklist for aid quality (Ray 1995: 89 et seqq.). From a development perspective, the idea of basing a new set of rules on the quality of the aid project financed with the tied aid credits is of

¹²⁶ Interestingly, while Timonen had used a rather warning tone in his report to the ministers, the Communiqué is characterized by soft formulations and reticent wording (Ray 1995: 87).

¹²⁷ Already at that several participants considered “general untying” the most adequate way to meet the ministers’ mandate (Ray 1995: 90).

particular interest. This proposal¹²⁸ was rooted in the realization that “[a] *poorly conceived showcase project that does not conform to the needs of the recipient country is a bad project and a waste of funds no matter how soft the credits from which it benefits*” (Ray 1995: 98). The idea was to use a checklist bringing together the most important DAC development principles in order to assess the quality of a project. The Participants then would have to indicate the degree to which their offer met these criteria prior to extending the credit. Also a consultation procedure with regard to the compatibility of the project and the set of DAC guidelines was envisaged. However, the negotiators were confronted with insurmountable practical difficulties. For example, it proved impossible to develop a simple and easily usable list of indicators of aid quality. Judging a project’s quality proved more complex and could not be made on the basis of a simplifying list of yes-or-no questions. Finally the Participants concluded that the concept of aid quality was too subjective to meet their needs (Ray 1995: 89).

Without wanting to anticipate, this quest for the appropriate alternative to a renewed increase of the concessionality level, eventually ended – as will be explained later - with the Helsinki Package. Therein the Participants finally agreed on the concept of commercial viability as the best (feasible) way of distinguishing commercially-motivated export credits from aid-motivated tied aid credits (Ray 1995: 91).

Despite their full commitment and hard work neither the Chairman of the Participants nor the Chairman of the DAC/FA was able to meet the Ministers’ Mandate before the next Ministerial Council Meeting took place in June 1991 (Timonen 1998: 53; Ray 1995: 94). In order to increase pressure on delegates to find a quick agreement, both chairmen presented well coordinated reports on the cornerstones of future agreements to the ministers (DAC/FA/M(90)1(Prov.), page 3; see also Letter by the DAC/FA Chairman B.R. Ireton, DCD/DAC/FA(91)2, page 2). Following a renewed mandate by the Ministers in which “[...] *they expressed their commitment to overcome remaining obstacles in order to come to an agreement [...] not later than the end of this year*” (Ministerial Communiqué 1991, 5 June (para. 26), quoted in Ray 1995: 295), intense negotiations started.

¹²⁸ Surprisingly, none of our interview partners mentioned this “proposal” discussed by the Participants. Even when explicitly asked for alternatives discussed with regard to ways of ensuring the development content of projects financed with tied aid credits, a specific aid quality test was not mentioned. The reasons thereof remain unclear. It might be that the interviewees did not know about it because this aid quality test had been discussed in an informal setting by the main negotiations only.

6.4. Agreement on the Helsinki Tied Aid Disciplines

“The new rules will limit the use of tied aid for projects that should be financed commercially. They provide a level playing field where tied aid credits are used to fund projects that are developmentally sound but not commercially viable.[...] I urge commercial lenders and export credit insurance agencies to accept this challenge by expanding credits and coverage for commercially attractive projects in developing countries so that total flows of resources to these countries will expand”¹²⁹

(erstwhile Secretary-General of the OECD, Mr. Jean-Claude Pay 1992, quoted in TAD/PG(2005)20, page 4).

In December 1991 agreement on the fifth version of the Chairman’s proposal, henceforth called the Helsinki Package, was reached. The by far most important modifications and amendments made to the Arrangement in this “landmark” agreement concerned the regulation of tied aid credits. These provisions introduced in 1992 have remain basically unchanged until today and are listed in today’s Arrangement under “Chapter III: Provisions for tied aid” as well as in “Chapter IV: Procedures” (Section I, 2, 3, 4, 5) (see TAD/PG(2012)9¹³⁰).

6.4.1. The Helsinki Package (91/92)

The aim of the Helsinki Package was to prevent tied aid concessionary credits from being used to finance what would otherwise be financially viable projects in developing countries (and that could have trade distorting effects) (Hanssen-Bauer/Owen/Grimsrud 2000:18). By doing so, tied aid credits were expected to be redirected away from better-off developing countries towards developing countries which were worse-off (OECD 1995:3). To achieve this goal, the Package explicitly defined minimum criteria that tied aid credits had to meet to be qualified as such. Up to today criteria have been included for both country and project eligibility. Having realized that a mere increase in costs for governments to offer tied aid credits (the concessionality mechanism) did not bring the expected results, the Participants refined their strategy and basically broke it all down to one characteristic: the commercial viability of a project.

¹²⁹ To some degree this statement also reflects the fear that the new rules might lead to a decrease in transactions to developing countries – an argument frequently broad forward by as justification of reticence to adopt new measures (see for instance Ray 1995: 155).

¹³⁰ As I am writing this thesis, an updated Arrangement version is published. However, none of the minor modifications made to the Arrangement touch upon tied-aid credits (see TAD/PG(2013)1).

6.4.1.1. Country Eligibility

An integral part of the Helsinki disciplines was (and still is) the limitation of the pool of recipients. The Participants agreed that with the exception of grants and very soft credits, which they defined as having a concessionality level of 80% or more, tied aid credits should not be allowed for countries whose per capita GNI makes them ineligible for 17-year loans from the World Bank¹³¹. This group of countries is thought to be generally creditworthy and thus able to attract commercial financing. Consequently, aid credits would probably not provide any additional resources (TAD/PG(2012)9, page 20 et seqq.; Ray 1995: 97). The intention of this discipline was to redirect aid away from richer to poorer development countries.

6.4.1.2. Project Eligibility

Since historically the vast majority of tied aid credits went to middle-income countries, the Helsinki package provides the most detailed rules for this country group. Basically the Arrangement subsumes these provisions under the heading of “project eligibility” (TAD/PG(2012)9, para. 37).

The main concept introduced to assess the eligibility of a project for tied aid credits is the commercial viability of the latter. Henceforth, projects that are deemed to be commercially viable should be financed on market or Arrangement terms, but should no longer receive tied aid credits. Participants agreed on two key tests to evaluate whether projects are commercially non-viable and therefore eligible for aid financing.

These are:

- “whether the project is **financially non-viable**, i.e. does the project lack capacity with appropriate pricing determined on market principles, to generate cash flow sufficient to cover the project's operating costs and to service the capital employed, i.e. the first key test; or
- whether it is reasonable to conclude, based on communication with other Participants, that it is **unlikely that the project can be financed on market or Arrangement terms**, i.e. the second key test. In respect of projects larger than SDR 50 million¹³² special weight shall be

¹³¹ Information on the World Bank's Country and Lending Groups can be found at <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>;

¹³² Proposals of how to define “large” project ranged from setting the threshold at 40 up to 80 million SDR. In the run-up to the Helsinki Package, the Participants also looked into the possibility of banning relatively hard tied aid

given to the expected availability of financing at market or Arrangement terms when considering the appropriateness of such aid" (TAD/PG(2012)9, page 21; emphasis added).

Box 8: The Concept of Commercial Viability

"I guess in trade terms the tariffs didn't work so we wanted quotas. So we tried to create a more robust system which was either yes or no - you could not just pay more and get away with it" (Interview VI).

As the term "commercial viability" already suggests, the concept places the ability of a project to financially sustain itself at the heart of the Participants' approach.

The basic idea behind was that government aid funds should be reserved for aid projects that were worthwhile, for instance, projects with considerable external benefits, but that nevertheless were not able *"either to generate sufficient financial returns to make them attractive enough for commercial financing or to attract officially supported export credits"* (TAD/PG(2012)9, page 21). Aid funds deployed following this reasoning would be truly "additional" (Ray 1995: 92). The argument of "additionality" of resources will be taken up in Chapter 7 when development policy aspects will be examined closely.

In contrast, commercially viable projects should henceforth be financed by commercial banks or ECAs only (on Arrangement terms). Ensuring good aid quality of the financed projects would remain the responsibility of aid agencies. According to Ray this transfer of competences to aid agencies was due to the realization gained from earlier attempts among Participants that aid quality "was not a subject within their expertise" (Ray 1995: 92).

With regard to the concept of commercial viability two of our interview partners (both from the Export Credit Division) were keen on emphasizing that the proposal to use this concept came from the then Chairman of the DAC Working Party Barrie Ireton (Interview VI and VII). Also Ray mentions the close coordination with the DAC in this matter and explains that Mr. Ireton could draw on the experience of the UK, where the *"Aid and Trade Provision (ATP) already stipulated that tied aid would not be available for business that could reasonably be won on commercial terms"* (Ray 1995: 91).

Already at the time of the adoption of the disciplines the Participants were aware that the rules would leave a large grey area since they did not cut clear lines – a fuzziness the Participants were ready to accept considering the long and difficult negotiation process that lay behind them (Ray 1995: 98). In order to deal with this fuzziness and to discuss controversial cases the Helsinki Package provided the Participants with a consultation mechanism. This gave any Participant to the Arrangement the opportunity to request

financing for large projects altogether. Also for the DAC/FA, large projects had long been a matter of contention, which is given special attention in the *New Measures in the Field of Tied Aid* (SG/PRESS(92)35).

consultation for projects the tied aid eligibility of which was thought to be questionable (Ray 1995; 98 et seqq.). The challenged projects were and occasionally still are taken to the Consultations Group, in which usually national experts from ECAs and delegates from Ministries of Finance investigate the conformity of the project with Arrangement rules (Interview VI).

Today the consultation procedures for tied aid can be found in paras. 51, 52, 53 of the Arrangement (TAD/PG(2012)9, page 28, 29). A Participant may, for instance, request the supply of a full Aid Quality Assessment, which is to be done in accordance with the Checklist of Developmental Quality¹³³ (see Annex IX of the Arrangement). The content of this Aid Quality Assessment will be examined in greater detail in the Chapters 6.4.3 and 7.1.2.3.

However, if a project is challenged and – even after the presentation of detailed feasibility studies to the Consultations Group – does not gain “substantial support” from the other Participants, the notifying country can make use of the so-called “escape clause”. This clause provides that if a donor wishes to proceed despite the lack of support, it has to explain in a letter to the Secretary General of the OECD “*the over-riding non-trade related national interest that forces this action*” (TAD/PG(2012)9, page 29; emphasis added). Unfortunately, the archive documents available do not allow drawing any conclusions on whether the Secretary General has ever rejected such a project.

With these consultation processes a body of experience was expected to develop that should lead to an Ex Ante Guidance providing aid and export credit agencies with more detailed information on how to evaluate the commercial viability of a project in question (TAD/PG(2012)9, page 21 et seqq.; Ray 1995: 99 et seqq.).

6.4.1.3. Minimum Concessionality Level

In addition to the newly introduced criteria of country and project eligibility, the Helsinki Package reaffirmed the requirement of a minimum concessionality level of no less than 35%, respectively 50% if the recipient country is a Least Developed Country (LDC) (TAD/PG(2012)9, page 22). Exempt from this discipline as well as from the notification procedures is tied aid “*where the official development aid component consists solely of*

¹³³ In the run-up to the Helsinki Package the Participants requested the Secretariat to bring together the most important DAC development principles, which were being dispersed across several separate documents, “and to put them in a form acceptable to the DAC as well as usable by export credit agencies”. The resulting list – as such “summary statement of relevant parts of various DAC principles” (DCD/DAC/FA(95)1) - was then approved by the DAC and became the above mentioned “Checklist of Developmental Quality (of Aid Financed Projects)” (Ray 1995: 89).

technical co-operation that is less than either 3% of the total value of the transaction or one million Special Drawing Rights (SDRs), whichever is lower“. Likewise, “*capital projects of less than SDR 1 million that are funded entirely by development assistance grants*“ do not have to meet the concessionality requirement and the notification standards (TAD/PG(2012)9, page 22).

6.4.2. Exemptions from the Helsinki Disciplines

The country and project eligibility criteria laid down in the Helsinki Package do not apply to tied aid inferior to SDR (Special Drawing Rights¹³⁴) 2 million or with a level of concession above 80% - unless it forms part of an associated financing package. Furthermore, tied aid to LDCs, as defined by the United Nations¹³⁵, is exempted from the project and country eligibility provisions (TAD/PG(2012)9, page 22). This exemption is justified with the difficulty faced by the group of Least Developed Countries to attract financing regardless of how attractive a project might be. In such a situation the commercial-viability key test becomes obsolete (OECD 1995:4; Ray 1995: 98).

Screening documentation of the Participants' meetings suggests that the latter two exemptions from the Helsinki rules (transactions with a concessionality level > 80% as well as tied aid credits to LDCs) have been widely accepted by the Participants and did not provoke much controversy. These findings are confirmed by the “Assessment of the Tied Aid Disciplines” conducted by the DAC Secretariat in 1998 (DCD/DAC/FA(98)13). With regard to the “LLDCs exemption” the Secretariat concludes that “[...] *there is no evidence to suggest that the Disciplines have been associated with any measurable diversion of (tied) aid to the LLDCs*” (DCD/DAC/FA(98)13, page10).

Furthermore, while the study finds some *prima facie* indication of diversion from tied aid credits to highly concessional tied aid loans or grants, the Secretariat does not interpret this as an attempt of circumventing the disciplines. Rather this diversion is interpreted as part of “[...] *the general shift away from loans to grants, the debt situation of partner countries, a changing focus towards activities traditionally supported through grant aid etc.*” (DCD/DAC/FA(98)13, page 11).

¹³⁴ A relic of the Bretton Woods system, Special Drawing Rights are international reserve assets the value of which is based on a basket of four international currencies, see <http://www.imf.org/external/np/exr/facts/sdr.htm>.

¹³⁵ Currently 49 countries are classified as LDC, the majority of which are African states. Detailed information on the UN's classification of “Least Developed Countries” can be found on the homepage of the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and the Small Island Developing States (UN-OHRLS), see <http://www.unohrls.org/en/ldc/25/>.

The increase in small transactions below a volume of SDR 2 million after the adoption of the disciplines, in contrast, led to vivid discussions throughout the 1990ies. These shall briefly be addressed below.

6.4.2.1. De Minimis Projects: Small Transactions as Circumvention Strategy?

As some of our national interview partners mentioned some degree of confusion with regard to the applicability of the Helsinki disciplines to small transactions (Interview I), discussions in the Participants Group on this exemption shall be investigated in greater detail.

“De minimis” transactions¹³⁶ are aid transactions with a value inferior to SDR 2 million (TD/CONSENSUS(96)14). These de minimis projects were excluded from the Helsinki Package largely due to administrative convenience. Since the total value of these notifications has never been very significant in terms of total tied aid credits (Hanssen-Bauer/Owen/Grimsrud 2000:9), the Participants considered it appropriate to exempt these transactions from administrative burdens. This means that they are exempted from the administrative requirements of the Helsinki Package – essentially the consultation procedure-, but should nonetheless be administered “in the spirit” of the Arrangement, meaning primarily that they should finance commercially non-viable projects only. The importance of distinguishing “exemption from administrative procedures” and “exemption from the rules in principles” is repeatedly evoked in Participants’ meetings throughout the 1990ies (e.g. TD/CONSENSUS(95)54).

Why the threshold was set at SDR 2 million is not explicitly explained in any of the documents at my disposal. However, following Participants’ meetings shortly before and after the adoption of the Helsinki disciplines shows that different options had been under discussion. Proposals ranged from setting the threshold at SDR 1 up to 5 million. Some countries (Australia, Canada and Switzerland) even suggested to ban tied aid credits (not outright grants) for projects below SDR 5 million (TD/CONSENSUS(91)23). Eventually, the threshold was set at SDR 2 million, presumably because this threshold was perceived as an acceptable compromise (TD/CONSENSUS(92)12).

This exemption provoked some controversies and led to intensive discussions on de minimis projects during the mid-90ies, especially in the years 94, 95, 96 (see for instance

¹³⁶ To interpret statistical evidence correctly it must be noted that untied aid, aid credits for LLDCs, ships derogation and aid credits with a concessionality level above 80% are not included in the definition applied in the statistical reports provided by the Secretariat (TD/CONSENSUS(96)14).

TD/CONSENSUS(95)12, TD/CONSENSUS(95)17, TD/CONSENSUS(95)43, TD/CONSENSUS(95)54, TD/CONSENSUS(96)20. TD/CONSENSUS(96)39 etc.).

In this early and turbulent period of implementing the Helsinki rules, the Participants revived older discussions, which they had had in the run-up to the Helsinki package. All of these can broadly be described as concern about potential circumvention of the disciplines. In the first place, this concerned the temptation to “contract-split” or to provide “associated financing”, a circumvention strategy feared by Japan and the U.S. already before the adoption of the rules (and its exemptions). These possible circumventions resulted from the fact that by splitting projects into units below 2 million SDR, Participants technically had the opportunity to avoid tied aid consultation procedures (see TD/CONSENSUS(91)32; TD/CONSENSUS(95)11; TD/CONSENSUS(96)39). This scenario was even more likely due to the lack of a clear-cut definition of “project” in the early post-Helsinki years. Only with accumulated experience the Consultations Group was able to give a straightforward definition thereof, which eventually became part of the Ex Ante Guidance for Tied Aid (see Chapter 6.4.3).

With regard to potential weaknesses of the tied aid disciplines, Frans Lammersen, looking back at his experiences as Chair of the Consultations Group, observed in 1998 that “[s]mall projects under SDR 2 million are now being used, contrary to the spirit of the disciplines. [...] This constitutes a loophole which, in the long run, might undermine the credibility of the disciplines” (Lammersen 1998: 64). Members of the DAC/FA, who followed closely developments in tied aid spending, expressed similar concerns (see Chapter 7.1). They feared that “[...] procurement based on small projects can easily escape a regime of fair international competition. The impact of this, though seemingly small, can be fairly considerable particularly because projects in the sphere of consultancy/feasibility studies and technical assistance fall in this category. These projects can have a strategic impact on the procurement patterns for the whole subsequent project. **One possibility would therefore be to consider fully untying all projects that are too small to be covered by the discipline rather than exclude them from it**” (DCD/DAC/FA(93)3; emphasis added).

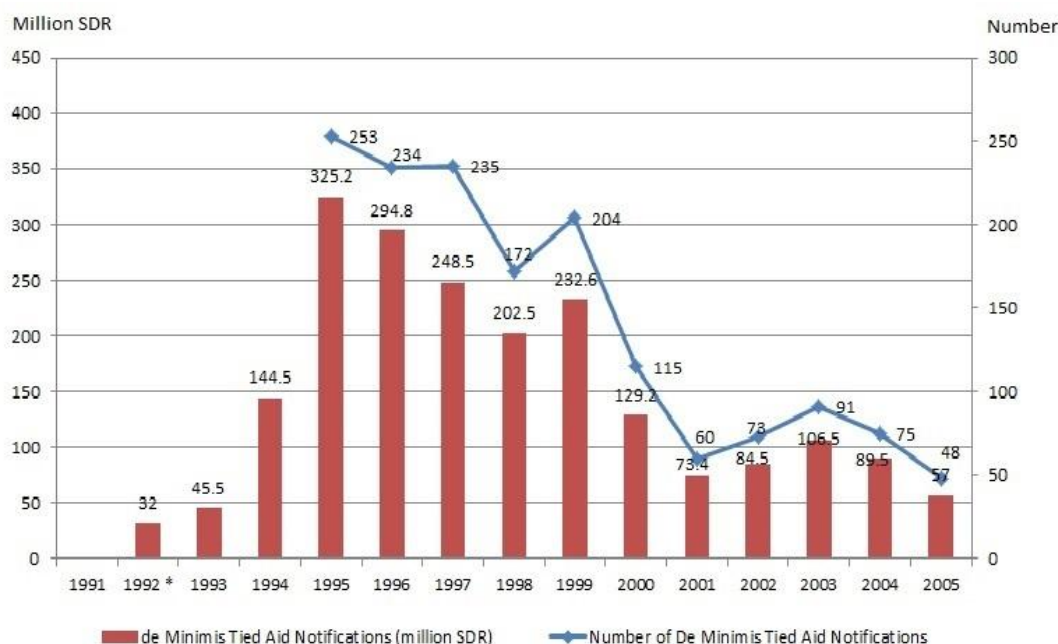


Figure 9: De Minimis Notifications 1991-2005

(Own Graph; Source: TD/PG(2006)23)

All these concerns about de minimis projects were triggered by early statistical evidence that showed a twofold increase in de minimis and small project notifications in the period from 1988 to 1992 (TD/CONSENSUS(93)23). As figure 9 illustrates this trend continued until 1995 when the number of de minimis notifications reached its peak. This was particularly worrisome considering that de minimis transactions were predominantly notified for types of projects¹³⁷ which were most frequently determined commercially viable by the Consultations Group (TD/CONSENSUS(95)43). These were primarily projects in sectors such as manufacturing, telecommunications and energy/power (TD/CONSENSUS(95)12). This, of course, substantiated the suspicion among both the Participants and the DAC/FA that the Helsinki rules were being undermined with de minimis projects.

¹³⁷ While recipients of de minimis transactions roughly corresponded with the beneficiary countries of Helsinki-type aid notifications above SDR 2 million, big donors of de minimis aid credits support were not generally the same as the main providers of non-de minimis Helsinki type aid credits. Relatively small donors such as Austria, Denmark, Sweden, for instance, made for larger proportions of de minimis notifications (TD/CONSENSUS(95)12); TD/PG(2006)23).

In view of these undesired trends, the Participants discussed a number of options regarding the treatment of de minimis aid credits. The following four options were proposed by the Secretariat:

- *“to retain existing threshold and continue to monitor small transactions;*
- *to abolish the de minimis exemption;*
- *to reduce threshold to 1 million SDR as an interim measure; and*
- *to retain the threshold but a) enhance notification requirements to include an explanation why the project would be financially non-viable (the first key test); b) allow the Secretariat (in its role of monitor of Arrangement) to seek further information if deemed necessary; and c) mandate the Secretariat to provide an updated list on Bulletin Board detailing all de minimis notifications”*

(TD/CONSUS(95)12 and TD/CONSENSUS(95)54).

The U.S., for instance, suggested that reduced notification requirements should be applied to de minimis projects, whereby full Aid Quality Assessments and detailed feasibility studies would not have to be conducted (TD/CONSENSUS(95)17, page 9). Decision-making on how to proceed further with de minimis transactions was postponed several times. Initially the Participants were expected to make a decision in 1995, or in early 1996. By 1997, however, still no decision had been made (TD/CONSENSUS (97)16). In 1997 the Chairman of the Redrafting of the Arrangement Group (RAG) reported that no objections had been received to prohibiting de minimis tied aid transactions for countries above the GNP/capita eligibility threshold for receiving tied aid. Accordingly, this possible measure was to be considered by the Participants (TD/CONSENSUS(97)45, page 5).

After several years of “deadlock” in negotiations on de minimis projects the Secretariat concluded in 1997 that due to the lack of consensus on how to proceed it “[...] continues only to monitor de minimis notifications” (TD/CONSENSUS(97)57, page 10). This means the “status quo” scenario presented above as “Option 1” remained in place. The fact that de minimis rules eventually did not change their original shape, is certainly connected to a decreasing number of de minimis notifications after its peak in 1995 as well as to a shift in project concentration towards “community and social services” (TD/CONSENSUS(2001)6), that is in tendency commercially non-viable sectors.

Roughly coinciding with the statistical downward trend in the volume of de minimis transactions from 1995 onwards (see Figure 9), the Participants’ interest in these small

transactions faded. De minimis projects were only addressed as part of the regular statistical reviews conducted by the Secretariat in form of the so-called “Mid-Year Review of Experience with the ‘Helsinki’ Tied Aid Disciplines of the Arrangement” (see for instance TD/PG(2006)23, page 21,22).

This silence around de minimis disciplines suggests that today a widespread consensus exists that this exemption concerns only the administrative disciplines of the Helsinki Package and that the projects should nevertheless be in conformity with the basic idea of not financing commercially viable projects (Interview VII). In a similar vein, in 2005 in one of the few late comments on de minimis projects also the U.S. – which previously had been particularly concerned with de minimis practices of other Participants – stated that while de minimis tied aid used to be a major loophole of the Arrangement, considerable progress had been made over the years so that sectors considered financially-viable had been subject to fewer de minimis notifications (TD/PG/M(2005)13/FINAL, page 7).

6.4.3. The Consultations Group and the Development of the Ex Ante Guidance for Tied Aid (1996, 2003, 2005)

In 1991, when the Participants agreed on the Helsinki tied aid rules, it was expected that over time a body of experience would develop that “*would more precisely define, for both export credit and aid agencies, Ex Ante guidance as to the line between projects that should be financed with tied aid or on commercial terms*” (TD/PG(2005)20, page 2). And indeed – in 1996¹³⁸ the Participants published the Ex Ante Guidance for Tied Aid, which should become an integral part of the disciplines on tied aid credits and main guarantor of their success.

As foreseen by the Participants this Ex Ante Guidance evolved out of practical difficulties in implementing the Helsinki tied aid rules (TD/PG(2005)20). The resulting guidance can thus be seen as the tip of the iceberg of several years of extensive debates within the Consultations Group, which took off its work in 1992. The early consultation process, that is up to the adoption of the Ex Ante Guidance, consisted of two types of formal meetings: those in which the compliance of specific tied aid financed projects with the Helsinki rules was discussed; and those in which more generic topics such as methodological questions were being addressed (Lammersen 1998: 60).

It soon became apparent that first conceptual and methodological issues had to be solved in order to be able to judge on the appropriateness of tied aid financing in the case of the

¹³⁸ For the 1996 version, that is the first draft of the Ex Ante Guidance for Tied Aid, see for instance TD/CONSENSUS(96)23.

projects called for consultation (Lammersen 1998; Nygren 1998). These early problems concerned the definition of “project”, the appropriate calculation of “cash-flows” as well as ways of “appropriate pricing” (Nygren 1998: 57). With regard to the project definition it was eventually agreed that a “project” should be “the smallest complete productive entity, physically and technically integrated, that fully utilizes the proposed investment and captures all financial benefits that can be attributed to the investment” (Lammersen 1998: 62; TD/PG(2005)20, page 13). With regard to “appropriate pricing”, for instance, the negotiators of the Helsinki Package had decided that “appropriate pricing based on market principles” should be used to assess the commercial viability of a project. This general statement then led to extensive technical debates within the Consultations Group on what constituted “market principles” (Lammersen 1998: 61; TD/PG(2005)20, page 16).

Once these basic components for project evaluation had been agreed upon, a *Checklist for Information in Feasibility Studies* was produced that should guide export and aid agencies in gathering the relevant information needed to make informed decisions on a project's commercial (non-) viability (Lammersen 1998: 62). Today, this *Checklist for Information in Feasibility Studies*, part of which is an appraisal of development aid aspects, is provided in the Annex of the Ex Ante Guidance. This attached list provides guidance in preparing aid quality assessments (AQuA), which include criteria for project selection, project preparation and appraisal as well as procurement practices (TD/PG(2005)20, page 10 et seq.). The compatibility of these with the DAC's overall idea of “good” development practices – that is, for instance, with the ownership and alignment principles of the Paris Declaration - will be assessed in Chapter 8.

In parallel to removing methodological ambiguities, the Consultations Group worked towards the establishment of an ex ante guidance (Lammersen 1998: 62). Derived from evaluation results of over 131 individual project notifications, this guidance was designed by the Participants to the Arrangement in order to guide project planners and aid agencies in their decision-making on whether projects are eligible for tied aid (as defined by the two key tests of the Helsinki Package) (OECD 1998: 26). Analyses of evaluation reports and especially a study conducted by Prof. Tony Owen¹³⁹ – an independent consultant hired for that purpose – suggested that financially non-viable projects were primarily projects that touched upon the provision of public goods or that were especially capital-intensive “with high per unit production costs and slow capacity uptake, and/or where the beneficiary group (normally

¹³⁹ Anthony Owen was professor at the University of South Wales and was hired as consultant to assess the projects that were brought to the Consultations Group in the early post-Helsinki years (Owen 1998: 67). In 2004, he presented a second evaluation report of the work of the Consultations Group (TD/PG(2004)17). On the basis of his findings, the Ex Ante Guidance was revised (TD/PG(2004)26).

household consumers) is deemed unable to afford the output at the appropriate market-determined price” (TD/PG(2005)20, page 5). In contrast, manufacturing projects, for instance, are shown to be frequently commercially viable, and are hence in tendency¹⁴⁰ not eligible for tied aid credits (TD/PG(2005)20, page 7).

Despite this appraisal of the financial viability of projects in specific sectors, the Ex Ante Guidance emphasizes the necessity of case-by-case analysis and recognizes that each project needs to be considered in relation to its particular circumstances (TD/PG(2005)20, page 5). This means that in principle no sector-specific rules are set – a step that would have probably gone too far for influential industries fearing to lose competitiveness.

By summing up the very logic of the Ex Ante Guidance, Frans Lammersen, one of the principle constructors of the Guidance, states: *“In short, the guidance brings aid financing into line with general economic thinking. Projects are considered commercially viable, and thus do not require subsidies, when the project can be linked to the international market for goods and services”* (Lammersen 1998: 62).

The Ex Ante Guidance released in 1996 and marginally revised in 2003 and 2005 is the last amendment to the Arrangement directly dealing with tied aid credits. Ever since the question of appropriate regulation of tied aid credits has seemed to be surrounded by peaceful silence. Their tying status, however, remains a heavily contested characteristic.

6.5. Recap and Concluding Remarks

This chapter set out with an inquiry of the historical roots of tied aid credits and showed that this hybrid instrument has been inextricably linked with export credits. The tightening of rules on traditional export credits paired with a severe debt crisis in the developing world, had placed tied aid credits at the heart of national export policies of many industrialized countries and made them become somewhat of a “protectionist device” (DCD/DAC/FA(93)3, prepared by C. Jepma). In these circumstances, the original motivation behind giving tied aid credits was one of gaining competitive advantages for the donors’ domestic enterprises; development goals were thereby at best pursued as an add-on that should conceal the trade distorting effects of the practice. The term “aid” in tied aid credits, therefore, was not necessarily to be associated with development of recipient countries, but might as well be interpreted as aid to national industries, which saw their international competitiveness declining. In this respect John Ray says: *“When governments succumb to this temptation [of*

¹⁴⁰ A more thorough account of the sectoral trends will be provided in the thesis of my colleague Ms. Schweiger.

*using this sort of aid as a mercantilistic device to enhance the competitive position of their exporters], there is indeed aid. But the target is the donor country's exporter, not the developing country. **This is industrial policy, not aid policy**" (Ray 1995: 28; emphasis added).*

Considering that tied aid practices were an "integral part of national export trade philosophy" of some OECD countries (Mendelowitz 1989: 12) it is not astonishing that outlawing these very practices proved to be a cumbersome undertaking. Gradually the Participants – the main body negotiating on the use of both export and tied aid credits - increased the minimum permissible grant element (later renamed concessionality level) for tied aid credits hoping that this would provide enough of an incentive to discourage these harmful practices. An increasing number of tied aid credit notifications after the renewed raise of the minimum concessionality level in the **Wallén Package**, however, proved the idea of discouraging these practices by simply making them more expensive insufficient. With the **Helsinki Package** the Participants shifted their strategy and introduced the concept of commercial viability, which should henceforth ensure the separation of commercially motivated export credits and development motivated tied aid credits.

These tied aid disciplines, valid up to today, are centered around two key tests essentially examining the financial viability of a project as well as the access to finance in the country where the project would be implemented. Exemptions from the project eligibility tests are provided for highly concessional transactions, tied aid credits to LDCs and de minimis transactions below SDR 2 million. Furthermore, in order to provide practical assistance to implementing agencies and the applying company an *Ex Ante Guidance for Tied Aid* was developed.

Looking back at the history of tied aid credits gives reason to presume that on an international level tied aid credits have been designed from a liberal economist perspective striving first and foremost to eliminate trade distortions. Development concerns have thereby at best been of secondary importance. Keeping the export credit race of the 1970ies (and its predecessor which could be labeled a tied aid credits war) in mind, it becomes evident that the rules that were designed to discourage this behavior primarily appeal to the trade distorting features of this financial tool rather than to its aid quality. Whether these original motivations have vanished and new, more development-oriented motivations prevail remains to be seen. The analysis of the national implementation of the Arrangement rules, conducted in a follow-up ÖFSE study, will give answers to this question.

Another question, as a link to the subsequent chapter, concerns the compatibility of goals: is it possible to achieve, both a donor's export promotion goals and development targets through tied aid credits and are these goals equally weighted in today's design of tied aid credits? Do tied aid credits allow donors to "kill two birds with one stone" – a saying used by several of interview partners (Interview IV and V)– or do they (still) result in the suboptimal allocation of resources from both aid and trade perspectives.

While this chapter has focused on the trade-side of the coin, Chapter 7 will put the development (aid)-side to the fore.

7. Aid Considerations and the Role of the Development Assistance Committee

“It seems to be desirable for the clarity of analysis and discussion to keep the problems which mixed credits may raise in aid and trade rather distinct – notwithstanding overlaps in practice”

(DAC/FA(82)2, page 13).

Following this recommendation by the DAC Secretariat, the analysis of tied aid credits was divided as best as possible along the line of aid and trade considerations. While Chapter 6 approached tied aid credits, the problems arising from using them and measures taken to prevent negative effects from a trade angle, this chapter examines the “development finance instruments” in question and the making of rules governing them from a development perspective. This structure seems even the more natural considering that these two different, albeit connected, sets of concerns about aid and trade implications stemming from tied aid credits were dealt with by different OECD or quasi OECD bodies – the Participants Group (PG) and the DAC Working Party on Financial Aspects of Development Assistance (DAC/FA)¹⁴¹ respectively.

This chapter pursues several goals. First of all, it aims at grasping the role and influence of the DAC in the making of today’s rules governing tied aid credits and the resulting traces of development aspects in the Arrangement on Officially Supported Export Credits. Furthermore, it shall give an overview of the main issues related to tied aid financing and mixed credits discussed within the DAC/FA. Contrary to the previous chapter on the evolution of today’s regulatory framework it does, however, not follow a chronological approach, but tries to cluster issues around subject matters. This choice results primarily from the fact that most issues discussed were long-lasting matters of concern. Large projects, for instance, became a hotly debated issue in the 1980ies and remained so until the closure of the DAC/FA in the early 2000s. Also, from the very onset the role of aid agencies in designing and implementing projects financed with tied aid credits was estimated to be a decisive factor in determining the developmental outcome.

¹⁴¹ Please see also Chapter 5.1.3 for information on the Working Party on Financial Aspects of Development Assistance, henceforth called DAC/FA to be consistent with documents codes used in the OECD archives. Occasionally the OECD also referred to this Working Party as WP-FA (for instance in TD/CONSENSUS(94)32).

In addition to this overview, concerns raised about potential negative effects of tied aid financing on development cooperation are identified. Furthermore, proposals made and guidelines adopted by the DAC/FA Members to ensure the development character of tied aid financing are presented.

As demonstrated in Chapter 6 both the Participants and the DAC, on the basis of several mandates attributed to them by the Ministers, put tied aid credits high on their agenda. Consequently, most actions in the field of trade distortion were paralleled by discussions on aid distortion within the DAC. Whenever this is the case, references to parallel developments in the Participants Group will be made. This concerns primarily discussions in the run-up to the Wallén Package (in particular the concessionality level) and the period before and immediately after the adoption of the Helsinki Package (mainly concerning the newly introduced key tests).

In order to avoid misunderstandings or confusion, first some clarifications on the used terminology¹⁴² have to be made. While the DAC Guiding Principles of 1987 (which together with the used terminology have remained the benchmark up to today) “define separately ‘Associated Financing’, ‘Tied ODA’ and ‘Partially Untied ODA’, the Arrangement includes ‘Associated Financing’ in its definitions of ‘Tied aid financing’ and ‘Partially untied aid financing’”. This entails different interpretations or usage of the term “aid”. In the DAC usage “aid” is synonymous with ODA, whereas in the Participants’ wording “*‘aid’ may be ODA, may have an ODA component, or may not contain any ODA at all*” (DAC/FA(87)6, page 4). The latter is, for instance, the case for Other Official Flows (OOF) including grants and loans with the exception of officially supported export credits that are in conformity with the Arrangement. These flows are subsumed in today’s Arrangement under paragraph 34 setting out forms of tied aid (TAD/PG(2013)1, page 19).

It is recalled here that this thesis is first and foremost interested in those tied aid financing packages that contain an element of ODA. This section is primarily based on the documentation of meetings of the DAC Working Party on Financial Aspects of Development Assistance, which have been retrieved from the OECD archives. By combining the findings of this document analysis with the interviews of OECD officials, that dealt in one way or another with tied aid financing, development policy aspects in the Arrangement will be traced and DAC positions on the issue over time will be examined.

¹⁴² For a more detailed examination please see Chapter 3.2.

7.1. Pushing Development Interests in and through the DAC/FA

“[T]he development community had, once again, to accept that the Participants to the Arrangement had taken a decision affecting their area of competence without their direct consent”

(Nygren 1998: 56).

Taking this quote by Birgitta Nygren, Chairwoman of the Consultations Group for Tied Aid¹⁴³ from 1992 to 1995 and Vice-Chairwoman of the Participants, as starting point, this chapter approaches the issue of tied aid credits from a development angle and aims at grasping the role played by the DAC in establishing rules on tied aid credits. Examining the DAC's position towards this financial instrument and its capacity of influencing the Participants' work is thought to be an approximation of the weight of development aspects in today's design of this instrument of development finance.

At an early stage tied aid financing aroused the attention of the DAC. It was in particular within the Working Party on Financial Aspects of Development Assistance that Members discussed potential repercussions of these practices on their development policies and recipients' development prospects.

The DAC Working Party on Financial Aspects of Development Assistance was set up in 1975 (DCD/DAC/FA(99)6, page 5) and was operational up to the Rome Conference in 2003 when it was officially merged with the Task Force on Donor Practices to become the *Working Party on Aid Effectiveness and Donor Practices* (WP-EFF) (De Milly 2012: 3). While in Participants' meetings mainly representatives of Ministries of Finance and Export Credits Agencies participate(d), DAC/FA meetings brought together representatives of Ministries of Foreign Affairs or Development Cooperation (or any other Ministry in charge of development cooperation) and aid agencies. Here again national differences prevail. Austria, for instance, sent delegates from the Ministry of Foreign Affairs and the Federal Chancellery respectively, reflecting the domestic back and forward shift in competences over development cooperation.

¹⁴³ The Consultations Group discussed (and on request still discusses) projects, the conformity of which with Arrangement rules was being challenged. This happened frequently in the first years after the inception of the Helsinki Disciplines, when definitions and methodologies were still blurry and weak. Experience gained with these consultations led to the formulation of the so-called Ex Ante Guidance for Tied Aid. For further information please see Chapter 6.4.3.

At its inception in 1975 the DAC approved the following mandate for the Working Party on Financial Aspects of Development Assistance, henceforth referred to as DAC/FA:

*“The Working Party on Financial Aspects of Development Assistance will include in its purview: consideration of the terms of aid with particular emphasis on the question of appropriate terms and on the harmonization of the terms of aid to the poorer countries; the analysis of debt problems of developing countries, **taking into account the various types of flows from all sources which lead to indebtedness, i.e. official development assistance, export credits and other capital transfers.** The Working Party will keep under consideration the technical problems related to partial or general untying of aid. It will also deal with any other related subject referred to it by the DAC. Close working relationships will be maintained with the World Bank, the IMF, and the Group on Export Credits and Credit Guarantees of the Trade Committee of the OECD. The Working Party will report to the DAC as appropriate”* (DAC(75)18 quoted in DCD/DAC/FA(99)6, page 13; emphasis added).

7.1.1. Concerns over Limited and/or Negative Development Impact of Tied Aid Credits

In 1981, with the circulation of a Note by the DAC Secretariat on the “Scope and Problems of New Forms of Less-concessional Financial Co-operation with Developing Countries”, discussions on associated financing and tied and partially untied aid took off among the members of the working party (DAC/FA(81)1). From the very onset, the DAC/FA's work covered those transactions in which an element of ODA was involved, while Participants were and still are interested in all transactions that contain an aid element, meaning a subsidy element regardless of whether this comes from the aid budget or any other government fund.

At least for the subsequent three decades aid considerations with regard to tied and associated financing should become the dominating matter of concern for the Working Party. Only after the adoption of the Helsinki Disciplines and New Measures on Tied Aid respectively, the Working Party gradually shifted its attention to other issues. Especially from 1994 onwards, when the DAC had made it clear that the Working Party was expected to “develop its agenda in areas other than aid tying” (DCD/DAC/FA(94)8, page 2), the DAC/FA diversified its field of interest.

Within the DAC/FA, concerns were raised with regard to both actual associated financing practices and tied and partially untied aid financing and envisaged measures by the Participants to deal with the former. Struggles over finding common positions on the

usefulness of associated financing for development purposes characterized the first years of the DAC/FA's work on these tools of development finance. Furthermore, this first period required intense discussion on definitions of and differentiation between different financial flows – the Participants' understandings thereof included.

While from an early stage reciprocal untying was recognized as the ideal solution to problems arising from associated financing and tied and partially untied aid, the DAC Members only hesitantly adopted corresponding measures. In the meanwhile the DAC/FA sought ways to strengthen the development orientation of projects financed with tied aid credits. This strategy was still pursued in the 1990ies, as illustrated, for instance, in the following quote by Bill Nicol, representative of the Development Co-operation Directorate, who stressed in 1994 that the DAC was concentrating its efforts on “[...] *making more effective the existing disciplines: whilst there is a clear preference for untied aid over tied aid, the view is that aid can be ‘good’ but there was need to improve the quality of aid that will continue to be tied*” (TD/CONSENSUS(94)50; emphasis added).

7.1.1.1. Approaching the Issue: ODA Stretching and Debt Servicing Capacity

As already demonstrated in Chapter 4.1.3 on the untying of aid, strong national interests made committing members to such initiatives a cumbersome and long-lasting undertaking. Hence, it is not much of a surprise that also DAC discussions on how to proceed with tied and partially untied aid as well as associated financing were characterized by diverging country positions and very careful proposals by the Chairmen so as not to scare off any member-state and threaten a fragile consensus.

The first DAC/FA document dedicated to the topic - titled “Scope and Problems of New Forms of Less-Concessional Financial Co-operation with Developing Countries”- was circulated by the DAC Secretariat in 1981 and addressed potential problems that might arise from a development perspective when using these financial instruments (DAC/FA(81)1). Conclusions drawn in this note are to a certain extent contradictory in themselves - possibly a result of the fact that associated financing and tied and partially untied aid were still a rather new phenomenon and that members were only just about to form positions on the issue and had not yet elaborated fully-fledged negotiation strategies (hence also the emphasis on New Forms of Financing in the Note's title). Practices of associated financing and tied and partially untied aid were placed in the wider context of the scarcity of ODA resources and compared to financial needs of developing countries as well as to the growing diversity of their debt servicing capacity. While country positions varied, the note stressed that most DAC members considered it – in view of scarce aid resources and compared to

less favorable traditional export credits - reasonable to combine ODA and non-ODA resources, for instance, in the form of mixed credits.

The idea that associated financing had to be assessed against the background of scarce ODA resources also dominated another Note on the “[u]se of ODA in Association with Export Credits” distributed by the Secretariat in 1982. In view of this scarcity, it was concluded that it would not be desirable to discourage all associated use with less-concessional sources of financing, but that criteria and procedures had to be designed which would ensure the compatibility of associated financing with developmental objectives and fair competition (DAC/FA(82)2, page 10).

Interestingly, in light of the aid scarcity debate and an increase in non-concessional export credits, the use of mixed credits was interpreted as the result of a number of factors among which was listed the desire of aid agencies to leverage ODA and to improve overall financial terms for recipients (DAC/FA(81)1, page 16). The following main motivations of mixed credits extended by individual DAC donors were identified:

“(a) the desire to ‘stretch ODA’, given its scarcity against the financing needs of recipient countries, by using it in combination with more easily available export credits;

(b) an effort to improve the terms of financial transactions, to make them compatible with the recipient’s debt servicing capacity, by associating soft funds with more expensive export credits;

(c) trade promotion, especially under the impact of present economic circumstances in donor countries (notably employment and balance of payments deficits);

(d) the perceived need to match, in defensive action, favourable terms offered by competitors from other donor countries” (DAC/FA(82)2, page 10).

The first two motivations listed were frequently brought forward in DAC/FA meetings by those members which sought to justify their recourse to associated financing. Furthermore, these two topics have been peculiar to the discussions within the DAC and were not addressed by the Participants while (c) and (d), referring to export promotion and matching practices¹⁴⁴, were also extensively discussed by the Participants.

¹⁴⁴ In case of deviation from Arrangement terms “a Participant may match, according to the procedures set out in Article 45, financial terms and conditions offered by a Participant or a non-Participant” (TAD/PG(2013)1, page 24).

Despite the emphasis being put on the potential usefulness of associated financing to stretch scarce ODA resources, in both 1981 and 1982 early concerns were expressed that the use of ODA for mixed credits might tend to divert aid away from poorer countries and from projects (particularly in the social and rural areas) which were less attractive for commercial financing. This was also expected to distort project design to meet commercial interests rather than development objectives. In addition, it was thought to be likely that the reduction of the competitive focus on price and quality might put developing countries in a situation in which their gains in financial terms were offset by losses in price and quality – one of the strongest arguments up to today brought forward against tying in general. Last but not least, the potential distortion of the choice of investment projects with regard to their economic viability was mentioned by the DAC Secretariat (see for instance DAC/FA(81)1, page 16). A combination of these possible negative repercussions led some commentators to conclude that mixed credits may be “*bad aid and bad business*” (DAC/FA(81)1, page 16). This assessment matches fairly well John Ray’s observation according to which aid policy had to be separated from trade policy if one wanted to avoid to “*have bad aid and bad trade policies*” (Ray 1996: 5).

In view of the little information available on national systems of mixed financing, in a concluding remark the DAC Secretariat asked Members to present their views on the usefulness of associated financing as a tool of development finance. By doing so, it avoided making judgments thereof itself. In order to get a clearer picture of the diverging national policies and practices, a questionnaire was distributed to DAC/FA Members in 1982, which was also expected to provide preliminary statistical data (DAC/FA(82)2, page 9). The return rate of completed questionnaires, however, was fairly low.

Partly as a consequence of the little information available to the DAC/FA, in this early period the Working Party was reticent or unable to make clear statements on the expected utility or harm respectively of associated financing from a development perspective. In an attempt to maneuver around one-sided statements, the Secretariat stressed that it made a difference whether ODA was stretched with less-concessional financing or whether an export credit was the starting point the terms of which “[were] softened by associating concessional funds in the financial transaction” (DAC/FA(82)2, page 10).

This line of reasoning is reflected in a statement by the Japanese delegate at the DAC High Level Meeting in 1981, in which he argued that in the case of a shortage of ODA resources export credits could sometimes supplement ODA. On the contrary, he went on, Members

This matching procedure laid down in today’s Arrangement provides an ECA to adapt its offer and set the same terms as the derogating agency.

should refrain from using ODA to promote exports, which would cause trade distortion and was incompatible “*with the principle of optimum use of ODA for the development of developing countries*” (quoted in DAC/FA(82)2, page 4, 5).

At several occasions in the 1980ies the need to thoroughly study national policies, which were evidently differing, was stressed. These differences concerned not only the budgetary provenance¹⁴⁵ of the concessional parts of the financing packages, but also reporting practices, implementation policies and so forth (DAC/FA(82)2, page 13). These variations reflected differing national systems and priority settings of aid programs. Since members formed their position towards proposed measures against the backdrop of expected repercussions on their respective aid and export promotion systems, finding an agreement proved difficult (see e.g. DAC/FA/86)12, TD/CONSENSUS/86.53, page 12).

7.1.1.2. Distorting Aid Distribution Patterns

From the viewpoint of aid policy the major concern about mixed credits was that “[...] *scarce funds devoted to development assistance programmes – i.e. ODA – should not be diverted from poorer developing countries to wealthier ones, or from higher-priority development projects to those of lesser priority*” (DAC/FA(82)2, page 13).

The distortion of the overall geographic, functional and sectoral balance of aid programs through the use of aid funds for mixed credits resulted from the commercial character of many projects that were financed with mixed credits, which were more likely to be accepted by middle and higher income developing countries. Hence, ODA was shifted from low to higher income countries (DAC/FA(82)2, page 14). In order to observe this worrisome situation, the DAC/FA Secretariat regularly produced reports on trends in associated financing and circulated the so-called the “Review[s] of Associated Financing”¹⁴⁶.

Furthermore, it was suggested that recipient countries themselves were the best judges of the value of projects undertaken on the basis of relatively more expensive mixed credits (compared to “normal” ODA). The rationale that this way the compatibility of chosen projects with the overall development priorities and strategies of the recipient country was likely to be given, resembles the ownership and alignment principles as laid down in today's Paris Declaration. The dilemma that might also apply to today's ownership principle was and is

¹⁴⁵ The question here is whether the funds come from a budget explicitly earmarked for aid and might thus compete with the aid agency's budget (DAC/FA(82)2, page 13).

¹⁴⁶ The 1987 Guiding Principles instructed the DAC Secretariat to regularly undertake these Reviews and to present them at High Level Meetings (OECD/DAC 1987, para. 12). For an example of such a Review see DAC/FA(87)5.

that “[...] *this independent project evaluation and implementation capacity is likely to be stronger on the part of more advanced developing countries which on the basis of the need criterion should be less eligible for ODA than the less-advanced developing countries*” (DAC/FA(82)2, page 14).

With regard to whether the disciplines curbed the shift of resources from poorer to richer developing countries, the Participants and the DAC/FA respectively draw somewhat contradicting pictures. While a review undertaken by the Secretariat of the Trade Directorate finds that the Helsinki Disciplines have certainly curbed this trend of shifting flows from poorer to richer developing countries (TD/PG(2003)7), an earlier study issued by the DAC Secretariat was less enthusiastic and stressed that a considerable portion of associated financing flows still went to “strong” developing countries, such as China, Vietnam etc. The DAC Secretariat finds that “[i]n terms of individual country concentrations of tied aid credits, the data shows virtually no change between pre- and post- Disciplines periods. Indonesia, Egypt, India and China were, and continue to be, the major recipients, together accounting for about 30 per cent of the total. This finding also supports the view that the Disciplines have not been associated with any reallocation of tied aid credits towards countries with little or no access to market financing” (DCD/DAC/FA(99)8, page 5). However, one needs to go beyond aggregated statistics to see variations from donor to donor.

7.1.2. “Development Safeguards” in Historical Perspective

Several proposals of how to increase the development orientation of tied aid credits have evolved out of the discussions within the DAC/FA. This section contains practice-oriented information and might also guide subsequent studies on national soft loan policies.

In order to assess the Arrangement from a development perspective it does not suffice to examine the disciplines in existence – one also needs to look for loopholes and ask for potential repercussions thereof on aid and development practices. Hereafter, these loopholes will be identified by examining measures that had been proposed by the DAC/FA. In this respect it is valuable to trace alternatives that have been discussed but have never made it into the final Arrangement text. Eventually, this also tells something about power (im)balances among different interest groups with regard to their leverage to impose their respective proposals.

In an early Note by the DAC Secretariat (DAC/FA(82)2) development oriented as well as trade oriented objectives were presented and more specific norms for the use of ODA in association with export credits were examined. The development-oriented objectives tried to

ensure that tied aid and mixed credits were assessed against the same criteria as any other ODA flow (despite considerable analytical efforts related to this objective). That way it should be guaranteed that they were not used for activities of low developmental value that diverted ODA away from countries most in need, but were concentrated on those countries that did not have access to other external resources and had a limited debt servicing capacity. Furthermore, competitive procurement practices and reciprocal untying as well as a shift towards multilateral development finance were discussed under the heading of development-oriented¹⁴⁷ objectives (DAC/FA(82)2, page 16 and 17).

At this early stage the Secretariat concluded that if agreement on the above presented aid-oriented principles was found, members would either have to stop using associated financing for commercial purposes, or take the concessional funds and subsidies other than the aid budget (DAC/FA(82)2, page 18). Should these practices be continued, the Secretariat urged members to make a clear distinction between commercial and concessional financing terms to avoid “leapfrogging” competition and to stop spoiling certain markets and sectors – especially those with a worldwide overcapacity of production. Furthermore, members were advised to “[...] collectively resist demands from developing countries buyers that they include (concessional) financing terms with their bids” – a matter that was also of major concern to the Participants, as shown in Chapter 6.3.2 (DAC/FA(82)2, page 18).

Interestingly, already in 1982 the Secretariat asked whether members thought it feasible to differentiate a priori with the help of “positive” and “negative” lists between types of projects or fields of activity to be financed. The objective of these lists would “[...] not be to ‘ban’ aid financing for particular activities but [to] strengthen the position of aid agencies in reviewing applications for use of ODA for mixed credits” (DAC/FA(82)2, page 20). This proposal reminds us of the *Ex Ante Guidance for Tied Aid* that from 1996 onwards should help responsible agencies to make decisions on the eligibility of a given project. However, while the 1982 proposal focused on a priori assumptions with regard to the ability of a project to meet development criteria, the *Ex Ante Guidance* is rather concerned with commercial viability (see Chapter 6.4.3).

In a draft progress report on “[i]mproving transparency and discipline of Associated Financing and similar transactions” circulated to the DAC/FA Members in 1985, it was

¹⁴⁷ Strikingly, terms such as “developmental value” or “development-orientation” are repeatedly used without ever being defined.

expressed more precisely what these afore mentioned development criteria could be. Members recognized that a project is more likely to be developmentally sound if

“i) It is part of investment and public expenditure programmes already approved by the central financial and planning authorities of the recipient country;

ii) it has been the subject of review and general endorsement in such international aid co-ordination arrangements as may exist;

iii) it is being co-financed with an international development finance institution; by contrast, there might be doubt that a project has developmental priority if it has been rejected by an international development finance institution for reasons other than shortage of funds;

iv) In the case of ‘stronger developing countries’, it serves to meet specialized advanced technical need and/or addresses major social problems, including rural and smallholder agricultural development” (DAC/FA(85)2, page 10).

These “criteria”, defined in pre-Helsinki times, are still valid and provide orientation for the case study analysis of national soft loan policies and their development content. With the exemption of provision (iv) on “stronger developing countries”, they are replicated almost in identical wording in 1987 DAC *Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* (OECD/DAC 1987, para. 13). Furthermore, they are reflected in the *Checklist of Developmental Quality* provided in the Annex of the Arrangement (TAD/PG(2013)1) and are described in greater detail as part of the *Checklist for Information in Feasibility Studies annexed to the Ex Ante Guidance for Tied Aid* (TD/PG(2005)20).

In addition, the 1987 DAC Guiding Principles and the therein mentioned provisions with regard to associated financing are reiterated in *the DAC Principles for Project Appraisal*¹⁴⁸, which were adopted in 1988 and which have been referred to in the Arrangement up to today (see TAD/PG(2013)1, page 134). These DAC Principles contain a section - Section VIII - on “[s]pecial considerations in the case of associated financing and tied aid”. Therein, the DAC emphasizes that “[...] where procurement is tied, it should be flexibly administered, including

¹⁴⁸ The DAC Principles for Project Appraisal set out project selection criteria and appraisal procedures that should ensure that investment projects are of high development quality (OECD/DAC 1992: 33-47). The principles state that the recipient is responsible for project identification, design and implementation (OECD/DAC 1992: 33). However, according to Chang, Fell and Laird, “donor experience shows an activist approach is needed to select good projects and that competition for good projects may occur” (DCD(99)6, page 93).

careful choice of supplies in which the donor is competent and competitive" (OECD/DAC 1992: 46).

7.1.2.1. Strengthened Role of Aid Agencies

Considering the general mandate of the DAC and the composition of delegates in meetings of the Working Party, it comes as little surprise that one of the main topics dealt with by the Working Party concerned the role of aid agencies in the design, implementation and monitoring of associated finance projects and tied aid financing.

In the first note dedicated to the topic in 1981 members were urged to think about possible measures to maximize the development impact of mixed credits – provided that this mode of financing should continue to exist. In the following proposals aid agencies were attributed a greater role in the design and implementation of projects financed by mixed credits:

*"(i) **Aid agencies should be fully consulted** on the projects/programmes which are proposed for mixed credit financing and should review these projects/ programmes, **applying the standards and criteria used for activities financed with ODA only.***

*(ii) As in the case for aid financed projects, mixed credit financed projects should be the **subject of inter-governmental agreements** between borrower and lending countries.*

*(iii) Efforts to ensure that the provision of mixed credits is **compatible with the debt servicing capacity** of recipient countries,*

*(iv) Aid agencies should watch closely the implications of the use of ODA for mixed credits for the **overall geographic, functional and sectoral balance of their aid programmes.***

*(v) There should be an international understanding **that large mixed credit financed projects** (exceeding a certain size) **should be subject to international competitive bidding** (possibly with the tender documents soliciting information on credit amounts and terms)"*

(DAC/FA(81)1, page 18 et seqq.; emphasis added).

The above measures have partly been put in place. With regard to the compatibility of financing packages with the overall debt servicing capacity of recipients, one could, for instance, think of the sustainable lending initiative, which was initiated in the late 2000s by the Bretton Woods Institutions (WB and IMF) and adopted by the Export Credit Group in the

form of *Principles and Guidelines in to Promote Sustainable Lending Practices of Official Export Credits to Low-Income Countries* (TAD/ECG(2008)1).

Also, the mandatory inter-governmental agreements are a widely common practice today and the call for International Competitive Bidding (ICB) for large projects became an integral part of the 1992 New Measure for Tied Aid (SG/PRESS(92)35, page 4). The Secretariat stressed already in 1982 that projects financed with mixed credit should be assessed and implemented under the same standards, criteria and procedures as projects financed exclusively by aid resources. The extent to which this proposal has become common practice today, will have to be assessed on a national level.

Coming back to what has been mentioned before on the specific composition of associated financing packages, the weight given to the development impact of the financed project can be expected to be greater in cases where ODA constitutes the dominant portion of the financing package. In the opposite case, where the aid agency is the “junior partner” in the transaction, its influence in selection, design and implementation is likely to be rather limited. The role of aid agencies is also bound to be limited when considering that “the number of qualified staff in aid agencies which could participate in the review and execution of such projects is limited” (DAC/FA(82)2, page 14). Interestingly, also in two interviews the educational background of staff of both DCD/DAC and aid agencies was addressed and one-sided competences in qualitative social sciences rather than economics were identified as an obstacle to effective involvement in mixed credit policies (and policy making) (Interview IV and V). This way, the capability of aid agencies to take a more active role in associated financing was questioned.

These doubts do not change the fact that the importance of proper participation of aid institutions in the design and implementation of associated financing projects was stressed over and over again by the DAC/FA. The continuity of these discussions is reflected in the fact that, for instance, in 1999, that is after the Ex Ante Guidance had been published, it was still of major concern. In a study of “management systems for development cooperation”, of DAC members, the authors recalled that the participation of ministries and agencies that administered development co-operation in project appraisal and decision making in relation to associated financing varied significantly among members. Considering that aid funds were involved, the role of these institutions, however, was crucial in ensuring that development objectives inherent in aid were properly taken into account also in the selection of projects to be funded with associated financing (Chang et al. 1999, see DCD(99)6, page 88).

Not only a strengthened role of aid agencies, but also closer cooperation and coordination in capitals between aid agencies and export credit agencies were called for by the DAC/FA. This should, for instance, ensure that delegations to the Participants' consultation meetings were fully briefed on aid-related issues and concerns that needed to be addressed in these consultations (DAC/FA(92)1, para. 20; DCD/DAC/FA(96)6, page 3). Departing from Lammersen's and Owen's statement that "[t]he Consultations Group does not consider the development benefits of a project (that is the role of the DAC)" (Lammersen/Owen 2001: 77), the DAC/FA's success in fostering this cooperation, however, seems questionable.

7.1.2.2. *Development of a Consensus on Objective Development Criteria for Pre-Mixed Financing*

In 1987 one specific form of associated financing, so-called pre-mixed credits, was heavily discussed by the members of the DAC/FA. Concerns arose especially with regard to the calculation of the overall grant element of such packages. The DAC/FA speaks of pre-mixed credits when resources from a donor's budget are combined with funds raised on capital markets to form a single "pre-mixed" loan (DAC/FA(87)2, page 3). *"The limited available information suggests that the main pre-mixing techniques are (i) blending budget and market funds and (ii) subsidising the interest rate of market funds by grants from the budget"* (DAC/FA(87)2, page 3).

Considering that up to today pre-mixed financing has been part of some donors' portfolios¹⁴⁹, these discussions – although somewhat technical – will briefly be touched upon. Details of reporting practices, however, will be left aside because these have repeatedly undergone changes since the 1980ies. The grant element thresholds set out in the 1987 DAC Principles apply in the same way to post-mixed and pre-mixed transactions and thus prevent the circumvention thereof by adapting institutional or technical arrangements for this purpose. Nevertheless problems with regard to the reporting of pre-mixed transactions as ODA persist. Such concerns about the reporting of pre-mixed credits resulted from the fact that while usually in associated financing packages the commercial flows were and still are assigned a zero grant element, in a pre-mixed single loan, the grant element of all the components were automatically taken into account. Hence, when using the DAC's 10% discount rate, *"all component flows with an interest rate below 10 per cent, would have a positive grant element and convey it to the total grant element"* (DAC/FA(87)2, page 12). As briefly touched upon in Chapter 3.1.2 similar debates are held today on how to proceed with loans that meet the required grant element as a result of low government interest rates and

¹⁴⁹ The Austrian export credit agency (OeKB), for instance, offers both mixed and pre-mixed credits. For an overview of the different credit modalities see Österreichisches Bundesministerium für Finanzen 2010.

without a budgetary effort on the donor-side (DCD/DAC/STAT(2012)20/DRAFT; see articles by Lomoy 2013 and Manning 2013).

Confronted with controversially discussed pre-mixed credit practices, the DAC Secretariat proposed to DAC/FA Members to collectively work towards a consensus on objective criteria that would allow to determine the developmental character – or the lack thereof – of the *“project and the (concessional) financial transaction and the financing scheme from which it flows”* (DAC/FA(87)2, page 13 and 14). For that purpose, members were invited to gather a number of positive and negative aspects that should help them agree on a consensus on development criteria. The suggested negative and positive aspects essentially recalled those mentioned already in a Note by the Secretariat in 1985 and laid down in Chapter 7.1.2. These included, for instance, the project’s incorporation in investment and public expenditure programmes, the degree of involvement of the aid agency, the presumptive presence or absence of development orientation etc. (DAC/FA(85)2, page 10; (DAC/FA(87)2, page 14). An additional negative criterion not mentioned in the 1985 Note concerned the use of (pre)mixed credits for matching (DAC/FA(87)2, page 14).

7.1.2.3. *Aid Quality: Improved and Mandatory Aid Quality Assessment (AQuA)*

Members of the DAC/FA considered it their main task to make sure that projects proposed for tied aid financing represented *good* investments in development. Although the Working Party had put its focus on aid quality much earlier, it was in the 1990ies that discussions on how to achieve this goal were the most intense (DCD/DAC/FA/M/(93)2-PROV). This agenda-setting is also to be seen in the context of a general rethinking of development co-operation in the 1990ies when the effectiveness and quality of aid were seriously challenged and an “aid fatigue” translated into reduced ODA volumes (see Chapter 4.1).

Called on by export credit agencies that were seeking advice from the DAC on how to ensure good developmental quality of projects, in 1990 an informal joint meeting between the Participants and the DAC/FA was held in which also aid agencies participated. In this constellation first suggestions for an Aid Quality Checklist were made which should form the basis for assessing the development content of projects financed in developing countries (DCD/DAC/FA(91)1, page 2 et seqq.). One of the suggestions made during discussions was that *“[...] an aid quality assessment, essentially by thorough and effective project appraisal, will have to be made before a financial commitment is made”* (DCD/DAC/FA(91)1, page 3). Due to the considerable administrative burden this move would possibly have posed on export credit agencies, the participating experts thought it reasonable to limit the application thereof to certain categories of transactions (e.g. large projects) or to follow a “two-pronged

approach", i.e. a basic appraisal in a first step and a more detailed one in a second step (DCD/DAC/FA(91)1, page 3, 4).

Eventually, the DAC's 1992 *New Measures in the Field of Tied Aid* presented in its Annex a "*Check-list of Development Quality of Aid-Financed Projects*" (OECD/DAC 1992: 16), which was also attached to the Arrangement. This checklist, based on older DAC principles, was and still is expected to assist export credit and/or aid agencies to assess the aid quality of a proposed project. When in 1996 the first version of the Ex Ante Guidance for Tied Aid was released, an enlarged checklist for development quality became part of this Participants' document. The Aid Quality Assessments (AQuAs) to be undertaken along the criteria laid down in this checklist have a dual function. Firstly, it is their objective to demonstrate the contribution of a tied aid credit project to sustainable development, that is to "[...] *provide the donor community with an 'at a glance' assurance that tied aid proposals represent an effective use of scarce aid resources*" (DCD/DAC/FA(95)1, page 4). Secondly, AQuAs might be used by the Participants to signal concerns about quality to the DAC/FA (DCD/DAC/FA(95)1, page 5).

In the mid-90ies, when numerous projects called for consultation showed the difficulties of implementing the newly adopted rules and in view of the unsatisfactory quality of those Aid Quality Assessments (AQuAs)¹⁵⁰ conducted, the DAC/FA emphasized their important role in confidence building among tied aid giving states and made precise proposals¹⁵¹ for improving this "mechanism" (DCD/DAC/FA/M(94)1/PROV; DCD/DAC/FA(95)1). First of all, AQuAs should be provided as an integral part of the feasibility studies prepared by countries in support of their projects. Furthermore, they should provide sufficiently detailed statements and explanations justifying the appropriateness of aid funding, so as to allow other donors to form an opinion on the development quality of the project and to raise issues on this if necessary. Since, according to the Secretariat, countries preparing proposals for tied aid financing are expected to have already performed this analysis, this should not be an onerous task. In addition, it was proposed that AQuAs be mandatory for all projects called for consultation. This would mean, that all large projects automatically had to provide an Aid Quality Assessment (see e.g. DCD/DAC/FA/M(94)1/PROV, page 2;

¹⁵⁰ The DAC Secretariat criticized that often there was no or very little information on the development aspects of a project. Frequently only very general statement were being made, such as "[...] telecommunications projects in rural areas promote development or that the health benefits from a project producing iodised salt justify the use of aid funding" (DCD/DAC/FA(94)9, page 4, 5).

¹⁵¹ The DAC Secretariat appears rather reluctant and cautious not to interfere in the Participants' work. In this vein, the DAC Secretariat, for instance, stressed that "[t]he above proposals have no implications for the way in which the Participants conduct their business; aid quality issues would remain outside their examination of projects and AQuAs would continue to function as a signalling device for issues to be followed up in the DAC/FA" (DCD/DAC/FA(95)1, page 11).

DCD/DAC/FA/M(94)2/PROV, page 3; DCD/DAC/FA(94)3). Discussions on large projects popped up again in the DAC/FA when the Participants changed their rules for large projects.

Under the Helsinki Disciplines large projects initially were subject to automatic consultation. As most of these projects in the early years, however, received the support of the Consultation Group, the Participants amended their procedures, replacing the automatic consultations by "enhanced" notification requirements (DCD/DAC/FA(96)6, page 5). In addition, the Secretariat proposed to invite the Participants Group to enhance the standard notification form for all tied aid credit projects by adding questions designed to assess aid quality. Recalling earlier discussions, this could mean requesting information on both financial and economic internal rates of return of projects (DCD/DAC/FA(94)3).

In parallel, DAC/FA members agreed on the formation of an informal "Friends of the Chair" group, which should help the Chair and the Secretariat discuss issues related to aid quality and to draft proposals for follow-up action by the DAC/FA. As a reaction to the insufficient consideration of aid quality aspects in the Participants' consultations (DCD/DAC/FA(95)3/REV1), the "Friends of the Chair" produced several *Aid Quality Guidance Notes*, which focused on issues signaled in the review of tied aid credits to support projects. Although the guidance provided was thought to be valuable for the preparation of aid supported projects in general, members were particularly expected to take the guidance into account in the preparation of future tied aid financing (DCD/DAC/FA(98)6; DCD/DAC/FA(97)10, page 3; DCD/DAC/FA(95)3/REV 1). In the attempt to develop sector-specific guidance/checklists, guidance notes were prepared, for instance, on "environmental projects", "water projects" and "project sustainability" (DCD/DAC/FA(96)6, page 3; DCD/DAC/FA(97)10, page 3).

7.1.2.4. Greater Importance of Development Content in Consultation Procedures

According to Frans Lammersen, who chaired the Consultations Group between 1995 and 1997 and who today works for the Development Co-operation Directorate, the *"developmental quality of the projects did not play a major role during the consultation process"*. *"Indeed"*, he goes on, *"anecdotal evidence suggests that Member countries remain more concerned with the promotion of their domestic support export industries than with the effectiveness of these scarce resources in promoting development"* (Lammersen 1998: 64; emphasis added).

In a similar vein, Anthony Owen, who, as an independent consultant, analyzed the body of experience gained since 1992 under the tied aid disciplines, addresses this *problematique*.

Even though the *raison d'être* for the Helsinki tied aid disciplines is the prevention of trade distortion, he reminds us that the financial support for the commercially non-viable projects usually comes from the “aid” budgets (Owen 1998: 68; Lammersen/Owen 2001: 77). Consequently, Owen stresses that “[...] *more emphasis should be placed on a sound economic justification for investing in an otherwise financially non-viable project*” so as to prevent projects from “becoming a financial bottomless pit” (Owen 1998: 68)¹⁵². Giving greater weight to the analysis of economic benefits of a project financed with tied aid credits was also one of the DAC/FA’s key proposals in order to improve development quality (see Chapter 7.1.2.3). In a Note by the Secretariat circulated in 1994 this suggestion is clearly expressed: “*The Working Party also suggested that countries provide estimates of the economic internal rates of return [...] to complement those on the financial internal rates of return, in the sense that the gap between these two rates would be indicative of the development contribution of the project. Countries should, of course, explain the mechanism by which the subsidy involved in the projects makes this development contribution*” (DCD/DAC/FA(94)9, page 5; original emphasis).

In an early draft report to the Ministers on the implementation of the tied aid disciplines, the DAC Secretariat identifies the adequate representation of aid authorities in Consultation Group discussions as a precondition for the efficient implementation of the DAC disciplines (DCD/DAC/FA(93)6, para. 10). The idea that the role of aid agencies in the consultation process should be strengthened was recalled at several occasions, but did not have any significant effect on the composition of national delegates sent to consultation meetings (DCD/DAC/FA(96)6, page 3).

7.1.3. Communicating Aid Considerations: the DAC/FA’s Relation to the Participants

As has been shown, tied and partially untied aid credits as well as associated financing ranged high on the agenda of the DAC Working Party on Financial Aspects of Development Finance. From the early 1980ies onwards, the DAC/FA repeatedly voiced concerns about the development impact of tied aid credits and associated financing packages. Most notably these concerned the distortion of aid flows for commercial purposes, leading to an undesired geographical and sectoral shift in the distribution of aid. In view of the fact that eliminating these practices altogether was not a conceivable option, the Working Party proposed measures of how to enhance the development orientation of these official flows. The

¹⁵² In 1998 both Lammersen (1998: 61 et seqq.) and Owen (1998: 68) identify the treatment of environmental projects as another major outstanding issue that the Consultations Group will have to address. A detailed analysis of the potential environmental consequences of the Helsinki rules, not discussed in this thesis, is given by Peter Evans (Evans 2003). Breuss (2005) tackles the treatment of environmental projects under the Arrangement on the Austrian example.

question, thus, arises, how the DAC/FA tried to articulate these concerns and suggestions *vis-à-vis* the main negotiating body, the Participants Group. In search of answers, this section explores the means that were at the Working Party's disposal to "confront" the Participants Group with its expectations regarding developmentally effective rules of aid resources. The extent to which the DAC/FA made use of these will briefly be touched upon and taken up in the conclusions drawn from this chapter.

7.1.3.1. *Monitoring the Participants Group*

Already with the DAC Guiding Principles on Aid in Association with Export Credits and other Market Funds of 1983 Members declared that the Working Party on Financial Aspects "[...] will follow closely relevant developments in the Group on Export Credits and Credit Guarantees of the Trade Committee and co-operate with this Group as required" (DAC(83)7, page 6). In 1985 DAC/FA Members reaffirmed this commitment and stated that they "[...] are following the work under the Consensus which is directly relevant to their concerns. The respective parts of the Secretariat are in touch to promote reconcilable approaches by both groups to the same issues" (DAC/FA(85)2, page 12). Over the years, the role of the Secretariat should become crucial in increasing awareness of aid concerns of the DAC/FA among the Participants and of trade considerations among the DAC/FA, respectively. In a way these "awareness-raising measures" by the Secretariat paved the way for informed discussion of matters of mutual concern.

The issues which were of concern for the DAC included the "*definition of 'tied aid credits' and the calculation of the grant element; prior notification requirements; common line consultations; proposal to raise the minimum permissible grant element threshold for tied aid credits and other proposals to strengthen discipline*" (DAC/FA(85)2, page 12 et seqq.).

Discussions on changes in the minimum permissible grant element in the run-up to the Wallén Package exemplify how closely the DAC/FA followed negotiations within the Participants Group. In essence, discussions among the Participants were observed and the potential repercussions of proposed measures on development (aid) in general, and DAC principles in particular, were assessed (see for instance the Note "Implications of strengthened export credit arrangement disciplines for the DAC Guiding Principles" – DAC/FA(87)1). The DAC discussions on the appropriate calculation of the grant element which were triggered by changes made by the Participants in computing the grant element, henceforth called concessionality level, also show that the influence I try to capture is not a one-way street and that discussions in the Participants Group also spilled over into the DAC/FA.

Since country positions on the usefulness of the envisaged measure diverged considerably, a Note by the DAC Secretariat of the year 1986 studied possible scenarios resulting from an increase in the grant element threshold. In the first scenario, the proposed measure would lead to a reduction of resource transfers, essentially because for budgetary or institutional reasons it would become more difficult to stretch ODA. In a second scenario, donors would discontinue ineligible associated financing and tied and partially untied ODA as well, but this time re-direct at least some of the newly available aid resources to their more concessional aid programs. In the third scenario, the new concessionality threshold would result in a new clustering of aid transactions just above the permissible grant element and could imply “intensified credit terms competition” (DAC/FA(86)8, page 6).

As described in Chapter 6.3.1.1 the increased minimum concessionality threshold, which the Participants were about to agree on, was thought to disincentive the use of tied aid credits for commercial purposes¹⁵³. In another Note circulated by the OECD Secretariat in 1986, however, it was stressed that there was no certainty that increases in the grant element (at either uniform or differentiated discount rates) would significantly improve development quality. The OECD Secretariat stated that the requirement of a grant element regardless of whether it was set at 25 or 35% could not replace “[...] *careful economic appraisal and cost-effective procurement methods*” (DAC/FA(86)12, TD/CONSENSUS/86.53, page 30). In addition to an increased minimum permissible grant element, strong DAC guiding principles, combined with standards for project appraisal and procurement, were thought to be necessary to make sure that development goals could be met with tied aid credits. Finding agreement on principles that “*really bite, however, had not been possible at that stage*” (DAC/FA(86)8, page 6, 7). This lack of progress was explained by the Secretariat with the “[...] *unwillingness by Member governments to accept restrictions on the use of their aid, inherent difficulties in determining developmental criteria and, in consequence, skepticism that such criteria would be applied uniformly by all members*” (DAC/FA(86)8, page 6, 7). The first reason mentioned, the standstill due to unwillingness of members to accept restrictions, reflects the very way of the functioning of the OECD¹⁵⁴. Although the Secretariat is the heartbeat of the Organization (Woodward 2009: 49 et seqq.), its members are the reins – or as Richard Woodward puts it: “*They are the gatekeepers for the issues that enter the organization, they hold the purse strings, and their representatives far outnumber those of the OECD*” (Woodward 2009: 60 et seqq.). This means that no important decisions can be

¹⁵³ Empirical evidence, presented in Chapter 6.3.2, however, suggests that the third scenario described above came to be true, i.e. the extension of rather hard credits just above the new minimum threshold.

¹⁵⁴ Examples such as the U.S. Tied Aid War Chest show that the lack of sanctioning power of the Organization leads to a situation in which “it is up to each government to [...] follow up on violations” (Forster/Stokke, 1999a: 39-40; 50 quoted in Petermann 2013: 421).

made without the agreement of all members. Consequently, diverging opinions on the usefulness of mixed credits might have weakened the position of the DAC/FA as a whole vis-à-vis the Participants.

While DAC/FA Members recognized that aid could be improved through an increase in the grant element, if “[...] *acrimony and suspicion among donors about the use of aid for commercial advantage could be reduced*” through the measure envisaged by the Participants, potential trade-offs between the development assistance and the trade impact of the proposed measures were addressed in the Note. Especially the potential loss of flexibility in ODA-stretching was recalled and the fear that such a measure might make aid management somewhat more complicated for certain donors was addressed (DAC/FA(86)12, TD/CONSENSUS/86.53). Concerns about stagnating or decreasing ODA volumes due to fewer possibilities of ODA-stretching were an integral part of early DAC/FA discussions on the issue (see Chapter 7.1.1.1). Up to today this argument paired with concerns about reduced public support for aid spending has been brought forward as a justification of slow progress in untying or rather of the refusal to consider the untying of certain activities. The Note concluded by saying that “[a] **clear signal to the business community and to developing countries that Official Development Assistance is for financing development and not for gaining commercial advantage over competitors would in any case be useful**” (DAC/FA(86)12, TD/CONSENSUS/86.53, page 30; emphasis added). Unequivocally, this statement reflects the need to take into account the interests of the business community, which appears as an important interest group influencing national policy-making. Excluding or insufficiently accommodating these interests, it was feared, could lead to the erosion of the adopted rule set.

These discussions on the modification of the grant element illustrate how attentive the DAC/FA was towards the developments in the Participants Group. But which possibilities did the DAC/FA have to communicate its objections or proposals to the Participants? The circulation of the same Notes of the Secretariat to both the Participants and the DAC/FA suggests that the respective directorates of the Secretariat exchanged views and expertise. The next section will examine the forms of interaction which took place on the level of the two groups.

7.1.3.2. *Forms of Interaction between the Two Groups*

In the mandate given to the DAC Working Party on Financial Aspects of Development Assistance it says that the Working Party will maintain close relationships with the Export Credit Bodies, that is the ECG and the Participants Group (DAC(75)18 quoted in

DCD/DAC/(FA/99)6, page 13). At several occasions, for instance in 1989, DAC/FA Members reaffirmed older commitments and “[...] stressed the need to **move in tandem** with progress made in the export credit bodies and to co-operate with them to the maximum extent possible. It was felt, however, that **on aspects of particular importance for aid and development policies the DAC should have the leadership**” (DAC/FA/M(89)1(Prov.), page 2; emphasis added).

Also the Participants acknowledged the aid distorting effects of tied aid financing and declared from an early stage on that it was necessary to cooperate with the DAC on this issue. And indeed, the document analysis shows that reciprocal reporting and (informal) joint meetings¹⁵⁵ between the DAC Working Party and the Participants Group took place and opened communication channels between delegates in the respective groups. Forms of direct contact between members of the DAC/FA and the Participants Group were preceded and accompanied by cooperation between the Directorates of the Secretariat, which jointly prepared Notes to be considered by both the Participants and the Working Party and which should increase a mutual understanding of each other's concerns and goals.

The most frequent form of communication between the two groups was the reporting done by the respective Chairman to members of the other group. Especially, though not exclusively, in the difficult period shortly before the adoption of the Wallén and up to the agreement on the Helsinki Package - the respective Chairmen were invited to report to the other body on relevant developments in the field of associated financing and tied aid credits. The most obvious act of cooperation on the level of Chairmen can be seen in the well-coordinated reports and recommendations presented by the DAC/FA's and the Participants' Chairman to the Ministerial Council in 1991 (Ray 1995: 94 et seqq.).

The second communication channel that the DAC/FA could use to present its ideas to the Participants Group, were the joint meetings, which took place on an *ad hoc* basis. The first one of these meetings was held following the recognition by the Participants Group of the need to coordinate measures taken in the field of tied aid credits:

*“In order to improve coordination and communication, especially where ‘unwritten rules’ are being developed, the Secretariat proposes that the Participants decide to co-operate with the DAC/FA in mutually extending and accepting **standing invitations to conduct jointly discussions on individual transactions**”* (TD/CONSENSUS/89.4, page 2; emphasis added).

¹⁵⁵ Occasionally – and especially in the early years - also joint meetings between the DAC/FA and the Export Credit Group (ECG) were held.

Based on the discussion of individual transactions as well as the implementation of the 1987 DAC Guidelines and the Arrangement on the example of projects, the joint meetings provided an opportunity to make recommendations to both the DAC/FA and the Participants. The Participants and the DAC/FA decided not to set up a separate Working Group to deal with issues of mutual interest. Instead, joint meetings were to take place whenever the DAC/FA or the Participants were in sessions and were chaired by either the DAC/FA Chairman or by a member of the bureau of the Participants if the meeting took place within the framework of a Participants' meeting. Hence, meetings "*would be composed, on an ad hoc basis, of participants in the two parent bodies*"¹⁵⁶(TD/CONSENSUS/89.4/Annex, page 3). It needs to be noted, however, that these meetings aimed at discussing specific transactions, not at the negotiation of rules per se. Although commenting on the problems that stemmed from existing disciplines might have given the DAC/FA in specific cases a means of indirectly influencing the Participants' perception of the rules or the problems, the Working Party was never a negotiator of the rule set-up itself. When putting the making of tied aid disciplines into the broader context of the pursuit for untying aid in general, the picture becomes more nuanced. Joint meetings between the two groups happened more frequently after the Helsinki disciplines had been adopted and concerned implementation problems, the development of the Ex Ante Guidance for Tied Aid and/or specifically addressed initiatives of how to foster "Global Untying" and how to deal with untied aid (see for instance TD/CONSENSUS(91)31). Chapter 7.1.4.4 will explore meetings dedicated to untying initiatives in greater detail.

7.1.4. "(Re-) Claiming its Territory": Adoption of Complementary Guidelines by the DAC

In addition to monitoring the Participants' work, reporting to them on relevant developments within the DAC/FA and occasional joint meetings on specific issues such as untying, the Development Assistance Committee itself also adopted a series of Guiding Principles in the field of associated financing and tied and partially untied ODA, thereby ascertaining its role in designing tied aid disciplines.

¹⁵⁶ In 1990, for instance, DAC/FA members were invited by the Participants to jointly discuss the "Krakatau Steel Project." Several Participants (Austria, Germany, Japan and Spain) were involved in the bidding process for the project. Japan sought clarification on the offers made by OeKB to the potential supplier Voest Alpine (DCD/DAC/FA(90)5; TD/CONSENSUS/90.26; TD/CONSENSUS(90)43 Annex I). The project involved the construction of a slab steel plant for the Indonesian Krakatau Steel Company (TD/CONSENSUS(90)43 Annex I, page 4). Although several questions with regard to the project's development impact and compliance with DAC standards were on the agenda, not a single member of the DAC/FA participated in the meeting. Another joint meeting, actually deserving the name "joint" meeting, took place in 1990, this time under DAC/FA Chairmanship. In this meeting participating delegates investigated terms and procedures of the "Second Digital Exchange Project" in Indonesia (TD/CONSENSUS/90.52; DCD/DAC/FA(90)8).

Already in 1984 the then Chairman of the DAC/FA Group, Robert Ainscow, stated that “[i]t was [...] apparent that both Participants and the DAC/FA are interested in the same kind of transactions whilst they look at them from different angles” (TD/CONSENSUS/84.23). While the Participants’ efforts in the 1980ies resulted in the Wallén Package (1987), the DAC’s discussions led to the adoption of the *Guiding Principles for the Use of Aid in Association with Export Credits and Other Market Funds* (1984) and subsequently the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* (1987), in which the foundation-stones were laid for defining and distinguishing tied aid, partially untied aid, and untied aid and wherein the importance of greater transparency in the use of these financial packages was stressed (OECD/DAC 1987).

However, as shown in Chapter 6.3.2, neither the measures taken by the Participants nor those adopted by the DAC put an end to trade and aid distorting practices. Consequently, the DAC worked in parallel to the Participants on fulfilling the Ministers’ mandates¹⁵⁷ formulated at the Ministerial Council Meeting of 1990 and 1991, which had urged both competent bodies to take further action. The same year that the Helsinki Package came into effect (1992), the DAC also approved *New Measures in the Field of Tied Aid* (SG/PRESS(92)35). This new set of measures, which was also adopted by the Participants, built on older DAC guidelines on tied aid credits and especially strengthened the 1987 *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* as well as the 1988 *DAC Principles for Project Appraisal* (SG/PRESS(92)35, page 3).

With the intermediate goal of disciplining tied aid credits achieved, the DAC re-intensified its efforts to fully untie ODA, which eventually culminated in the adoption of the *DAC Recommendation on Untying of Official Development Assistance to Least Developed Countries* in 2001.

7.1.4.1. *Guiding Principles for the Use of Aid in Association with Export Credits and Other Market Funds* (1983)

Early DAC discussions on associated financing led to the adoption of the *Guiding Principles for the Use of Aid in Association with Export Credits and Other Market Funds* in 1983.

In the preamble DAC members recognized the need to avoid aid and trade distortion and declared to “[...] undertake to ensure that associated financing will promote priority

¹⁵⁷ For a more detailed account of the different ministerial mandates given to both Participants and DAC/FA please see Chapter 6.3.

developmental objectives and is consistent with fair trade competition" (DAC(83)7, page 3). Under this first version of Guiding Principles DAC members undertook to "[...] *confine Associated Financing to priority projects and programmes which are carefully appraised against the developmental standards and criteria applicable to official development assistance programmes and which form part of the recipient country's development programme*" (DAC(83)7, page 4 et seqq.; DAC/FA(85)2, page 4). Furthermore, members committed themselves to undertake actions to "*strictly restrain the use of Official Development Assistance for associated financing in the case of stronger developing countries*" and to "*assist developing countries to receive a fair value for the price paid and, in particular in case of large projects, use associated financing as far as possible on the basis of international competitive bidding*" (DAC(83)7, page 5; DAC(83)17). Through the Working Party on Financial Aspects members also agreed to review their policies concerning associated financing against the new set of guidelines "(DAC(83)7, page 5).

The adoption of these early guidelines was considered by the DAC Secretariat a "[...] *result of major negotiation effort and [...] a difficult compromise between widely varying country positions*" (DAC/FA(85)2, page 5). Similarly, when presenting the proposed text for agreement, the then Chairman of the DAC/FA, Mr. Ainscow, emphasized that the "[...] *adoption of this text would be an important step towards forestalling the potential distorting effects of associated financing on aid and trade*" (DAC(87)17, page 2).

Discussions accompanying the adoption of the Guiding Principles had been characterized by intense bargaining between those who considered associated financing valuable additional financial flows to developing countries which could counteract overall stagnating ODA and declining bank credits and those stressing the risk of aid distorting effects stemming from associated financing practices. Members had to accept that these considerable differences in view could not be resolved for the time being (DAC/FA(85)2, page 5).

7.1.4.2. *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance (1987)*

In 1987 the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development* were adopted. They superseded the *Guiding Principles for the Use of Aid in Association with Export Credits and Other Market Funds of 1983* and stressed that the DAC was aiming at re-negotiating associated financing programs in conjunction with the Participants Group (OECD/DAC 1987). Furthermore, this document laid the cornerstones for

defining¹⁵⁸ and distinguishing tied and partially untied aid and associated financing (OECD/DAC 1987, paras. 2-7) and put particular emphasis on the importance of greater transparency in the use of these financial instruments. The latter, for instance, shall be ensured by using a system of national contact points and by promptly providing information on specific projects to other members if requested (OECD/DAC 1987, paras. 8 and 17).

Earlier in 1987, the Wallén Package was agreed upon by the Participants Group in which they decided to increase the grant element, henceforth called concessionality level, to 35% and 50% for LDCs and changed the method of computing the concessionality level by no longer using the DAC's uniform 10% discount rate but a more market-oriented Differential Discount Rate (DDR) (see Chapter 6.3.1). These newly adopted rules were incorporated into the DAC Guidelines. Henceforth, the DAC Guiding Principles no longer had an independent paragraph on the minimum grant element, but incorporated the Arrangement rules on the required concessionality level¹⁵⁹. Accordingly, the 1987 Guiding Principles replaced the notion of grant element by the Participants' wording and method of computation of the "concessionality level"¹⁶⁰. This usage of Arrangement definitions concerns, however, only the stage of notification of tied aid transaction and affects neither the DAC's ODA definition per se (based on a 25% grant element) nor the reporting of ODA disbursements or commitments (SG/PRESS(92)35, page 6). In essence, this means that these flows must meet both the special concessionality tests for tied aid credits and associated financing as set out in the Arrangement and the DAC grant element (OECD/DAC, ODA Factsheet 2008).

The integration of Arrangement components into the DAC Guiding Principles, however, was not a one-way street. In a similar vein, also the Participants adapted elements of the DAC's "rule set", most notably the definition of associated financing and tied and partially untied development assistance provided in the DAC Guiding Principles (see Chapter 7.2).

In the Guiding Principles members reiterated those considerations that according to them needed to be taken into account when examining "[...] *the developmental priority of all*

¹⁵⁸ For an explanation of the definitions provided in the guiding principles please see Chapter 3.2.

¹⁵⁹ Since agricultural products were (and still are) not covered by the Arrangement, the Secretariat urged DAC members to examine these cases (DAC/FA(87)6, page 3). Up to today, the failure to integrate agricultural products is considered one of the main weaknesses of the Arrangement rules. One interview partner considered this loophole even the "single biggest failure" of the Participants (Interview VI).

¹⁶⁰ As has been mentioned before, the mode of computing the concessionality level differs from the usual (and up to today used) DAC practice in that a differentiated discount rate rather than the uniform 10% discount rate is used. This entails varying results: when using a differentiated discount rate transactions in currencies with market rates higher than 10% the conveyed concessionality level is higher than the grant element in other DAC purposes, and vice versa (DAC/FA(89)2, page 8 and 9). In a later Note the differences not only in discount rate, but in the perspective behind the calculations are recalled (DCD/DAC/FA(2002)2, page 2 and 4, see also DCD/DAC/FA(2002)9).

projects and programs financed with ODA" (OECD/DAC 1987, para. 13). Essentially, they recall earlier proposals examined in Chapter 7.1.2.

Furthermore, the Guiding Principles instructed the DAC Secretariat to establish a reporting system to monitor the tying behavior of its members and to integrate the findings thereof into so-called *Associated Financing Reviews* to be produced regularly by the Committee and to be submitted to the DAC High Level Meeting (OECD/DAC 1987, para. 12). In addition to monitoring, the Guidelines spelled out that evaluation of the untying measures should take place *ex-post* (OECD/DAC 1987).

Concluding, the Guiding Principles suggested that as follow-up to the then present guidelines, more stringent guiding principles should be developed in cooperation by the DAC/FA and the Export Credit Group and all other parties to the Arrangement (Petermann 2013: 216).

7.1.4.3. *New Measures in the Field of Tied Aid (1992)*

"Policies for export credit and aid credit should be complementary:

those for export credits should be based on open competition and the free play of market forces and those for tied aid credits should provide needed external resources to countries, sectors or projects with little or no access to market financing, ensure best value for money and minimise trade distortion and contribute to developmentally effective use of these resources"

(SG/PRESS(92)35, page 3; original emphasis).

As shown in Chapter 6.3.2, none of the above measures truly succeeded in containing aid and trade distorting practices of Consensus and DAC Members via tied aid credits. A major breakthrough in negotiations was reached in 1992 with the adoption by both DAC Members and Participants of *New Measures in the Field of Tied Aid* (SG/PRESS(92)35). This new set of measures built on older DAC guidelines on tied aid credits and especially strengthened the 1987 *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* as well as the 1988 *DAC Principles for Project Appraisal* (SG/PRESS(92)35, page 3).

The rules set out in this document parallel the Arrangement rules agreed upon by the Participants and pursue the same goal of separating export credits and tied aid credits by redirecting tied aid credits away from richer to poorer development countries and from

commercially-motivated to developmentally-sound projects (SG/PRESS(92)35). The document is divided into a chapter on large projects, a second one on limitations on use of tied aid credits and a section on future work.

In the chapter on the limitations on the use of tied aid credits, repeatedly references to the Arrangement are made and the DAC's commitment to contribute to the implementation of the Helsinki Discipline¹⁶¹ is declared. The measures presented not only take up the Helsinki Disciplines (most notably the key tests and the concessionality level) but also contain the same exemptions as the Helsinki Package with regard to very concessional loans (above a concessionality level of 80%) or grants that go to Least Developed Countries and do not cover projects smaller than 2 million SDR (de minimis projects) (SG/PRESS(92)35, page 5).

In addition to the incorporation of tied-aid relevant elements of the Arrangement on Officially Supported Export Credits, the 92 Measures contain some additional development assistance oriented principles such as the provision of a checklist of considerations along which the development priority of projects or programs should be assessed (Chang et al. 1999: 88, see (DCD(99)6, page 88).

Another specificity of the 92 DAC Measures, which is not part of the Participants' Helsinki disciplines, concerns highly concessional credits directed to "better-off" developing countries (DCD/DAC/FA(92)1, para. 13). With regard to these the 92 DAC Measures state that "[...] *they might be used mainly for exceptional balance-of-payments support and for financing of projects in such areas as the social field, environment, good governance and emergency aid*" (SG/PRESS(92)35, page 5). Petermann interprets this as ruling "out the permission of tied and partially tied credits for richer developing countries" (Petermann 2013: 217). Since this provision is specific to the DAC rules, the Secretariat urged members "[...] *to consider appropriate procedures to ensure that credits to the 'better-off' developing countries with a concessionality level of 80 per cent or above are notified and, as appropriate, discussed by Members*" (DCD/DAC/FA(92)1, para. 14).

As large projects have been a matter of concern for the DAC/FA basically since the Working Party started to deal with associated financing and tied and partially untied aid, some more light shall be shed on the agreed principles for large projects. With regard to projects above SDR 50 million, which are subject to mandatory consultation, the DAC agreed on mutual

¹⁶¹ Petermann even concludes that the Helsinki Package "[...] paved the path for further approaches to discipline policies of export promotion with the help of tied aid", such as the 1992 *DAC Measures in the field of tied aid* (Petermann 2013: 217). This statement suggests that he assumes an influence of the Participants on the DAC's work. A spill-over of ideas and concepts from the DAC into the Participants work is at this point not mentioned by the author.

appraisal, appropriate financing terms as well as procedures of International Competitive Bidding (ICB)¹⁶². Mutual appraisal means that DAC members should cooperate with each other as well as with the World Bank Group “[...] *on project preparation and appraisal, including a joint review of the project prior to the final commitment of aid funds*”. In addition, consultation among DAC members and with recipient countries should lead to an agreement on appropriate financing terms which are “consistent with the economic situation of the recipient country” (Ray 1995: 94, 95). The DAC’s call for using international competitive bidding means that tied aid credits should be awarded to the lowest evaluated bid, concerning both *price and technical factors*. As a supplement to older recommendations on ICB¹⁶³, the 92 Measures state that *financing terms* should be taken into account in a second step only (SG/PRESS(92)35, page 4). This clause introduced a mechanism of “advance bidding”, trying to ensure that “tied-aid financing is only extended in cases where the donor’s exporter would have won the contract anyway” (Ray 1995: 95). By this procedure¹⁶⁴ both trade distortion and aid diversion provoked by tied aid credits are thought to be minimized (Ray 1995: 95). It is, however, recognized in the 1992 Measures that “seriously resource-constrained poor countries, in awarding a contract, may need to take into account the availability of financial resources at concessional terms, provided the award goes to a supplier which ranked second or third in bid evaluation for price and quality or where the price margin is reasonable” (SG/PRESS(92)35, page 4).

7.1.4.4. *Global Untying and Good Procurement Practices: Mutual Concern and Ongoing Struggle?*

“The ideal solution would be international agreement on reciprocal untying of ODA loans along the lines of the earlier DAC proposals”
(DAC/FA(81)1, page 19).

Already in its first note on tied aid credits and associated financing, the DAC Secretariat presented aid untying as the ideal solution to problems stemming from the use of these instruments (DAC/FA(81)1, page 19). Over the years the DAC did not get tired of promoting this goal, albeit with sobering results. Still, these continuous efforts show that tied aid credits and associated financing packages cannot be understood without the context of the larger

¹⁶² This required also recipient authorities to undertake arrangements for international competitive bidding (Ray 1995: 95).

¹⁶³ Most notably these were addressed in the DAC Good Procurement Practices, published in 1986 (OECD/DAC 1992). For further information please also see Chapter 7.1.4.4 below.

¹⁶⁴ According to John Ray (1995: 95) this system works best “when an aid credit line or protocol is in place. Then the recipient country is assured that, if it does not find that the potential donor’s exporter has submitted the lowest evaluated bid, the aid credit will not be lost to it but will remain available for future projects”.

(un)tying debate. This section complements an earlier chapter on the “Untying Debate” (see Chapter 4.1.3) by breaking it down to discussions within the DAC/FA and the Participants Group. The issue of untying is of interest here for yet another reason. It is in the field of untying that mutual interests between the two groups crystallized and vivid interaction took place.

After an agreement on tied aid disciplines was reached in Helsinki, both the Participants’ and the DAC/FA’s focus¹⁶⁵ shifted from disciplining tied aid credits to propagating untying, thereby pushing negotiations to the next level. From 1991 onwards, most Aide-Mémoires of Participants’ meetings and Notes by the Secretariat contain a section dedicated to “Global Untying”. This shift was prepared by the Helsinki Package, in which the Participants agreed to develop targets for the global untying of aid, believing this to be “*one of the best ways to reduce trade distortions*” (Lammersen 1998: 64; TD/CONSENSUS(92)12). Not only did the Participants declare their will to cooperate with the DAC in developing these targets, but on several occasions also acknowledged the DAC’s expertise in the field (see for instance TD/CONSENSUS(91)31; TD/CONSENSUS(92)12; TD/CONSENSUS(92)42). The following statement made in a follow-up paper to the Helsinki Package illustrates this recognition of the DAC’s leading role:

“The field of global untying may be new to the Participants, it is not new to the DAC. The DAC is currently studying the subject. At the same time, it is considering the issue of the definition of untying: in practice it is sometimes very difficult for exporters that are not from the donor country to use untied aid. [...] The DAC will seek to improve the situation so that the environment for global untying will improve. There is at the moment little the Participants can add to this effort” (TD/CONSENSUS(92)12; emphasis added).

So in a way, the Helsinki Package provided the DAC with a quasi “mandate” to take steps towards the untying of aid. This declared preference of the Participants for untied aid, certainly gave leverage to the DAC’s untying agenda.

In the following years, the Secretariat and the DAC/FA investigated the feasibility and implications of different approaches¹⁶⁶ towards greater untying. Confronted with slow

¹⁶⁵ In parallel emphasis was put on the effective implementation of the rules.

¹⁶⁶ For instance, Members of the DAC/FA discussed the pros and cons of “global” and “selective” strategies and the usefulness of setting quantitative targets for untying (see for instance DCD/DAC/FA/M(92)3; DCD/DAC/FA(93)3; DCD/DAC/FA/M(97)1). In preparation of the DAC/FA’s spring meeting in 1993, the Note “Greater Untying of Aid”, prepared by Professor Jepma, was distributed to the Working Party’s members. In this paper Jepma outlined several policy options for further untying and identified the following policy directions: a standstill scenario, a gradual reduction of aid tying, a greater use of earmarked facilities as well as selective untying (DCD/DAC/FA(93)3). With regard to scenario 3, which may not be self-explanatory, Jepma explained that “[...] the emphasis would be put on

progress in untying due to “commercial pressures” in donor countries, the DAC Secretariat stressed that in order *“[t]o counter accumulated rent-seeking pressures for tying, exporters have to be convinced of the benefits of this initiative. In line with the approach shared by OECD countries in general, their support should be forthcoming in the expectation of competitive access to a much larger pool of untied aid offers, as opposed to preferential access to a much smaller domestic pool”* (DCD/DAC/FA(97)8, para. 17; emphasis added). This liberal underpinning of the OECD in general, had pushed Bill Nicol, from the Development Co-operation Directorate, to conclude that *“[...] the Participants’ and the DAC/FA objectives were similar and compatible and need not move along divergent tracks”* (TD/CONSENSUS(94)50)¹⁶⁷.

In an attempt to minimize mixed financing practices still at disposal to member states, DAC Members at the DAC High Level Meeting in 1998 (DCD/DAC/FA(98)12) recalled their willingness to phase out tying practices and mandated the DAC/FA with preparing a recommendation for the untying of aid. In a Note by the Secretariat a series of proposals was made of how to carry out the HLM mandate on untying ODA to the least developed countries. The Secretariat therein recalls that in carrying out this mandate *“[...] it will be important to co-operate with the Participants to the Export Credit Arrangement, who have reconfirmed their willingness to contribute relevant experience in consultations with the DAC on the development of procedures to assist with the implementation of the initiative”* (DCD/DAC/FA(98)3, page 5; original emphasis).

Intense discussions¹⁶⁸ as well as an exchange of views between the respective Chairs and Secretariats took place concerning the areas which should be covered by respectively exempted from such a recommendation. On the of basis the discussion outcomes an agreement was reached in 2001 in the form of the *Recommendation on Untying of Official*

the option to earmark parts of a donor’s tied aid budget for the financing of projects to be procured through international competitive bidding (ICB). When the latter is not the case, the project would not be financed by that donor, but the aid would continue to be available to the recipient for future projects on the same provisions” (DCD/DAC/FA(93)3, para. 13).

¹⁶⁷The mutual interest in pushing for economic liberalisation alone, however, is an insufficient explanation of why the untying agenda gained momentum in the past two decades. Petermann’s analysis of the rationale behind untying suggests a gradual shift from “donor interests” to “recipient needs”, a shift conducive to the DAC’s untying agenda (Petermann 2013: 409 et seq.).

¹⁶⁸ Similar to earlier discussions on the appropriate regulation of tied aid credits, concern was raised about the potentially adverse effects of additional rules on total ODA volumes. The same argument had earlier been brought forward with respect to the potential effects of the disciplines for tied aid credits. Thus, finding agreement appears as a balancing act.

Development Assistance to Least Developed Countries and Heavily Indebted Poor Countries (DCD/DAC(2001)12/FINAL, Annex III, page 10)¹⁶⁹.

In line with the general approach of the OECD of combining discipline with transparency (Interview VII), also the DAC/FA and the Participants regarded parallelism in addressing both disciplines and transparency as important (TD/CONSENSUS(94)50). While the DAC/FA was preparing what became known as the 2001 Recommendation on Untying and even more so after its adoption, transparency issues related to the untying of ODA came to the attention of both Participants and DAC/FA. The lack of transparency in the use of untied aid, as such not covered by the Helsinki rules, was increasingly perceived as disguising *de facto* tying practices.

The post-Helsinki movement away from tied aid credits, which were subject to the new rules, towards untied credits, which were not touched by the new provisions, made transparency in aid procurement become an ever more indispensable condition of the elimination of distorting practices (Ray 1995: 108). Already in 1993, several Participants such as Canada, the European Commission, and the U.S. expressed concern in a Participants' meeting about insufficient transparency with regard to untied aid (TD/CONSENSUS(93)46). In response, the DAC/FA issued a questionnaire on untied aid practices, policies, and procurement (DCD/DAC/FA(93)10/REV1; TD/CONSENSUS(93)46). The following year, a joint meeting between the DAC/FA and the Participants was held on the need for greater transparency in the use of (*de jure*) untied aid credits (mentioned in TD/CONSENSUS(94)12). Just as in the case of untying, the DAC/FA claimed leadership in further sharpening definitions of untied aid, thereby contributing to filling this transparency gap. In this respect, John Ray states that “[i]n this urgent work, the Participants needed to cooperate with the DAC, which has primary responsibility for rules and guidelines covering aid procurement” (Ray 1995: 109).

Because of the absence of concrete steps taken in subsequent years, Stafford remarked on the occasion of the Arrangement's 20th birthday that “[a]s the tied aid credit disciplines bite, there has been a shift toward untying of aid credits – which is another example of efforts to avoid the Arrangement disciplines” (Stafford 1998: 48). In line with proposals made by the U.S. delegates, he suggested that the Helsinki test of “non-commercial viability” should be extended to all aid credits so as to avoid further circumvention and an eventual breakdown of the rules (Stafford 1998: 49).

¹⁶⁹ Petermann underlines the comprehensive importance of this event in stating that “[a]t that point, demand for more effective inter-donor coordination of aid commitments also became part of the general policy debate” (Petermann 2013: 218).

Based on findings of a series of “Shadow” *Helsinki Review of Untied Aid Credit Notifications*¹⁷⁰ conducted on yearly bases from 2001 onwards and with input of the DAC Secretariat (TD/PG(2005)8), the Participants finally concluded in 2004 the *Agreement on Untied ODA Credits Transparency*, which is thought to complement both the DAC Recommendation on Untying and the Helsinki Disciplines (TD/PG(2005)8 (Annex)).

In the *Agreement*, the Participants recognized that untied ODA “[...] can offer enhanced development benefits from increased efficiency in procurement of goods and services, and better value for money to the recipient. In their continuing effort to enhance transparency on untied ODA credits generally, and to enhance confidence in, and therefore the use of, untied aid as a developmental tool, OECD Participants [...] agree to implement a pilot programme to provide ex ante and ex post transparency over the use of untied ODA credits that finance the provision of goods and services in developing countries” (TD/PG(2005)8 (Annex), page 2). Therein, they laid down transparency modalities, agreed on procedures for information exchange, and committed themselves to use procedures of international competitive bidding, “[...]where possible and practical” (TD/PG(2005)8, page 5). For instance, as a central mechanism of increasing ex ante transparency, Participants were encouraged to make notifications of untied aid credits available to Participants through either the DAC’s Internet bulletin board¹⁷¹ or the Export Credit Secretariat (TD/PG(2005)8 (Annex), page 3).

In a similar vein, the afore mentioned 2001 Recommendation on Untying suggests that procurement procedures should follow the DAC practice and that international competitive bidding should be applied (DCD/DAC(2001)12/FINAL). Thus, the Committee’s work in the field of aid procurement practices is related to the DAC’s call for the untying of aid. Just like untying, good procurement practices are thought to be critical for the effectiveness of aid projects and programmes. Accordingly, the DAC recommended that procurement should be seen as an integral part of the whole project cycle – from design to implementation (Jepma 1991: 25).

In the 1986 DAC document on *Good Procurement Practices for ODA*, up to today referred to in the Arrangement on Officially Supported Export Credits (TAD/PG(2013)1, page 124), a distinction is made between international and national competitive bidding, informal competition or direct negotiations and the importance of transparency in rules of

¹⁷⁰ In November 2000, the Participants “commissioned” the Secretariat to “prepare an analysis of untied aid credit notifications simulating the application of the so-called “Helsinki” tied aid rules of the Arrangement” (TD/PG(2003)8). For the reports see, for instance, TD/PG(2003)8, TD/PG(2004)8, TD/PG(2005)7, TD/PG(2006)9).

¹⁷¹ In order to increase transparency and prevent *de facto* tying, untied aid credits should be notified on the so-called “Untied Aid Notification Bulletin Board”, see <https://community.oecd.org/streamPage.jspx?cwsDb=Xuntied&community=2249>.

procurement and in information on individual supply contracts is stressed (OECD/DAC 1992: 113-115; DCD(99)6, page 96).

The underlying assumption for good procurement practices is that transparency preconditions competition and competition in turn increases the efficient use of aid resources. By describing International Competitive Bidding (ICB) as the best way of proceeding with aid-related procurement of goods and services, the principles suggest that untied aid is a prerequisite for good and effective procurement.

*“However, since most **Member countries feel obliged to tie large parts of their bilateral aid to procurement** from the donor country or permit only partial untying, it is useful to develop and apply procurement practices that promote the efficient use to tied-aid funds”* (DAC Good Procurement Practice for Official Development Assistance see Ray 1995, Annex F, page 240-246; emphasis added). The Principles state that in cases where ICB¹⁷² is or cannot be applied, members should use National Competitive Bidding as the main procedure for procurement under tied aid conditions (OECD/DAC 1992: 113).

With regard to the relation of the untying initiative and procurement practices, one of our interview partners explained: *“I keep saying, look untying is an instrument, it is a tool. **Look beyond the tool to see what it exactly is you are trying to achieve. It’s development. In terms of the areas where this can have an impact, it’s government procurement systems in developing countries**”* (Interview V). This emphasis put on conceptualizing untying as means and not an end in and of itself, is also reflected in donors’ commitments in Paris and Accra. At the High Level Forum in Accra 2008 donors, for instance, reaffirmed that they *“[...] will promote the use of local and regional procurement by ensuring that their procurement procedures are transparent and allow local and regional firms to compete”. This way, aid’s “value for money”¹⁷³ is thought to increase* (OECD 2005-2008: 18).

¹⁷² Again cautious formulations are chosen. For instance, it is recommended that Members use International Competitive Bidding “to the extent compatible with their procurement policies” (OECD/DAC 1992: 113).

¹⁷³ Numerous DAC documents (e.g. 1992 Measures, Paris Declaration, Busan Declaration, etc.) refer to the concept of “value for money” (VFM). Essentially, “VFM” is described as “a way of thinking about using resources well” by “striking the best balance between [...] economy, efficiency, effectiveness” (Jackson 2012). Aid effectiveness, as described most notably in the Paris Declaration constitutes an important component of “value for money” and its focus on the quality of outcomes. A description of the often cited though not uncontested concept is provided by Penny Jackson in the document “Value for money and international development: Deconstructing myths to promote a more constructive discussion” (Jackson 2012).

7.2. Tracing Development Policy Aspects in Today's Arrangement

“So in terms of aid, I think I would like to hear a critique that the development and aid elements of the [Helsinki] rules undermine development. I think I could argue from almost every angle that these are actually good for developing countries”

(Interview VI).

As described the DAC/FA made a series of proposals with regard to tied aid credits and associated financing. Up to the agreement on the Helsinki Package discussions concerned the fundamental question of whether tied aid credits could be considered an instrument of development finance and policy on the one hand and technical/conceptual issues such as the appropriate calculation of the grant element on the other hand. With the adoption of the Helsinki Disciplines and the New Measures in the Field of Tied Aid respectively, the DAC/FA shifted its focus and concentrated on ways of assessing the development content of tied aid credits as well as revived the discourse on untying. As shown development and trade concerns, discussed in two separate bodies, overlapped at times. Whenever this was the case, a number of “communication channels” between the two groups (reporting by the Chairmen to the other group respectively, joint meetings and “coordination” efforts by the Secretariat) allowed the exchange of views. This section tries to trace those development policy aspects that entered the Arrangement. With the exception of explicit references to the DAC principles, direct causalities between the DAC/FA's suggestions and the actual outcome in form of “development aspects” in the Arrangement can, however, not be assumed. In the above quote reference is made to the “development and aid elements of the rules”. This makes us wonder what these “development elements” are and where they can be found in the Arrangement.

7.2.1. The Key Tests – Capable of Assessing Aid Quality?

“The two key tests for aid eligibility described in [...] the Arrangement concern commercial viability, not aid quality”

(TD/CONSENSUS(93)6, para. 8).

“So in some sense creating a market test for the investment in capital goods actually is smart for long term development. It ends up allowing you to choose appropriate technologies, it

allows you to choose¹⁷⁴ appropriate levels of capital intensity and scope of capital intensity”
(Interview VI).

The two key tests on financial and commercial viability, the heart of the Arrangement’s provisions for tied aid credits, directly investigate the potential commercial distortions resulting from a transaction, but do not explicitly target potential aid distortions. Conclusions on the soundness of a project for financing development are derived from the results of the commercial-viability test, to the design of which the former DAC/FA Chairman Barrie Ireton decisively contributed (Interview VI; Ray 1995: 91. The core idea of the “market test” - as the commercial viability test was referred to by the above interview partner (Interview VI) – is that commercially viable projects should not be financed with official support and certainly not with aid monies which should be reserved for projects in countries with no or severely restrained access to finance and which otherwise would certainly not take place. This being achieved, officially supported flows in form of a tied aid credit are truly additional and contribute to the maximization of total flows to developing countries.

When examining the concept of commercial (non-)viability from the perspective of aid quality it becomes evident that this key test is based on several assumptions with regard to the basic relationship between investment in the provision of (quasi) public goods and development.

*“When the rules started, tied aid was happening in a number of sectors including quite commercial ones, so you had tied aid for instance in power generation, in power transmission to name a few because these were probably some of the best examples. And with the rules tied aid has been eliminated and has been concentrated on a limited number of projects. Most projects of tied aid now are in water, water sanitation, water treatment, and urban transportation -these are the big fields nowadays for tied aid. **And these are sectors, erm I mean, you still have commercial aims, but you are doing things which are not really profitable in the short term and which benefit the development of countries**”*
(Interview VII).

Following this logic, the commercial viability test, is occasionally also referred to as “aid quality test” and wants to ensure that projects financed by tied aid credits represent *good* development projects. The Participants see the “contribution” to development as a welcome

¹⁷⁴ Considering that tied aid credits, however, are per definition tied to the procurement of goods and services from donor countries reduces the ability of recipients to truly chose the most appropriate technology, equipment and so forth.

by-product of the disciplines, legitimizing the use of what would otherwise be forbidden subsidies. Understanding this very logic seems important if one wants to judge on the ODA-eligibility of these flows. In order to fall into the ODA category official flows have, by definition, to be driven by an intention of the donor to promote development in the recipient country.

Box 9: DAC Members' Views on the Commercial Viability Key Tests

A Questionnaire circulated by the DAC Secretariat revealed that a number of Members judged the commercial viability tests as being too inflexible to assess the eligibility of a project for tied aid financing and called for greater importance of aid quality (and other non-commercial factors) in determining tied aid eligibility. As shown in Chapter 7.1.1 these concerns were brought forward much earlier and were discussed extensively by the DAC/FA Members. In the responses to the questionnaires others, however, “[...] emphasised that the sole aim of the Disciplines was to avoid trade distortion, and that aid issues should remain solely within the domain of the relevant Member state” (DCD/DAC/FA(99)8, page 9; emphasis added). These contrasting perceptions of the rules and their purpose are yet another illustration of the ambiguity surrounding the use of tied aid credits as an instrument for development policy.

The analysis of the questionnaires also suggests that “[t]here was limited support for extending the coverage of the Disciplines to include more specific provisions concerning the assessment of the aid quality of specific projects. The general view was that the aid quality of projects was primarily a donor responsibility. Joint (i.e. trade and aid) evaluation of tied aid project proposals would be both burdensome and rather difficult to manage” (DCD/DAC/FA(99)8, page 9). Likewise, in a note circulated in 1998, the Secretariat stated that it had generally been considered infeasible that the Participants and the DAC/FA jointly discussed both commercial viability and aid quality of a project. Such a procedure, believed to be valuable by the Secretariat, was thought to be not feasible and partly even inappropriate by the majority of member states (DCD/DAC/FA(98)4, page 8). With regard to the tools available for assessing the relevance of a project for development, the returned questionnaires revealed the limited usefulness of the AQUA – Checklist to be found in the Arrangement’s Annex and in a more detailed version in the Ex Ante Guidance. This was due to the fact that most Members reported to have their own internal aid quality guidelines. Some, however, recognized that the AQUA-Checklist was a useful benchmark that helped develop their internal guidelines (DCD/DAC/FA(99)8, page 8).

Furthermore, the country eligibility criterion laid down in the Arrangement tries to prevent not only trade, but (indirectly) also aid distortion, in that it hinders the use of tied aid financing to

richer countries and channels resources to those most in need. As was shown, this distortion of flows in terms of recipient countries¹⁷⁵ was one of the main concerns raised by the DAC.

In addition, tied aid credits going to LLDCs must have a concessionality level of 50% - an attempt to assure softer terms for those countries that have a lower debt servicing capacity. By this rule the Helsinki Disciplines aim at containing another core concern, repeatedly evoked in the DAC/FA over the years – the accumulation of external debt in large parts of the developing world.

7.2.2. Explicit and Implicit References to DAC Principles

The Participants' rules on tied aid credits clearly overlap with principles for development co-operation, but the Participants perceived it neither as their duty nor within their field of competences to tackle issues related to development co-operation. In order to fill this gap, development-related topics were "outsourced" to the DAC.

Following this strategy, the Arrangement contains several references to official DAC documents that acknowledge the expertise of the Committee in the field of development and development co-operation. Most notably the Arrangement follows the definition of tied, partially untied and untied aid in the form of ODA loans and grants as laid down in the *DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance* from the year 1987. The adoption of the DAC's definition of tied ODA by the Participants demonstrates that the issue of tied aid credits is subject to both groups, the DAC and the Participants, and it clearly reaffirms the "monopoly position" of the DAC on conceptual matters of Official Development Assistance.

Furthermore, in Annex IX the Arrangement provides a *Checklist of Developmental Quality*, which is reproduced in a more detailed version in the Ex Ante Guidance for Tied Aid in the section on Aid Quality Assessment. The latter was prepared by the DAC and demonstrates that questions regarding the developmental quality of projects that are partly or entirely financed by ODA fall into the competence of the DAC. The Checklist – as such a summary statement of various DAC principles (DCD/DAC/FA(95)1, page 5)- draws on older sets of guidelines and gathered those components that were particularly relevant in the case of tied

¹⁷⁵ The effectiveness of the rules in changing geographical distribution patterns will be examined in the thesis of my colleague Ms. Schweiger.

aid financing. The following three documents are referred to by the Participants as benchmark, as status quo of good development practice:

- DAC Principles for Project Appraisal (1988)
- DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance (1987)
- Good Procurement Practices for Official Development Assistance (1986)

The main components, combined in the Checklist of Developmental Quality, are grouped into three main areas: 1) Project selection on grounds of recipient country's investment priorities; 2) project preparation and appraisal; and 3) procurement procedures (TAD/PG(2013)1; Annex IX, page 133-135).

In Article 33 c of the Arrangement the Participants state that the principles on tied aid credits do not prejudice the views of the DAC on the quality of tied and untied aid, which implicitly goes along with the DAC's call for untying. The Participants' recognition of the DAC's competences in the field of development co-operation might also entail a shift of responsibility for the developmentally effective use of aid resources from the Participants to the DAC exclusively. If in an institutional setting, in which tied aid credits are dealt with by export credit agencies, aid agencies have the means to ensure the developmentally effective allocation of aid funds, however, requires further examination. In this respect, development considerations might have been of higher priority, had they become an integral part of the Helsinki package and not an add-on referred to "en passant". Whether this fragmentation and dispersion of responsibilities hamper the appropriate consideration of development aspects will depend on the institutional set-up in the individual donor country.

While it can be concluded that the explicit development content in the Arrangement is rather limited, one has to bear in mind that the Arrangement deliberately leaves considerable room-for-maneuver to the national implementers and actively encourages them to follow DAC Guidelines. On a national level countries are free to apply stricter rules, for instance in assessing the development impact of a supported project. One way to give non-commercial aspects, not specifically development considerations, more weight – as suggested by the Trade Union Advisory Committee of the OECD (TUAC) – would be to make government

support for exporters subject to adhering to the Guidelines for Multinational Enterprises¹⁷⁶ (Interview VIII).

7.2.3. Grasping the Participants' Notion of Development

"I don't think the Export Credit Group has a perception of development other than the development of their own export subsidies. Sorry (Laughter)"

(Interview VI).

The Arrangement was designed in the attempt to prevent trade distortion stemming from the use of export and tied aid credits. Since the Participants' rules, however, clearly touch upon the provision of development assistance and overlap with the DAC's ODA criteria, the question of the Participants' notion of development comes up. Considering that not even the DAC – as such the body of the OECD in charge of development co-operation issues - gives an explicit definition of what constitutes development, it comes of little surprise that the Participants Group does not explicitly define its understanding of development either. Tracing a subtle or implicit notion of developmental in archive documents and in the Arrangement itself proved difficult. Directing this question to our interview partners was not very fruitful either. Only two of them gave, somewhat hesitantly, answers that can help us understand what development and development assistance mean for the Participants Group.

When asked about the Participants' notion of development, a representative of the Export Credit Division explained:

*"This is a question which is a bit difficult to answer because really, **the Arrangement guys they do not discuss on development per se**. They don't have the discussion you could have within the DAC on what is development and what would be strategies for development and what would be necessary for recipient countries"* (Interview VII).

Considering, however, his subsequent explanations on the quasi public goods character of most projects financed with tied aid credits and putting it in the context of the required commercial non-viability, give reason to presume that above all it is a sectoral approach that is the basis of the Participants' understanding of development: The provision of public goods, which in absence of the tied aid financing would not have been produced or not in the

¹⁷⁶ Further information on these OECD guidelines setting voluntary principles and standards for responsible business conduct can be found on the OECD's homepage, see <http://www.oecd.org/daf/inv/mne/>. Therein, traditional export credits rather than tied aid financing are addressed; development policy is indirectly touched upon by calling for compliance with labor rights, environmental standards etc.

required amount by the market, is key a to the development¹⁷⁷. The explanations provided in the Ex Ante Guidance for Tied Aid back up this assumption. Therein, the Participants conclude that “[t]he general characteristics of financially non-viable projects include projects whose **principal output is a public good**, capital-intensive projects with high per unit production costs and slow capacity uptake, and/or where the beneficiary group (normally household consumers) is deemed unable to afford the output at the appropriate market-determined price” (TD/PG(2005)20, page 5; emphasis added).

Another interviewee provided a somewhat vague definition of development assistance or rather development finance:

“Development assistance is any financing that actually supports a development process. The terms of that financing are the only thing at issue. So in some sense export credits and the market can actually finance development, it’s just that they finance it on market terms whereas aid finances development on concessional terms” (Interview VI).

Considering that the need for external resources in many developing countries cannot be met due to persisting ‘financial gaps’, any financial flow to developing countries might in this reading contribute to growth and with that to development. These presumed linkages between financial flows and development on the ground suggest that the Participants Group adheres to a rather “traditional” economic notion of development, by equaling investment with economic growth with development that will eventually trickle down and benefit the “local population”. On the other hand, the fact that tied aid credits primarily flow into sectors such as health or water is used as a legitimization of their development impact. Consequently, this contrasts the above statement that Participants have a predominantly macroeconomic and aggregated understanding of development. The concentration of projects in health, water and sanitation, education and the like resulting from the Arrangement rules could also be interpreted as sign of a concept focused on “human development”.

In any case, the lack of a definition of development confirms what has been said earlier on the motivation and field of interest of the Participants: Development aspects are not and never have been their main concern or driving force. Everything explicitly referring to development was left to be dealt with by the DAC. While this means the acknowledgement of

¹⁷⁷ The role of public goods for development, and more recently the importance of “global public goods” is discussed extensively in the development literature; see for example the UNIDO (2008) report “Public goods for economic development”, in which the importance of public goods for any poverty reduction strategy is emphasized. The key role, which is attributed to public goods, is reflected in the MDGs’ focus on indicators of health, education, environment etc.

the DAC's expertise on development issues, it is partially also a way of shifting responsibilities for the developmental impact of tied aid financing to the DAC and its national counterparts. Whether this is in the spirit of concept of *Policy Coherence for Development* will be discussed in the final chapter of this thesis. The analysis of the Arrangement's evolution in Chapter 6 has shown that from the very beginning the Participants Group did not deal with tied aid credits because they wanted to design particularly effective development policies, but because tied aid credits happened to be a tool of backdoor subsidization with trade distorting effects. The Participants' attempt to eliminate the latter, led to their rising interest in tied aid credit. So in some sense they were interested in another form of aid: the aid given to domestic companies. Thus, it is not surprising that the Arrangement as such does not deal with the development quality of tied aid finance projects per se, but refers those responsible to various DAC guidelines¹⁷⁸ that should be applied in addition to the Arrangement so as to ensure the developmental soundness of selected projects.

7.3. Assessment of the DAC/FA's Influence on the Participants Group

"Well, the DAC was upset when the tied aid credits were agreed on by the Participants" (Interview IV) - after all this meant a partial loss of control over an issue interfering in the DAC's very field of competence.

Throughout this chapter it has been shown that in parallel to the Participants Group the DAC/FA dealt with tied aid credits and associated financing. In order to increase the weight of aid considerations in tied and associated aid financing, the DAC adopted several sets of guidelines, the importance of which was also recognized by the Participants and which up to today have been referred to in the Arrangement. The most apparent "intervention" of the DAC into the Participants' work, was the preparation and subsequent incorporation of the Aid Quality Assessment into the Participants' *Ex Ante Guidance for Tied Aid*. It is here that the respective rules and guidelines by the DAC/FA and Participants overlap. These overlaps and cross-references, which illustrate that the respective sets of rules do not merely co-exist, might be attributed to the cooperation and coordination between the two groups in the course of the decades of rule-making.

At several occasions from the 1980ies onwards both the Participants and the DAC/FA declared the importance of cooperating with each other and of coordinating certain measures. The effectiveness of this cooperation declared on paper and illustrated in Chapter 7.1.3, was experienced or perceived differently by different observers.

¹⁷⁸ For the Development Assistance Committee's provisions in the field see the Chapters 7.1.4. and 7.2.2.

Steve Tvardek (2011) – from the Export Credit Division - underlined the close cooperation between the two groups in designing the rules. In contrast, Birgitta Nygren (1998: 56) argued in an OECD publication on the occasion of the Arrangement's anniversary that the aid community found itself in a situation where it had to abide to rules that it had not designed. Her statement gives reasons to presume that she observed or experienced only low levels of cooperation. Otherwise the role of the "aid community", that is the DAC, in making the rules would have probably been described as a more active one. In a similar vein, the interviews with OECD representatives delivered mixed results with regard to the importance of the DAC for establishing and implementing rules for tied aid credits. Strikingly, the perception of the DAC's degree of influence varied with the "institutional background" of the interview partners. While those working for the Trade and Agriculture Directorate (Export Credit Division) tended to emphasize the DAC's involvement and hence stressed the Participants' willingness to consider development issues, representatives of the Development Co-operation Directorate were less enthusiastic about the DAC's degree of influence and were sceptical about the Participants' intentions behind the occasional involvement of DAC representatives. These contradictions, or at least inconsistencies, also become apparent when comparing the following interview extracts:

*"Well, when we designed the rules **we consulted closely with the DAC**. I can tell you that the commercial viability concept came from a previous DAC Chairman, we were trying to figure out how to discipline and the concessionality itself wasn't going to be the answer, so we needed to find some other common measurement. And it was actually the DAC chairman, who was I think the head of the UK's aid department – I forgot the name of the institution...Anyways, the guy who suggested the concept of commercial viability was Chairman of the DAC [the DAC/FA]. So it was never done in a vacuum" (Interview VI).*

This emphasis of close cooperation between the two bodies is, if not contradicted, so at least interpreted differently by one of our interview partners affiliated with the Development Co-operation Directorate:

*"No...my friends in the export credit world, they were really nice to me, ya, but basically **they kind of keep the aid people in a cupboard and bring them out from time to time and shake them about and show them, you know, we are politically correct, we have someone from the aid side and then put them back into the cupboard and get out of our way...these guys do not want to know...they really don't want to know...they appreciate that certain things they can kind of get away with, but certain things they must do...but aid considerations were not – and never were – a very big influence**. And anything – in my*

perspective – anything, any concessions that were made towards the development side of things was to commit them to still use aid in the mixed credits” (Interview V).

Departing from this description of the DAC’s role as a rather limited one, the question arises why the DAC, via its Working Party on Financial Aspects of Development Assistance, did not more emphatically articulate its concerns and suggestions, which it evidently discussed intensively in the framework of the DAC/FA, to the Participants. The analysis of the interviews shows that reasons for the DAC’s limited role in negotiating rules for tied aid credits can be seen both in the Committee’s own shortcomings and the Participants’ rather closed character and highly specialized field of expertise.

All of our interview partners saw the somewhat “secretive”¹⁷⁹ or “exclusive” character of the Participants Group as an obstacle to stakeholder participation. When asked for outside influences in the Participants’ work one interviewee, for instance, argued:

*“No, there is not an awful lot. I mean it’s a very closed group in many ways and I don’t mean that in a negative way. **But technically it is a very complex area which serves a little bit as an excluding device, it’s a massive investment to actually get into it**” (Interview V).*

From what he explained afterwards, not many representatives of the aid community were willing or in the position to make this investment. Above all the technicality of the issues at hand figured as an entry barrier for non-experts to participate in discussions on tied aid credits. Whether this high degree of technicality, which was also reflected in the language and structure of the Arrangement, resulted solely from the complexity of the issues discussed or was intentionally introduced as a subtle barrier to limit outside involvement remains open for discussion¹⁸⁰. The latter interpretation was suggested by one of our interview partners, who labeled the Arrangement the **“most reader unfriendly book you have ever seen”** (Interview V). The fact that the Participants undertook major efforts from 1995 to 1997 to rewrite the Arrangement¹⁸¹ might undermine this hypothesis.

In cases in which the DAC sought involvement despite these obstacles, for instance, in form of the afore mentioned reporting practices of the DAC/FA Chairman in Participants meetings, our interview partners estimated the real influence exerted to have been rather low. In this

¹⁷⁹ Even the OECD archive staff, whom we informally spoke to, was astonished to find out that a considerable number of documents from Participants meetings we requested were up to today held confidential. This was interpreted as a sign of the closed character of the group due to sensitive issues at stake during negotiations.

¹⁸⁰ This evokes Dorothy Smith’s idea “[...] that written texts are not passive interpretations of reality handed over, so to speak, to its interpreters but that they actively structure its social readability” (Wolff 2004: 287).

¹⁸¹ In a report to the Ministers in 1997 the Chairman of the Participants Group considered the new Arrangement text “user-friendly, comprehensive and a vast improvement on its predecessor” (TD/CONSENSUS(97)21, page 3).

respect, a representative of the Development Co-operation Directorate (DCD), who personally believed to have a good working relationship with the Export Credit Bodies, argued: *"I mean I go there periodically, I give them a 10 minute speech on aid untying and there is barely ever a question. [...] Yeah, you know it, **it doesn't really 'pierce the skin', it doesn't influence or change their behaviour**, I don't think, **but it looks good on their agenda**"* (Interview V). Aide-Memoires of Participants' meetings provide further evidence of this observed limited interest among Participants in the reporting by DAC representatives. After the presentation of development-related issues given by a DAC rapporteur, the Chairman usually asked the Participants for follow-up observations, comments and questions. Noticeably, there were hardly ever any replies from delegates of the Participants Group (see for instance TD/CONSENSUS(96)20, page 35).

Moreover, the limited influence of the DAC was explained with the hierarchy between different ministries transplanted to the OECD level. In a somehow provocative way one of our interview partners affiliated with the Development Co-operation Directorate put it the following way: *"The representatives of the Ministry of Finance in any national government, they are the boss, the aid agency is at the bottom"* (Interview IV). This observation of hierarchies and power imbalances between actors involved can be subsumed under what Jakobi and Martens label "internal dynamics". Jakobi and Martens (2010a: 13) use this term to describe the structure which constrains the organization. In this respect, internal dynamics refer *"[...] to organizational conditions that most organizations face: the competition or frictions among different organizational units, as well as different or even conflicting aims, targets and politics"* (Martens/Jakobi 2010a: 13). In a similar vein, Roche (2007: 281) emphasises the "fragmented realities" of organizations and identifies functional divisions between different departments as one of the factors on which diverging interests and power relations might be based. Consequently, he states that organizations are not monolithic entities, but are characterized by internal divisions and that their actions are *"[...] the result of the interactions of sets of rational actors pursuing material goals"* (Moore et al., 1994 quoted in Roche 2007: 277, 281).

Interestingly, however, the reasons for the DAC's limited influence were not solely attributed to the Participants' unwillingness to cooperate or to at least consider outside proposals or to OECD internal dynamics, but rather turned into criticism on the DAC itself and the "aid community" in general. Several interviewees – amongst them also two DCD representatives – criticized the preoccupation of the DAC with qualitative issues and buzzwords such as

“gender mainstreaming” or “ownership” at the expense of an examination of the technical details of, for instance, different aid modalities (Interview IV, V, VI)¹⁸².

Furthermore, long-lasting difficulties with formulating a common position on tied aid credits within the DAC/FA suggest that internal difficulties due to suspicion among DAC members additionally weakened their position towards the Participants. While there might have existed a minimum consensus among the DAC/FA members in the analysed time-period that untied aid was in principle more favourable than tied aid, country positions and members’ willingness to undertake corresponding measures varied considerably. According to one interview partner this reluctance to make decisions and adopt guidelines contributed to the loss of competence of the regulation of tied aid credits. Due to their tied nature these have been a matter of concern for the DAC from the very onset - before it made its way to the centre of attention of the Participants Group, in fact before the Group even became operational. The DAC, however, missed its opportunity to take the lead in regulating tied aid credits (Interview IV).

When imagining the outcomes of a scenario in which the DAC was the main “regulator”, one should not forget that the DAC is, just as the rest of the OECD, driven by its member states. This important feature of the Organization constrained the Committee’s scope of action (Interview IV, V, VII). In this respect, at times discussions within the DAC/FA resembled those led in the Participants Group and were “blocked” by omnipresent concerns about potentially negative repercussions of regulating tied aid on domestic companies. Whenever we asked why the DAC did not take a more “progressive” stance by threatening to no longer accept tied aid credits being reported as ODA, if the Arrangement did not incorporate more “development safeguards”, we were referred to the fact that *“everything that is black and white like that is too harsh”* (Interview VI). Considering the very functioning of the Organization this question seemed to be absurd or at least irritating to some of our interview partners. This suggests that the institutional setting made such a mechanism not only impossible but even inconceivable. Similar dynamics can be found also with regard to the DAC’s ODA reporting in general. As long as most members have an interest in producing high ODA volumes (numbers) and peer pressure is rather low, they will not agree on too restrictive reporting practices.

Concluding this assessment of the DAC’s role it can be said that ever since tied aid and associated financing appeared on the DAC/FA’s agenda, the DAC/FA has defined its work in relation to the Participants Group. The screening of Aide-Memoires from the 1980ies up to

¹⁸² Repeatedly this argument was also evoked when addressing the DAC’s decision to stick to the 10% uniform discount rate to compute the grant element (Interview IV, V, VI).

Helsinki and of the New Measures on Tied Aid gives the impression that discussions within the DAC/FA mainly pop-up as a reaction to Participants' undertakings. The best example of how discussions in the Participants Group spilled over is the debate on the appropriate computation of the grant element and the concessionality level respectively.

Putting the struggle over the appropriate regulation of tied aid credits in the broader context of the untying discourse reveals that the role of the DAC is more nuanced than it might appear at first glance. In all the years in the run-up to the Helsinki Package, the DAC/FA was following closely Participants' discussions, but the Participants had the primacy over the regulation of tied aid credits. The untying issue has somewhat reversed this relationship (see e.g. TD/CONSENSUS(93)55) and illustrates that the role of the DAC was more sophisticated in shaping the rules on tied aid. While already the adoption of DAC guidelines on tied aid and associated financing were an attempt by the DAC to claim its role in dealing with development-related issues, it is especially when taking the lead in the untying initiatives of the second half of the 1990ies that the DAC/FA ascertained its role in the field. The DAC appears to have managed to make use of external developments in the field of officially supported export credits in particular and the international trading system in general to push one of its utmost concerns, the untying of aid.

7.4. Recap and Concluding Remarks

This chapter has approached the evolution of the regulatory framework for tied aid credits and associated financing from a development angle. For that purpose minutes and room documents of meetings of the DAC Working Party on Financial Aspects of Development Assistance (DAC/FA) in the period from 1981 to 2003¹⁸³ have been analysed with regard to concerns voiced about the use of these instruments as well as the taken measures by the Participants. Unlike in the Participants' meetings, the usefulness of these instruments for development finance was discussed against the backdrop of the indebtedness of many recipients on the one hand, and the scarcity of aid resources on the other hand.

Soon it became apparent that these mostly commercially-motivated flows triggered the distortion of aid flows from countries most in need to those developing countries and projects that promised to be profitable for donors' domestic businesses. Not only was this allocation pattern running against the DAC's philosophy of what aid should achieve and whom it should

¹⁸³ In 1981 the DAC Secretariat circulated the first note on tied aid credits and associated financing. In 2004 the group was closed and was officially merged with the Task Force on Donor Practices to become the *Working Party on Aid Effectiveness and Donor Practices* (WP-EFF) (De Milly 2012: 3).

benefit, but it also undermined recipients' "rights" to determine their own development strategies. In this respect, it was certainly the tied nature of these finance instruments that was the biggest thorn in the DAC/FA's side. Confronted, however, with the reality of aid politics, a strategy of containing the most harmful effects was chosen, joining the Participants efforts to design them in a way that would lead to less aid and trade distortions. For that purpose the DAC adopted a series of guidelines to increase the transparency of donors' policies in the field of tied aid and associated financing and to enhance their development orientation. One of the most emphatically pursued proposals by the DAC/FA was certainly the call for a greater role of aid agencies in the design and implementation of projects financed with tied aid credits.

Central to the DAC/FA's discussions was the idea that it is the degree of "additionality" of resources channeled through tied aid and mixed credits which determines their "usefulness" for development (finance), their "development scoring". Furthermore, if the resources used to fund the concessional component compete with the general aid budget their additionality has to be questioned. In this case, other forms of aid, which are de-coupled from potentially contradictory commercial goals, might be more favorable. Likewise, if the financial flow would also occurred in the absence of the concessional element, that is on market (or Arrangement) terms, they would also not be additional and the concessional element would be better invested otherwise, so as to maximize total flows. The underlying question, implicit to the DAC/FA's reasoning, is how these public monies would have been invested alternatively.

The DAC/FA's treatment of tied aid credits is to be understood as embedded in the larger untying discourse that the DAC triggered early on. A look at the minutes of DAC/FA meetings and distributed room documents from 1981 onwards gives the impression that the DAC/FA was torn between calling for untying (and thus for the elimination of tied-aid credits) and on the other hand, trying to improve the development quality of tied-aid financing packages (hence de-facto accepting their very existence). In a pendulum-like fashion the DAC/FA had promoted the untying of aid in the 1960ies and 70ies. Confronted with the reticence of members to adopt corresponding measures and in view of parallel efforts undertaken in the Participants Group with regard to export credits and tied aid credits, the DAC/FA shifted its strategy in the 1980ies and joined the Participants in the more moderate attempt of disciplining tied aid use, that is accepting their existence, but at improved conditions. Once disciplines had successfully been set up with the adoption of the Helsinki rules and the New Measures in the Field of Tied Aid in 1991/92 and in the light of a general shift in development policy from "donor interests" to "recipient needs" after the end of the Cold War (Petermann 2013), the DAC/FA reiterated its call for the untying of aid altogether, a first step of which was

certainly accomplished with the adoption (and implementation) of the 2001 *Recommendation on Untying Bilateral Development Assistance to Least Developed Countries*.

8. Assessment of Tied Aid Credit Policies against the Backdrop of the OECD's Development Agenda

“Do you believe in silver bullets, you know the silver bullet that kills two guys at one go? This does not work” (Interview V).

With tied aid credit policies and programs OECD member states claim to “kill two birds with one stone”: Export promotion benefiting domestic enterprises and promotion of economic development and welfare in the recipient country. Let us recall the Austrian example mentioned in Chapter 3.2:

*“Soft loan financing is used [...] to **assist Austrian exporters competing in international markets** with the overall objective of **fostering sustainable development in recipient countries**. [...]” (OeKB Homepage; emphasis added).*

This quote perfectly illustrates that tied aid credits are located at the “strategic nexus between external trade and international development” (Petermann 2013; back cover). Resulting from the hybrid nature of the instrument, corresponding policies draw on two fields of reference - export promotion and development policy - and claim to bridge these. In the following, the emphasis will be put on the consistency and compliance of tied aid credits in their basic shape with the reference field of development policy, more precisely the DAC's guidelines and principles of development policy.

As illustrated in the above quote, with tied aid credit policies donors ambitiously proclaim to promote development of recipient countries while supporting domestic enterprises. As a result of this officially stated motivation to contribute to economic development and welfare (and complying with the 25% grant element threshold set by the DAC), the concessional part of a tied aid credit becomes ODA eligible. Consequently, if it is reported to the DAC, it contributes to a donor's overall ODA performance.¹⁸⁴ While tied aid credits may be a “hybrid”, they officially endeavor to contribute to development, are included in ODA statistics and might use resources from the aid budget. Therefore, their effectiveness and appropriateness to finance development with donor public resources should be assessed against the same set of criteria applied to any other flow of Official Development Assistance.

¹⁸⁴ Especially in the context of the approaching 2015 target the political dimension of ODA reporting becomes evident.

This attempt to assess the compliance tied aid credit policies with the DAC's ideas on *good* development assistance can also be interpreted as an analysis of the OECD's internal coherence, i.e. coherence type (i)¹⁸⁵ of the Policy Coherence for Development concept transplanted from the national to the international/regional level. It is not the consistency of various elements of development assistance policy *of one single donor* that is of interest here, but the *consistency of aid policies of an international/regional organization – the OECD*.

In short, this chapter brings together the jigsaw pieces and assesses tied aid credits as well as the disciplines governing them (essentially the Helsinki Tied Aid Disciplines) against the conceptual framework that has been derived from the DAC's debates as outlined in Chapter 4. Partial answers with regard to the development content of tied aid credit disciplines have already been given in Chapter 7, dealing with aid considerations in the making of the Helsinki tied aid disciplines. Based on the conclusions drawn therein on the fitness of the instrument for financing sound development projects, this chapter sets out to assess the compatibility of the Helsinki Tied Aid Disciplines with DAC concepts and ideas on effective development co-operation, thereby grasping the extent to which the OECD lives up to its own promise of coherence. Where appropriate the subsequent analysis takes into account both the process of negotiating the rules as well as the resulting set of rules, which decisively determines the basic design of the instrument.

Chapter 4 has identified three highly intertwined and largely DAC-driven debates on what constitutes *effective* development policy and practice. At its core lie the Paris Principles of ownership, harmonization, alignment, mutual accountability and managing for results. Furthermore, the idea of *Policy Coherence for Development* (PCD), as well as the long-lasting call for the untying of aid flows were presented as core debates characterizing the DAC's work in the past twenty years. The categories analyzed below are derived from these debates on development policy and will be assessed through the lens of *Policy Coherence for Development*, particularly the internal coherence of the Organization's aid policies. For that purpose the Participants Group is treated as part of the OECD despite its *de jure* autonomous character. Considering that the group is served by the Secretariat and that the participating states are for the most part OECD and DAC members, this subsumption seems justified.

¹⁸⁵ Picciotto identifies four dimensions of Policy Coherence for Development. Type (i) coherence is defined as "the consistency between goals and objectives, modalities and protocols of a policy or program carried out by an OECD government in support of development (e.g. aid)" (Picciotto 2004: 8); see also the next section;

8.1. Living Policy Coherence (for Development) within the OECD ?

“WE RESOLVE to continue our efforts to ensure that development concerns are taken into account across relevant policies inter alia through improved impact analyses and better policy co-ordination both at country level and within the OECD, taking into account in particular the impact on the international development objectives of our environmental, agricultural, fisheries, economic and financial policies, as well as our policies in the areas of trade, migration, security, energy, science and technology

(OECD 2008b, Declaration on Policy Coherence for Development; original emphasis).

Departing from the OECD's, and particularly the DAC's, vehement call for Policy Coherence for Development, it shall be asked to which extent the Organization lives up to its own premise of coherence. Due to their hybrid nature and the myriad of institutional actors involved, tied aid credits appear to be perfectly suited for studying the OECD's policy coherence as well as the internal coherence of policies subsumed under the concept of Official Development Assistance.

In its basic shape, the idea of policy coherence means that development policy shall cross-cut through all relevant policy fields to ensure that development co-operation efforts are not (or no longer) offset, but actively supported by donors' policies in other fields. In the more sophisticated concept of Policy Coherence for Development, this “whole of government” approach, however, constitutes only one of at least four dimensions of PCD:

“(i) internal coherence: the consistency between goals and objectives, modalities and protocols of a policy or program carried out by an OECD government in support of development (e.g. aid).

(ii) intra-country coherence: the consistency among aid and non-aid policies of an OECD government in terms of their contribution to development.

(iii) inter-donor coherence: the consistency of aid and non-aid policies across OECD countries in terms their contribution to development.

(iv) donor-recipient coherence: the consistency of policies adopted by rich and poor countries to achieve shared development objectives” (Picciotto 2004: 8)

Even if the institutional set-up¹⁸⁶ at first glance might suggest otherwise, applying a “do no harm” approach as stipulated in the above introductory quote and traditionally applied to assess the coherence of a policy area with development policy, i.e. departing from the existence of two separate policy areas, is too narrow considering the postulated goal of contributing with tied aid credits to development processes in the recipient country. As tied aid credit policies are here considered to be part of both development aid policies and trade (export promotion) policies, dimension (i) of the concept of Policy Coherence for Development will be at the centre of this chapter. By assessing the compatibility of the regulatory framework for tied aid credits with the DAC’s principles of ownership, harmonization and alignment as well as with the key concept of (global) partnership, however, also other dimensions of PCD are indirectly addressed, i.e. inter-donor coherence, and donor-recipient coherence.

In a first step, it shall briefly be recalled how the Arrangement, *the* reference document giving tied aid credits their basic shape, deals with the DAC’s principles for development co-operation. This is expected to give a hint as to whether the policy framework is conducive to the creation of coherent policies or gives reasons to presume that incoherencies are likely to occur.

In Chapter 7 it has been shown that the Participants left topics explicitly referring to development (co-operation) to be dealt with by the DAC. While this can be interpreted as acknowledgement of the DAC’s expertise on development issues, it is partially also a way of shifting responsibilities for the developmental impact of tied aid financing on the DAC and its national counterparts. This argument builds on the assumption that development would probably be promoted more actively, if aspects of development policy had become an integral part of the Arrangement and not only references to the DAC principles had been made. In view of potential frictions resulting from this “fragmentation”, studying the compatibility of tied aid credits with the DAC’s development principles appears to be crucial for any assessment of the adequateness of the instrument as a tool of development policy.

Essentially, this means assessing whether the Organization’s own policies (or policy recommendations) in the field of export promotion actively take into consideration repercussions on development (co-operation). Even more so, not only the coherence of trade/export policies with development policies, but the internal coherence of the OECD’s

¹⁸⁶ Often tied aid credits are administered by the export promotion institutions, i.e. the export credit agency, not the governmental bodies charged with development co-operation. At first glance, this would suggest an analysis of policy coherence between different policy fields.

development policy itself is to be examined - after all, tied aid credits claim to be an instrument of both aid and trade policy.

Living up to the premise of Policy Coherence for Development would mean to more actively take into account the repercussions of the Arrangement rules on development prospects of recipients, thereby not merely trying to “do no harm” (as such a rather passive approach), but to actively make a positive contribution. The ODA-eligibility of the concessional element of those credits provides the main justification for the call to align with development co-operation principles in the whole project cycle of tied aid financed projects.

8.1.1. In Line With the Paris Principles on Aid Effectiveness?

In an assessment of the Helsinki tied aid disciplines conducted in 1998/99, the DAC Secretariat found the disciplines to be broadly compatible with the goals and objectives of the DAC’s Strategy for the 21st Century¹⁸⁷ (OECD/DAC 1996; DCD/DAC/FA(99)6, page 7) – the key document paving the way to the Paris Declaration. Even more positively, it is concluded in the summary report that the disciplines promote the DAC’s strategic objectives (DCD/DAC/FA(99)8, page 8).

In its undertaking to assess the 1992 tied aid disciplines, the DAC Secretariat circulated a questionnaire among its members asking them to present their opinion on the effectiveness of the existing rules and procedures. Unfortunately, only the DAC Secretariat’s interpretation of the returned questionnaires is at my disposal, whereas the individual country replies could not be retrieved from OLIS. Despite the fact that the findings are presented on aggregated levels and do not give very detailed information on country positions, they are worth looking at and help identify major strengths and weaknesses of the regulatory framework from a development perspective (for the subject matters to be addressed in the questionnaire please see DCD/DAC/FA(98)4, Annex I).

In the questionnaire Members were asked to present their view on whether the 92 Disciplines were compatible “[...] with the strategic goals and modalities for development co-operation -- i.e. as they stand, are the Disciplines a useful discipline to contribute positively to the implementation of the [21st Century] Strategy¹⁸⁸, e.g. in terms of promoting ownership,

¹⁸⁷ For further information on this key document paving the way for both the MDGs and diverse High Level For a Declarations (e.g. Paris), please see Box 3.

¹⁸⁸ In 1996 the DAC published the key document “Shaping the 21st century: the contribution of development co-operation”, in which the foundations for the DAC’s development strategy were laid (OECD/DAC 1996). Therein, the idea of partnership appears as core underwriting of any further efforts of the OECD in the field of development co-operation. For further information see Box 3: The Idea of Partnership in Development Co-operation.

partnership, capacity development, local impact of ODA disbursements, etc.?” (DCD/DAC/FA(98)4, page 5).

Answers concerning the compatibility of the disciplines with the Development Partnerships Strategy (OECD/DAC 1996), varied considerably among Members. While some saw the disciplines as not fitting in well with the concept of partnership, others stressed that “[...] *by encouraging the use of more untied aid, the Disciplines promoted the strategic goals and modalities of the Partnerships Strategy*” (DCD/DAC/FA(99)8, page 8). When asked to describe changes in the uses of tied aid credits arising from the Disciplines, most emphasized that “[...] *any changes in their uses of tied aid were predominantly partner-country-driven*” (DCD/DAC/FA(99)8, page 8). More precise information on these changes is, however, not given in the summary report by the Secretariat. Also with regard to the question whether there exists a “[...] *systemic and coherent approach to implementing the Disciplines given the different perspectives of the Participants (trade distortion) and the DAC (aid quality)*”, a mixed picture is drawn (DCD/DAC/FA(99)8, page 8).

Building on these findings, this section will further explore on the consistency of the OECD's rules for export promoting practices in form of tied aid credits with the Organization's development co-operation principles, thereby taking into account more recent debates, most notably the call for greater effectiveness of invested aid funds. Given the centrality of the Paris Principles in the DAC's work, the question arises whether the tied aid principles actively promote compliance with these principles, strengthen these or are potentially even counteracting the DAC's endeavours. The subsequent analysis will focus on the principles of harmonization, ownership and alignment. The two remaining pillars of the Paris Declaration – mutual accountability and managing for results – are of very technical nature and are best examined on the national level.

8.1.1.1. Harmonization

“Donors’ actions are more harmonised, transparent and collectively effective”
(Paris Declaration, OECD 2005-2008: 6).

At a relatively early stage, harmonization of donor practices became one of the core tasks of the DAC. Eventually, the idea that harmonized policies could considerably contribute to the improvement of donor-recipient relations and concomitantly increase aid effectiveness led to the adoption of the “Rome Declaration on Harmonization” in 2003 and was reiterated at several occasions, most notably at the Paris High Level Forum in 2005, where DAC

Members upgraded the principle of harmonization to one of the 5 pillars for effective development co-operation (see also Chapter 4.1.1).

Unequivocally, the adoption of the Helsinki disciplines on tied aid has contributed to the harmonization of tied aid credit practices among the participating states. By agreeing on a set of rules covering tied aid credits, the Participants succeeded in leveling the playing field and contained a disguised export credit race. Up to today the minimum conditions laid down in the Helsinki Package and further elaborated in the Ex Ante Guidance provide a common basic framework for “soft loan” policies of participating states, most notably by requiring a minimum concessionality level of 35% (up to 80%) and the application of two key tests, by limiting the pool of recipients and harmonizing notification procedures. Nevertheless, the fact that the concessionality level may lie between 35 and 80% provides a considerable range for diverging national practices, which has an impact on the presumed development orientation and aid quality of a tied aid financed project.

Also with regard to implementation procedures the loose character of the Arrangement – as such the product of negotiations between sovereign states on a sensitive issue – leaves considerable room for maneuver to national actors. This “flexibility” of the rules potentially results in diverging national policies and implementation practices. It is interesting to see that the Arrangement and the Ex Ante Guidance respectively do not spell out any preference for which kind of national agency should be in charge of soft loan programs. Hence, the responsible agency might be an export credit agency, an aid agency or a bank commissioned by the state, for instance. This means that the implementing agency might or might not have a “development mandate” to fulfill. It is thus conceivable that the governmental institution in charge of development co-operation does not have any decision-making power with regard to the selection, implementation and/or evaluation of tied aid financed projects. This raises the question if - in an institutional setting in which tied aid credits are dealt with by the export credit agency - the aid agency has the means to ensure the developmentally effective allocation of aid funds. In this respect, development considerations in soft loan practices might have been of a higher priority, had they become an integral part of the Helsinki Package. Whether this fragmentation and dispersion of responsibilities hamper the appropriate consideration of development aspects will crucially depend on the institutional set-up in place in the individual donor country. However, it appears likely that the lack of integration of the respective rule sets confronts “practitioners” with implementation difficulties.

Considering that the development of recipient countries is an officially stated goal pursued with tied aid credits and results in the ODA-eligibility of the concessional element inherent to

tied aid credits, states running tied aid credit programs should ensure that the responsible implementing agencies have the necessary development competences in order to attain the stated goal of promoting development.

By means of clearer Arrangement provisions in this field, not only practices could have been harmonized, but also the development orientation of tied aid programs could have been better ensured, if not increased. It would be an important step towards a greater transparency of national practices if this insufficient harmonization was addressed. So far inconsistent wording, differences in reporting of tied aid credit flows to the DAC, diverging systems of and requirements for project selection, implementation and evaluation have somewhat obscured the transparency of tied aid credit practices.

8.1.1.2. Ownership

“[Y]ou know, he who provides the money should have the say in how it is used”
(Interview VI).

At the High Level Meeting in Paris in 2005, DAC members declared that partner countries should “[...] *exercise effective leadership over their development policies, and strategies and co-ordinate development actions*” (OECD 2005-2008: 3).

Any analysis of the space given to ownership within the regulatory framework (as well as in the design of specific projects) must set out with an examination of recipients’ ownership in setting the rules in the first place.

The screening of Participants’ documentation has shown that recipient countries did not participate in negotiations on the regulation of tied aid credits and that the Participants did not take their perspective into account. The fact that recipient countries were left outside the negotiation room raises questions with regard to the OECD’s self-obliged premise of ownership of and partnership with recipient (or rather partner) countries in setting development strategies. One might argue that *ownership* had not yet been as big an issue at the time the Helsinki Tied Aid Disciplines were negotiated. However, also today, with the principles of ownership and partnership ranging high on the OECD’s agenda, active engagement¹⁸⁹ of recipient countries with regard to tied aid credits has not been sought. A

¹⁸⁹ To put this lack of recipient involvement in the Participants’ work into perspective it needs to be noted that also in the work of the DAC/FA recipient or later labelled “partner” countries were not actively involved. The archive material at my disposal suggests that the only exemption constituted a workshop held on procurement practices in which a number of recipient countries were invited to participate (see e.g. DCD/DAC/FA(95)14, DCD/DAC/FA(96)1). With the exception of this “event”, the recipients’ perspective on the appropriate regulation of tied aid credits was of

possible way of integrating the recipients' perspectives and expectations towards the instrument would have been to hold consultation meetings with groups of recipients, such as the G77. Furthermore, the tied aid disciplines do not seem to provide any specific mechanisms for ex-post project evaluation in a systematic manner. Thus, recipients' possibilities of commenting on implemented tied aid projects appear to be rather limited. It is incumbent upon the donor's national institutions to conduct ex-post evaluation and to provide sufficient space for exchanges with recipients. An inquiry of how to repair the "broken feedback loop"¹⁹⁰ which is characteristic for aid planning (Barder 2009), would be particularly interesting in the case of tied aid credits, hence.

A second important component of ownership affects the implementation of policies on national levels. The importance thereof is illustrated by the following quote taken from a Note by the DAC Secretariat: *"The greater the recipient's "stake" in the project, the more will this contribute, in general, to its sustainability. "Stake" has many dimensions, e.g. ownership of the project and related processes, the degree to which its benefits depend on the recipient's involvement, the extent to which the project meets high priority recipient needs, financial commitment, etc. This is valid for all projects (whether tied or untied) but **may be more difficult to attain for tied aid projects. Donors thus have a stronger challenge to achieve a meaningful recipient stake in such projects, but at the same time it is all the more essential for sustainability**"* (DCD/DAC/FA(95)3/REV1, page 7; emphasis added).

A profound assessment of the weight given to ownership in the national programs cannot be sought as part of this thesis. But the path for further analysis shall be paved. Tracing ownership of "recipients" in the design of the concrete soft loan provisions and requirements could start with an analysis of the intergovernmental agreements, which are concluded between donor and recipient governments prior to considering specific projects. Examining these in greater detail as part of a national case study analysis thus appears important in order to complete the assessment undertaken here on the *international* scale.

Finally, the consistency of the instrument "tied aid credits" itself with the call for recipient owned development co-operation shall briefly be addressed. In very general terms, the tied nature of the instrument appears to raise concerns with regard to the compatibility of tied aid

astonishingly little interest to the members of the Working Party. Although no direct voice was given to recipients, the DAC/FA at least attempted to design rules in the interest of recipients, e.g. the emphasis put on prevention of indebtedness.

¹⁹⁰ According to Owen Barder (2009: 10) this broken feedback loop, which is challenging aid administration, results from the political and geographical dispersion of donors and beneficiaries. The author argues that the feedback loop is not functioning in foreign aid, "because there is a lack of both information and political influence connecting decision makers to the intended beneficiaries" (Barder 2009: 11).

credits with both ownership and alignment claims such as stipulated in the Paris Declaration. As has been addressed in Chapter 4.1.3 several studies find that tying practices might interfere with ownership of recipients of their development processes. Tied aid in general is judged by the DAC to be incompatible with ownership principles and in contradiction with the call for demand-driven purchases as particularly stressed in the Accra Agenda for Action (OECD 2005-2008: 16, para. 14a). The extent to which the tied nature of the instruments constitutes an irresolvable contradiction to the principles of ownership and alignment will be addressed in greater detail in the subsequent section of this chapter¹⁹¹.

8.1.1.3. Alignment

In the Paris Declaration donors commit themselves to “[...] base their overall support on partner countries’ national development strategies, institutions and procedures” (OECD 2005-2008: 3). Part of this commitment to align donor interventions with the recipient country’s poverty reduction strategies, as well as thematic and sectoral priorities (Harmer/Ray 2009:8) is the target of “making continuous progress” in untying aid (OECD 2005-2008: 10).

On the level of formal statements evidence can be found that the Participants’ rule set is taking this call for “alignment” into account. In the Participants’ Ex Ante Guidance for Tied Aid the DAC gives guidance in preparing Aid Quality Assessments (AQuAs), which can be requested by any Participant on a notified project whose aid quality is questioned. As part of such an Aid Quality Assessment, the potential donor should demonstrate the “[...] **consistency of the project with the recipient country’s overall investment priorities**” (TD/PG(2005)20, page 10; emphasis added). This way, the recipient’s ownership as well as the need for alignment with national development priorities and strategies are recognized.

*“This section of the AQuAs should also **state whether the project in question is in a sector for which there is a sectoral adjustment programme** agreed between the recipient and donors and, if so, the compatibility of the project with that reform programme. Where there is no such adjustment programme for the sector in question, the donor should give its views on the adequacy of the recipient’s sector plan, how the project in question is related to or compatible with that plan, and the extent **of donor co-ordination, to ensure a coherent approach to supporting projects in the sector in question**”* (TD/PG(2005)20, page 10; emphasis added).

¹⁹¹ This structure has been chosen because the Paris Declaration discusses the tying status of aid under the heading of alignment. It is, however, obvious that the untying of aid is closely intertwined with the call for ownership. In a way, if ownership is not acknowledged, alignment will not take place.

The reasoning underlying the above guidance for conducting an assessment of aid quality reflects the spirit of the Paris Declaration and recalls the importance of aligning donor practices with recipients' development strategies and priority setting so as to ensure the ownership of the latter. In calling for donor coordination, also the principle of harmonization of donor practices and requirements is reflected¹⁹². Despite the formal acknowledgement of the need to align donor practices to recipient strategies, there appear to be contradictions inherent to the instrument that undermine the principle of alignment. In an Aid Quality Guidance Note circulated in 1995 the Secretariat expresses this concern:

*"Particularly when projects are supported through tied aid credits, care must be taken not to bias priority setting. Recipients should not have to take undue account of the fact [sic!] the ODA availability may be conditional on its procurement being tied to the donor. **Donors must, therefore, discipline their use of tied aid project support by offering tied aid credits only for those projects with a clear and high recipient priority**" (DCD/DAC/FA(95)3/REV 1, page 8; emphasis added).*

Assessed against the backdrop of alignment efforts, the most obvious incoherence of tied aid credit practices with the principles of development policy certainly stems from the tied nature of the instrument. Especially indicator 8 of the Paris Declaration reiterates the principles laid down in the DAC *Recommendation on Untying of Bilateral Development Assistance to Least Developed Countries* and formulate the goal of untying aid to this group of countries to the maximum extent (OECD/DAC 2001) (see sub-chapter untying below). Thereby, untying is seen as a means to a greater end, i.e. the development of local and regional markets, the local creation of value etc. At the High Level Forum in Accra 2008, for instance, donors reiterated their commitment to alignment by reaffirming that they *"[...] will promote the use of local and regional procurement by ensuring that their procurement procedures are transparent and **allow local and regional firms to compete**"* (OECD 2005-2008: 1; emphasis added). This way, aid's "value for money"¹⁹³ is thought to increase (OECD 2005-2008: 18) and the local private sector and economy are expected to develop, thereby making the impact of a project more sustainable and durable.

¹⁹² Although the Ex Ante Guidance was last updated in November 2006, the Paris Principles are not directly referred to in the Ex Ante Guidance, not even in the guidance for aid quality assessment, which was prepared by the DAC itself.

¹⁹³ This is assumed to be the case because, inter alia, the price for the procured goods and services is lower due to the competitive market environment, in which the procurement takes place. As mentioned earlier numerous DAC documents refer to the concept of "value for money" (VFM), which is described as "a way of thinking about using resources well" by "striking the best balance between [...] economy, efficiency, effectiveness" (Jackson/OECD/DCD 2012).

In an attempt to solve this contradiction between the principle of alignment and tied aid financing or at least to limit the drawbacks in effectiveness resulting thereof the DAC Secretariat issued the following guidance in 1995, which still seems of relevance today:

*“When aid is tied to procurement in the donor country (or partially untied to permit procurement from developing countries too), donors should take all necessary steps to **avoid or minimise the losses the recipient would otherwise gain from international competitive bidding regimes**. In particular, donors are encouraged to:*

- Give procurement responsibility to recipient countries. This may require or be associated with institutional and capacity-building assistance. Donors should also ensure that recipient procurement regimes are compatible with DAC principles.*
- Take all steps necessary to maximise competition between eligible suppliers to ensure value for money, including statements or guarantees of value for money from suppliers.*
- Promote, in carrying out procurement, linkages between development projects and the local economy” (DCD/DAC/FA(95)2/REV 1, page 10; emphasis added).*

Still, one of the fundamental defining features of tied aid credits – their tied nature - clearly appears to be in contradiction with the pillar of alignment. Thus, the question arises if they can be designed in a developmentally sound way (as in a way suggested in the above extract from the Secretariat’s Note) or whether the analysis provided in this thesis must result in a call for the “abolition” of tied aid credits as instruments of development finance altogether.

In the context of tensions between the tied nature of *soft loans* and the importance given to local procurement in fostering sustainable development, one specific Arrangement provision requires further examination: the permissible share of local costs. In 2007 the Participants raised the maximum threshold for local costs from 15% to 30% (OECD 2008a), allowing for more local creation of value. This was the Participants’ reaction to an increasingly globalized economy paired with the necessity of procuring certain local goods and services in setting up a project. If one assumes that the higher the share of local costs, the more goods and services can be locally procured, and the greater the presumed impact on development will be, this change in provision might be judged positively from a development perspective. Apart from the permissible local content, foreign content rules might vary in national programs.

8.1.1.3. Aid Quality Matters: Assessing the “Demonstrated” Development Quality of Tied Aid Credit Projects

The realization that the quality of aid must and can be improved is inextricably linked with the call of the “aid community” for a greater effectiveness of aid. Throughout this thesis concerns about the “quality” of tied aid credit projects as they are shaped by the Helsinki Tied Aid Disciplines have been addressed. Albeit in-depth examination of the concrete project implementation on national levels appears to be indispensable, the DAC Secretariat has strived to provide preliminary conclusions on the demonstrated aid quality of tied aid credit projects to the extent possible on an OECD level.

This section is based on the findings of the study “Assessment of the Tied Aid Disciplines”¹⁹⁴ issued by the DAC Secretariat and conducted by an independent consultant, as well as on the analysis of a questionnaire circulated among the DAC/FA Members in 1998. The essential question the study tackles is whether there is reason for “[...] concern about the development quality of projects financed by tied aid credits” (DCD/DAC/FA(98)13, page 4). In case the aid quality of tied aid financed projects was found to be poor, the report should draw inferences from the available information base and inquire policy-options for improvement of the disciplines (DCD/DAC/FA(98)13, page 4). The emphasis of “demonstrated” aid quality gives hints to the underpinning methodology of the study. For his assessment the author of the study drew on the information provided in the feasibility studies and/or aid quality assessments (AQuAs)¹⁹⁵ submitted by the Participants to the Consultation Group in support of the contention that the project in question was compatible with the Helsinki tied aid disciplines, i.e. essentially the commercial non-viability requirement (DCD/DAC/FA(98)13, page 4).

This means that only projects that were challenged and brought to the Consultations Group for discussion were considered for the assessment, leaving aside a considerable number of projects the commercial viability of which went unchallenged irrespective of their aid quality. Hence, another weakness inherent to the sources results from the Participants’ focus on the commercial-viability of a project rather than on its aid quality. Consequently, development-

¹⁹⁴ This appears to be the only OECD internal evaluation of the aid quality of tied aid credits, most other studies are preoccupied with quantitative trends.

¹⁹⁵ As explained in Chapter 6.4.3, the Arrangement provides special consultation processes for tied aid credits. If a Participant suspects that a tied aid offer has been made based on trade, rather than aid motivations, it may request a full Aid Quality Assessment (TAD/PG(2013)1, page 28), which is to be undertaken following the criteria laid down in the Checklist of Developmental Quality of Aid-Financed Projects (TAD/PG(2013)1, page 134) and explained in greater detail in the Ex Ante Guidance (TD/PG(2005)20, page 10-12). Donors are expected to demonstrate a project’s compatibility with criteria on project selection, preparation and appraisal as well as on procurement procedures.

related information was often found to be rather poor, which put limits to the quality of the study. In this respect it needs to be borne in mind that in feasibility studies Participants usually demonstrate the tied aid eligibility of a project with the help of cash–flow analyses. Cost-benefit analyses including economic and not only financial viability and usually applied by the development community to assess development co-operation projects, are not conducted. As a consequence of this priority setting the author found information on the economic benefits of a project to be at best scant, if not entirely unavailable. This information would, however, be crucial, since it could provide the “[...] *only available quantitative monetary measure of aid quality*” (DCD/DAC/FA(98)13, page 5). In addition, more qualitative aspects of aid quality, such as “[...] *technical suitability, environmental assessment or impacts with respect to social, gender or distributional considerations*” were rather poor (DCD/DAC/FA(98)13, page 5). This lack of reliable information on the aid quality of tied aid projects itself gives further rise to the assumption that the developmental impact of the invested (at least partially aid) resources is not the driving force behind tied aid credit practices. On the basis of the information available, the author of the study finds that “[...] *on average, tied aid credit projects were close to the top of the ‘adequate’ development quality range*” (DCD/DAC/FA(98)13, page 7). Especially projects in the transport and communication sectors “[...] *were found to lie near the top of an ‘adequate’ development quality range*” (DCD/DAC/FA(99)8, page 3).

Although overall compliance with the disciplines seemed satisfactory, the author found that compliance with the disciplines on large projects was fairly low (DCD/DAC/FA(98)13, page 9). Measures to improve the disciplines on large projects¹⁹⁶ or the compliance therewith were, however, not taken as follow-up of the report.

The limited information pool¹⁹⁷ as well as the fact that the consultant drew on the assumed/demonstrated aid quality rather than on an ex-post evaluation of actual aid quality and/or developmental impact, make his findings methodology-driven (see also DCD/DAC/FA(99)8, page 6). While the presented results might give some indications of the aid quality of a tied aid credit project, the findings have to be interpreted cautiously and require further examination of the de facto aid quality.

¹⁹⁶ After a change in disciplines covering large projects, the Participants no longer required mandatory consultations for projects above SDR 50 million (see for instance DCD/DAC/FA(98)4, page 7).

¹⁹⁷ Resulting from a reduction in the number of challenged projects due to the establishment of the Ex Ante Guidance for Tied Aid, the information basis for the assessment further diminished from 1996 onwards (DCD/DAC/FA(98)13, page 8).

8.1.2. In the Spirit of Partnership? Global Partnership and the Role of Recipient aka Partner Countries

Emphasized already in the DAC's Strategy for the 21st Century, gradually widened and put at the center stage at the High Level Meeting in Busan 2011, the key words "partnership" and "global partnership" entered the rhetorical repertoires of the international development community in the past decade. Concomitantly, and expressing the shifting rhetoric, the term "partner (country)" has largely replaced the word "recipient" and partially also "developing" country in the DAC's official language. The wording used in the Paris Declaration is the perfect illustration thereof (see OECD 2005-2008).

The early idea of North-South Partnership, which has been dominating the DAC's development agenda since the publication of the key document "Shaping the 21st Century", is clearly linked to the recognition of the "recipient's" ownership claim. In this respect, the fact that recipient countries did not have a say in making tied aid credit rules –as addressed above in section 8.1.1.2– suggests that the OECD did not only neglect its promise of ownership, but also did the Organization not strive to live up to its principle of partnership in its interaction with developing countries.

Most recently, the Busan Declaration expanded the idea of partnership on the North-South axes by two more dimensions, namely South-South cooperation and the inclusion of the "new" actors in the aid architecture, as well as partnership between public and private actors, explicitly emphasizing the key role of the private sector in promoting development (OECD/DAC 2011, Busan Declaration).

As with regard to the call for intensified partnership between DAC and newly emerging donors no major contradictions with the tied aid disciplines can be found. On the contrary, both the Participants and the DAC share a mutual interest in levelling the playing field by including new donors (of tied aid credits), such as China, that do not adhere to the same rule set and therefore, threaten to undermine OECD procedures.

In contrast, taking the Busan call for partnership with the private sector and the greater role attributed to actors in the private sector¹⁹⁸ seriously, means questioning the appropriateness of tied aid credits. After all, the tying of aid to imports from the donor country rather hampers than stimulates the development of the local/national private sector. Furthermore, the role of an "engine for development", which is attributed to the private sector, must go hand in hand

¹⁹⁸ For an inquiry of the role of the private sector for development see for instance the ÖFSE publication (2013): "Private Sector Development. Ein neuer Business Plan für Entwicklung?".

with new responsibilities of private sector actors and raises the question of how to strengthen the development dimension in the private sector in both donor and recipient country. The key question to address in this context is which development policy commitments should and could be imposed on donor domestic companies participating in tied aid credit programs.

8.1.3. Untying : Is the OECD Coherent in Its Quest for an Untying Regime?

“[T]he extent of tying can be interpreted as evidence of incoherence within the aid policy”
(Morrissey 1999: 379).

Although already addressed above in the context of alignment, the incompatibility of tied aid credits with the OECD’s quest for untying of aid deserves further examination.

In a Note distributed in 1997 the Secretariat examined strategies for the promotion of untied aid. Therein, the compatibility of untying with other DAC and OECD policy objectives is stressed and the “goal of leveling the playing field among exporters” is identified as mutually reinforcing objective (DCD/DAC/FA(97)8, page 3) This implicit reference to the Participants’ work shows that in principle the Participants and the DAC share a preference for untied aid over tied aid. Albeit for different, partially overlapping reasons, both groups perceive(d) the untying of aid (or at least the restriction of tied aid to certain projects and countries) as a means to achieve their respective end: “Fair” export competition based on liberal market forces and recipient-led development policies ensuring aid’s “best value for money”. While the untying debate was initiated by the DAC, the Participants objective of limiting export promotion in the guise of tied aid boosted the DAC’s efforts to increase both ownership of recipient countries and aid’ “value for money”. After all, this mutual interest has to be seen in the context of the OECD’s overall liberalization agenda as derived from the Organization’s Convention (OECD Convention, quoted in Jepma 1991: 2).

Although the 1992 Helsinki disciplines have not been introduced with the principle aim of reducing the use of tied aid per se, the DAC Secretariat finds some prima facie indication that “[...] the Disciplines may have had some impact on the recorded decline in both the volume and share of tied aid in total bilateral aid. Further support for this is found from the trend in ‘procurement-related tied aid’ -- on which the Disciplines have focused. **The declining trend for procurement-related tied aid was much more sharply downward after 1992 than that for tied aid in general, as would be expected**” (DCD/DAC/FA(98)4, page 11; emphasis added).

Similar results – carefully formulated – are recalled in the summary report of the questionnaire conducted in 1998/98 among DAC Members. Although there was disagreement among DAC/FA Members on whether the Disciplines were an initiating or a reinforcing factor (of older trends), the contribution of the Disciplines to the reduction of flows of aid funds into tied aid projects was highlighted (DCD/DAC/FA(99)8, page 7).

8.1.3.1. Provisions for Least Developed Countries

A potential inconsistency between the DAC and the Participants Group can be detected in the treatment of the group of Least Developed Countries under Arrangement provisions and the DAC Recommendation on Untying. With the adoption of the Helsinki Package, Participants agreed that tied aid credits to LDCs must have a concessionality level of at least 50%, but do not have to pass the two key tests assessing the commercial–viability of a project. This way, a donor’s administrative burden is reduced and tied aid credit flows to LDCs are encouraged in order to maximize total flows to those countries. In contrast, the DAC specifically targets flows to LDCs and its members have agreed to untie their aid to this group of countries to the maximum extent.

Hence, the question can be formulated whether contradictions are inherent to the policies towards and the treatment of LDCs by the respective bodies. While one forum – the development co-operation body - emphasizes that untying is especially important in cases where the recipient country is an LDC (because here the impacts of tying might be particularly detrimental), another forum – the export credit body - does deliberately exclude flows to this same group from certain requirements and obligations because the poorest countries do not range among the main beneficiaries and/or the interesting markets. According to one interviewee this might lead to “forum shopping” – essentially a situation in which inconsistent rules can be played off against each other (Interview V).

*“There is concern – certainly on my behalf – that **some might want to do a bit of forum shopping, you know play one forum against the other.** You know we say, you can’t do it, but a different body in the OECD says, you can”* (Interview V).

This inconsistency might have limited consequences as long as LDCs are not attractive for donor domestic enterprises. However, in a situation in which African markets with high growth potential come to the fore of attention of business communities, this incoherence might provide a basis of legitimation for continued tying practices such as “allowed” by the Helsinki rules and excluded from the commercial non-viability criteria.

With regard to the group of Least Developed Countries another potential inconsistency between Arrangement rules and DAC principles should be mentioned. Although the Arrangement requires tied aid credits to LDCs to meet a minimum concessionality level of 50% (in contrast to 35% for the remaining tied aid eligible countries), they essentially remain loans, thus requiring repayment. Already in 1978 (and reiterated at several occasions especially in the wake of the devastating debt crisis of the 1980ies), however, DAC Members agreed in principle that ODA to the group of Least Developed Countries should be provided in the form of grants¹⁹⁹ (see Recommendation on terms and conditions of aid 1978, page 2).

8.2. Concluding Remarks: Of Conflicting Policy Goals and Magic Bullets

Departing from the assumption that tied aid credits are – at least as long as donors claim their ODA-eligibility - part of the development policy field, this chapter has assessed the compliance of tied aid credit disciplines with some of the core principles of the DAC's development policy. In all the categories analyzed, contradictions were found. In order not to threaten the internal coherence of the OECD's development policy and to not lose credibility, ways of increasing policy coherence should be explored.

For example, although the Arrangement has contributed to some harmonization of donor tied aid credit practices, further steps in this direction are necessary. The most obvious sign of diverging tied aid credit practices is the incoherent wording used by national authorities and different (quasi) OECD bodies to describe the financial products and packages. Regarding the OECD's usual "fetish" for setting standards and harmonizing policies, this incoherence in using terms such as tied aid credit, soft loan or mixed credit is striking. Increasing transparency must start with harmonizing terminology across groups and countries. A way of increasing the transparency of the variety of products offered by national ECAs (or other institutions involved in tied aid financing) would be to establish a matrix, clearly defining the products that are offered across countries. In a subsequent step this would contribute to a better mapping of remaining tied aid credit practices in OECD donor countries, would increase comparability and make it easier to draw lessons learnt and identify "second best" practices (considering untied as best).

The most apparent and seemingly irresolvable incoherence lies in the tied nature of the instrument. It is also this characteristic that leads to the (partial) incompatibility of tied aid credits with the Paris Principles of alignment and ownership. If tied aid credits are interpreted as aid policy, the specific objective of which is to induce development and eradicate poverty,

¹⁹⁹ A discussion of the "loan vs. grant" debate will be provided in the thesis of my colleague Ms. Schweiger.

then tied aid is to be seen as incoherent with this overall aid policy. In Picciotto's (2004: 8) terms this means that the internal coherence, i.e. "[...] *the consistency between goals and objectives, modalities and protocols of a policy or program carried out by an OECD government in support of development (e.g. aid)*" is not given. The source of such incoherence can be seen in the fact that aid policy is influenced by a myriad of interest groups. Studying the role of the different actors in policy-making processes on the national level would be crucial to see if and potentially why "[...] *development interest and objectives are weak relative to donor self-interests*" (Morrissey 1998: 248).

While the rules adopted by the DAC and the Participants Group – despite minor inconsistencies - tend to be mutually reinforcing in their quest for a system of liberalized aid procurement, political realities have resulted in the “failure” to eradicate tied aid credit practices, which by their very definition contradict the OECD's “liberal philosophy” and provide a breeding ground for potential policy incoherence.

Such discrepancies between proposals of the OECD Secretariat and respective outcomes in form of declarations, guidelines and recommendations, remind us that any assessment of OECD guidelines (the Participants' disciplines included) must take into account the “constraints” under which the Organization and its bodies operate and adopt “rules”. The most apparent “constraint” is the institutional set up in which the negotiations of Helsinki tied aid disciplines and DAC guidelines on untying were held. These were negotiations between sovereign states on what was considered a core national issue. Understanding that the OECD is a forum, which does not provide for any sanctioning mechanisms or hold any implementation powers, helps to see that the rules cannot be better than the minimal consensus that all negotiating parties could agree on - or as the former Chairman of the Participants said: “*Final results cannot be better than the lowest common denominator*” (Chairman Report Wallén: quoted in Ray 1995: 81, 82). In the case of the Arrangement, the negotiators were neither ready to entirely abolish this relic of mercantilist use of aid nor to incorporate more far-reaching provisions on aid quality. The statement below by one interviewee is exemplary for this relation between the Secretariat (and its Directorates) and OECD member states: “***We are all here to serve our clients. I mean I can't do things against my member countries' interest. [...] Of course not, that is the political reality of it all***” (Interview V).

Concluding this assessment, it needs to be borne in mind that due to the considerable room for maneuver left by the Arrangement to its national implementers, only preliminary conclusions can be drawn at this stage. These are likely to be indicative of the appropriateness of tied aid credits as an instrument of development policy, but analysis of

national policies and programs will be required to substantiate and potentially differentiate the findings derived from the international institutional and regulatory framework covering tied aid credits.

9. Conclusion: “Killing Two Birds With One Stone”?

The principal objective of international development policy as stipulated by the Millennium Development Goals adopted in 2000 is the eradication of extreme poverty and the improvement of the quality of life of the majority of people living in developing countries. This implies that development assistance should be directed at the poor in developing countries and should promote development processes along the interests of its recipients. Yet, other goals such as the promotion of donor business interests are accommodated in aid policies as well. For example, donors claim to simultaneously support their domestic enterprises and to contribute to recipient countries' development via *tied aid credit/soft loan* programs. By tying the concessional credit, i.e. the soft loan to the procurement of goods and services in the donor country donors endeavor to bridge export promotion and development policies. The resulting policy amalgam is based on the assumption that the goals of export promotion and development co-operation are compatible and mutually reinforcing. The specific set of goals discussed in this thesis is presented as not only congruent and naturally symbiotic, but also achievable within one single policy instrument. Whether this ambitious approach leads to efficiency losses in the achievement of both goals remains largely unquestioned in public descriptions of such programs. Recalling Jan Tinbergen, however, who demonstrated that each policy goal needs its own policy to be efficiently achieved (Tinbergen 1986: 14), the assumption underlying tied aid programs requires profound examination.

To approach the complex interface of donor export interests and development interests, this thesis adopted a historical perspective. From such a vantage point it was possible to see the historically grown interlinkages between the two fields of reference, which have shaped the design of tied aid credits. A look at the debates held in the Participants Group – the main body regulating tied aid credits on the international level - between 1978 and 2005 has shown that tied aid credits originated in the interest to promote and increase export capacities of OECD member states. Considering these historical roots the question arises of whether it is legitimate to count tied aid credits amongst the instruments of development policy. Answering this question requires taking a closer look at the making of tied aid disciplines. From the very beginning, the Participants Group did not deal with tied aid credits in search of particularly effective development policies, but because tied aid credits happened to be a tool of backdoor subsidization with trade distorting effects. The Participants' attempt to eliminate the latter, led to their rising interest in tied aid credits. Their efforts to curb tied aid practices ultimately resulted in the Helsinki tied aid disciplines of the

Arrangement on Officially Supported Export Credits. At the heart of these disciplines lie the key tests for commercial viability which are focused on the commercial aspects, not the developmental aspects of tied aid financing. Although the DAC also tackled tied aid credits as part of its untying quest, aid considerations clearly play a subordinate role in assessing the eligibility of a project for tied aid financing, as has been discussed in Chapters 6 and 7. This is reflected most clearly in the lack of a proper “aid quality test”.

This specific design of tied aid credits gives reason to regard the donor’s role and intentions more ambivalently. Given the basic design of this policy instrument (leaving aside national peculiarities) it appears that tied aid credits directly target donors’ commercial goals while development processes are expected to be triggered indirectly by the project a credit initiates. The legitimization that is provided to nonetheless count tied aid credits amongst the instruments of development policy lies in the sectoral focus of tied aid credits. These are mainly used to finance public sector projects, such as health, water and sanitation, education or infrastructure. The resulting provision of (quasi) public goods is considered the key to development.

The analysis of OECD archive footage provided in Chapters 6 and 7 has demonstrated that development aspects are not and never have been the Participants’ main concern or driving force. Accordingly, everything explicitly referring to development was left to be dealt with by the Development Assistance Committee. While this is an acknowledgement of the DAC’s expertise on development issues, it is also a way of shifting responsibilities for developmental impact, and thus a neglect of a more comprehensive approach to the issue on the side of the Participants. As has been uncovered in the assessment of tied aid credit provisions within the context of the DAC’s development agenda (Chapter 8), this dispersion of responsibilities paired with diverging interests provides a breeding ground for internal incoherence in the OECD’s development policy.

Both groups involved with tied aid financing are committed to the OECD’s overall liberalization agenda and share interests in removing protectionist practices. This has led to broad consensus among OECD members on the necessity of untying development aid, most prominently expressed in the 2001 DAC *Recommendation on Untying Bilateral Official Development Assistance to LDCs and HIPC*s, in numerous declarations from DAC High Level Meetings (Paris, Accra, Busan) and partly also in the *Arrangement on Officially Supported Export Credits*. The provision of aid with “no strings attached” is expected to increase the effectiveness of aid and is considered a precondition of the Paris Principles of *ownership* and *alignment*. Tied aid credits are thus in direct conflict with a strong OECD-wide consensus against tying.

Furthermore, this thesis enlisted more specific incoherences of tied aid credit policies with the DAC's general development policy standards and guidelines for development policy. The assessment provided in Chapter 8 suggests that the complementary nature of the multiple policy goals to be achieved with *soft loan/tied aid credit* policies cannot be taken for granted. In this respect one might draw the lines of three controversies: 1) *ownership vs. supplier driven (if not "donor dictated")*; 2) *tied to procurement in the donor country vs. local procurement and strengthening private sector development in the recipient country*; 3) *eradication of extreme poverty/focus on LDCs vs. market entrance in emerging markets*. Any national soft loan strategy should pay due diligence to the elimination and containment of these potential conflicts of goals (and interests) in order to avoid efficiency losses at all ends, and particularly of the invested aid monies. In order to increase the development orientation of tied aid credit flows, it appears necessary that the responsible implementing agencies – in most cases export credit agencies - have sufficient development competences to attain the stated goal of promoting development. As has been repeatedly emphasized by the DAC *Working Party on Financial Aspects of Development Assistance*, this requires close cooperation between export promotion and development co-operation institutions, at the OECD level as well as on a national level. Closer cooperation and coordination could increase the development orientation of these flows and could lead to convergence in the regional distribution of tied aid credits and other ODA flows. This would potentially allow project designers and implementers to use synergies between "traditional" development projects implemented by the aid agencies (and their counterparts) and those financed with tied aid credits.

Regarding the general satisfaction with the Helsinki tied aid disciplines from the Participants perspective (Interviews II – VIII), on the OECD level no major changes in the set of rules *per se* are to be expected. However, related debates on the future of Official Development Assistance (ODA) and development policy in general, might impact on tied aid credit policies. As shown in Chapter 2 one of these related debates concerns the conceptualization of ODA which has increasingly become the target of criticism. In order to qualify as Official Development Assistance transfers must meet several criteria. Apart from the required minimum grant element of 25% and the concessional character, flows have to be initiated with the main aim of contributing to the economic development and welfare of the recipient country. The "dual character" or the *hybridity* of tied aid credits raises the question whether they are in line with the requirement of "*promotion of the economic development and welfare of developing countries as [their] **main objective***" (OECD/DAC Factsheet 2008; emphasis added). Tied aid credits perfectly exemplify the difficulty of detecting a donor's (main) motivation when making concessional transfers. Both the DAC/FA and the Participants encountered problems when trying to separate trade-motivated from aid-motivated flows.

This demonstrates the weakness of basing categories of ODA and OOF on “motivations”. The underlying motivations, as such, are foremost declarations of intention the “truthfulness” of which is hardly tangible. More recently, discussions on an overhaul of the ODA concept have been popping up within the OECD. These debates should not only investigate a revisiting of the *uniform discount rate of 10%* used for the calculation of the DAC’s grant element, but also the motivation-based criteria of “*promotion of the economic development and welfare of developing countries as [their] **main objective***” (OECD/DAC Factsheet 2008; emphasis added).

In addition to the anticipated changes in the international development architecture post-2015, the wider international context, in which export credit agencies operate might be subject to modifications as well. In the years to come it will thus be intriguing to inquire if and how the *Arrangement on Officially Supported Export Credits* in general and the tied aid credit disciplines in particular will have to adapt to a changing international landscape. Almost certainly it will be increasingly transformed by non-OECD countries which are not (yet) playing and abiding by the same rules.

With this in mind, let us end here with this thesis’ premise and wish to open debate with a quote from the year 1988 by the former Participants’ Chairman Axel Wallén: “*[...] I feel our Arrangement is a little like a bicycle: it must move forward to stay upright*” (TD/CONSENSUS/88.14 page 3).

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10.2. OECD Archive Footage

10.2.1. DAC Working Party on Financial Aspects of Development Assistance

DAC/FA(81)1
 DAC/FA/M(81)1(Prov.)
 DAC/FA(82)2
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 DCD/DAC/FA(92)8/REV1
 DCD/DAC/FA(93)3
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10.2.2. Participants Group

TD/CONSENSUS/84.23
TD/CONSENSUS/85.88
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TD/CONSENSUS(93)46
TD/CONSENSUS(93)55
TD/CONSENSUS(94)32
TD/CONSENSUS(94)50
TD/CONSENSUS(95)11
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TD/CONSENSUS(96)20
TD/CONSENSUS(96)23
TD/CONSENSUS(96)39
TD/CONSENSUS(96)14
TD/CONSENSUS(97)21
TD/CONSENSUS(97)45
TD/CONSENSUS(97)57
TD/CONSENSUS(2001)6
TD/PG(2003)7
TD/PG(2003)8
TD/PG(2004)8
TD/PG(2004)17
TD/PG(2004)26
TD/PG(2005)7

TD/PG(2005)8
TD/PG/M(2005)13/FINAL
TD/PG(2005)20
TD/PG(2006)9
TD/PG(2006)23
TAD/PG(2012)9
TAD/PG(2013)1

10.2.3. Other

C-M(90)11-Prov.
DAC(83)7,
DAC(83)17
DAC(87)17
DAC(88)11
DCD(99)6
DCD/DAC, Final Communiqué 16/05/2002
DCD/DAC/STAT(2012)18/REV1
DCD/DAC/STAT(2012)20/DRAFT
OECD/GD(94)67
SG/PRESS(92)35
TAD/ECG(2008)1
TC/ECG/82.4

11. Annex

11.1. List of Interviews

Name	Institutions/Position	Date
Mag ^a . Silvia Maca and Mag. Christoph Kreutler	Federal Ministry of Finance (Ausfuhrfinanzierung, Internationale Ausfuhrförderungspolitik, Risikocontrolling Ausfuhrförderung)	22.06.12
MMag.Dr. Kamran Kazamzadeh	Austrian Permanent Mission to the OECD (Wirtschafts- und Finanzattaché)	29.06.12
Ministerialrätin Dr. Marielies Rehor	Bundesministerium für auswärtige Angelegenheiten / Federal Ministry for European and International Affairs (former Head of the Finance Division, Department for Development Co-operation)	01.08.12
Frans Lammersen	OECD Development Directorate (DCD/DAC) (former Chairman of the Participants Consultation Group and Vice Chairman of the Participants to the Arrangement on Officially Supported Export Credits)	03.07.12
Bill Nicol	OECD Development Directorate (DCD/DAC) (Senior Counsellor)	05.07.12
Steve Tvardek	Export Credits Division, Trade and Agriculture Directorate (Head of Division)	04.07.12
Francois De Ricoflis	Export Credit Division (Head of the Working Party on Export Credits and Credit Guarantees (ECG) and the Participants to the Arrangement on Officially Supported Export Credits -the Participants)	20.07.12
John Evans	Trade Union Advisory Committee to the OECD (TUAC) (General Secretary)	02.07.12
Consultation Meetings		
Dr. Michael Obrovsky	Austrian Research Foundation for International Development (ÖFSE)	June 2012
Mag. ^a Hedwig Riegler	Austrian Federal Ministry for European and International Affairs (BmeiA)/DAC Working Party on Statistical Aspects (WP-STAT)	April 2013
Mag. Klaus Steiner	Austrian Federal Ministry for European and International Affairs (BmeiA)	Mai 2012

11.2. OECD Archive Footage: Document Codes

Code	Corresponding body/Working Party
C-MIN	Ministerial Council Meeting
DAC/FA , after 1991 DCD/DAC/FA	Development Assistance Committee - Working Party on Financial Aspects of Development Assistance - Documents
DAC/FA/A , after 1991 DCD/DAC/FA/A	Development Assistance Committee - Working Party on Financial Aspects of Development Assistance - Agenda
DAC/FA/M , after 1991 DCD/DAC/FA/M	Development Assistance Committee - Working Party on Financial Aspects of Development Assistance - Minutes
DAC/STAT	Development Assistance Committee - Working Party on Statistical Problems - Documents
OECD/GD	OECD General Distribution
TC/ECG , after 1989 TD/ECG , after 2007 TAD/ECG	Trade (and Agriculture) Committee - Group on Export Credits and Credit Guarantees - Documents
TD/CONSENSUS , after 2003 TD/PG , after 2007 TAD/PG	Trade Directorate - the Participants Group - Documents
TD/CONSENSUS/A , after 2003 TD/PG/A , after 2007 TAD/PG/A	Trade Directorate - the Participants Group - Agenda
TD/CONSENSUS/M , after 2003 TD/PG/M , after 2007 TAD/PG/M	Trade Directorate - the Participants Group - Minutes

11.3. English Abstract

Tied aid credits or *soft loans* - concessional credits which are tied to the procurement of goods and services in the donor country – are a *hybrid* instrument at the interface of official export promotion and development policy. With *tied aid credit* programs, donors claim to support domestic enterprises in their export endeavors while simultaneously contributing to the development of recipient countries. At the OECD level *tied aid credits* are institutionally rooted in the export promotion field and are regulated through the *Arrangement on Officially Supported Export* aiming for the elimination of trade distorting practices. At the same time, the concessional elements of a *tied aid credit* can be reported to the *Development Assistance Committee* (DAC) as *Official Development Assistance* (ODA) – *inter alia* a result of the proclaimed development objective. This thesis takes recent debates on the future of the concept of ODA as well as the gradual untying of development assistance as its starting point. The aim is to assess *tied aid credits* from the perspective of development policy and to provide a conceptual analysis of these credits in the light of recent debates on development policy and co-operation. These are reflected most prominently in the Paris Declaration, but also in a consensus among donors on the necessity of untying aid, as well as in calls for greater Policy Coherence for Development (PCD). The emphasis is put on the question of the extent to which the *Arrangement of Officially Supported Export Credits* is in line with today's political framework for the OECD's development policy. Based on an analysis of the historical genesis of the rules governing *tied aid credits*, this *hybrid* instrument and its potential usefulness for development policy will be assessed along the DAC's standards and guidelines for (effective) development co-operation. It will be shown that the status between export promotion and development policy makes *tied aid credits* subject to tensions stemming from the polyvalent interests of the actors involved, which provide a breeding ground for incoherent policies.

11.4. German Abstract

Tied aid credits oder *soft loans*, konzessionelle, für gewöhnlich liefergebundene Kredite, sind ein hybrides Finanzierungsinstrument an der Schnittstelle von staatlicher Exportförderung und Entwicklungspolitik, dessen Ziel es ist, sowohl heimische Unternehmen zu unterstützen als auch zu Entwicklung im Empfängerland beizutragen. Während *tied aid credits/soft loans* auf OECD Ebene institutionell im Exportförderungsbereich angesiedelt sind und vom so genannten *Arrangement on Officially Supported Export Credits* reguliert werden, sind die staatlichen Stützungselemente von *soft loan/tied aid credit* Finanzierungen aufgrund der proklamierten entwicklungspolitischen Zielsetzung sowie ihres konzessionellen Charakters beim DAC, dem entwicklungspolitischen Ausschuss der OECD, als Leistungen der öffentlichen Entwicklungszusammenarbeit (ODA) anrechenbar. Ausgehend von rezenten Debatten rund um die Zukunft des ODA Konzeptes nach 2015 sowie vor dem Hintergrund der schrittweisen Abkehr von gebundenen Instrumenten der Entwicklungspolitik, verfolgt die vorliegende Arbeit das Ziel, *tied aid credits/soft loans* auf ihren entwicklungspolitischen Gehalt zu untersuchen. Der konzeptionelle Rahmen für die Bewertung von *tied aid credits* aus entwicklungspolitischer Perspektive stellen dabei die jüngsten Entwicklungsdiskurse des DAC dar, die ihren Niederschlag in der öffentlichkeitswirksamen Paris Deklaration, aber auch in einem Geberkonsens zur Notwendigkeit ungebundener Hilfe sowie in den Forderungen nach mehr Politikkohärenz für Entwicklung gefunden haben. Aufbauend auf einer Analyse entwicklungspolitischer Aspekte in der historischen Genese dieses Instrumentes anhand von OECD Archivmaterialien, soll gezeigt werden, inwieweit das heutige *Arrangement on Officially Supported Export Credits*, welches die grundlegenden Charakteristika von *tied aid credits/soft loans* festlegt, dem politisch-konzeptionellen Rahmen der OECD Entwicklungspolitik entspricht. Im Zuge dieser Analyse wird deutlich werden, dass *tied aid credits* aufgrund ihrer Positionierung im Spannungsfeld von Exportförderung und Entwicklungspolitik den Einflüssen unterschiedlicher Interessengruppen unterliegen, welche als Nährboden für inkohärente Politiken fungieren.

11.5. Curriculum Vitae

Personal information	
First name / Surname	Livia Fritz
Education	
Dates	October 2007 – June 2013
Principal subjects/ occupational skills covered	International Development (Diplomstudium Internationale Entwicklung)
Name and type of organization providing education and training	University of Vienna
Dates	March 2009 -
Principal subjects/occupational skills covered	Undergraduate Program Business, Economics and Social Sciences (Economics Major)
Name and type of organization providing education and training	Vienna University of Economics and Business
Dates	September 2010- June 2011
Title of qualification awarded	Undergraduate Exchange Certificate
Principal subjects/occupational skills covered	International Relations / Affaires Internationales
Name and type of organization providing education and training	Sciences Po Paris (IEP)
Dates	October 2007- June 2010
Principal subjects/occupational skills covered	Russian (Extracurricular)
Name and type of organization providing education and training	University of Vienna, Department for Slavic Languages
Dates	June 2007
Principal subjects/occupational skills covered	Matura (Austrian A-levels) with honours
Name and type of organization providing education and training	Bundesgymnasium Bludenz