

The Council Presidency and EU Relations with Latin America: Competent Management, Little Lasting Impact

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1. The German Presidency's Agenda and Scope for Action

In the area of Latin America policy, the six months in which Germany held the EU Council Presidency were marked by three main topics: (1) the ongoing or incipient association negotiations with Mercosur, the Andean Community and Central America, (2) the imminent implementation of a deeper partnership with Brazil, and (3) relations with Cuba. The Presidency's programme envisaged the conclusion of negotiations with Mercosur and the initiation of association negotiations with the Andean Community (CAN) and the Central American states.¹ As far as the deepened relationship with Brazil was concerned, a strategic partnership was seen as a possible goal, though this was not explicitly mentioned as such in the Presidency programme. At the same time, Portugal, which followed Germany in the Chair, had just made the Brazil dossier one of its priorities.² While there were few differences of opinion on these first two dossiers among member states and between the Council and the Commission, the management of relations with Cuba was far more contentious.

However, the power and responsibilities of the Council and its Chair in the aforementioned dossiers need first to be clearly laid out. As far as association agreements are concerned, the Commission adopts recommendations for a negotiation mandate that is presented to the Council for further discussion and final adoption. The Council then endows the Commission with the leadership of the negotiations. However, the Commission is required to report to, and consult with, the relevant Council working groups (TEC article 300): in this case, the regional working groups AMLAT (first pillar) and COLAT (second pillar). In trade matters, they are joined by the 133 committees in their "Members," "Deputies" and "Services" formations. In ongoing association negotiations it is expected that

1 German Federal Government, "Europa gelingt gemeinsam." *Präsidentschaftsprogramm 1. Januar–30. Juni 2007*, Berlin 2007, p. 24.

2 See *Prioridades da Presidência Portuguesa, Julho a Dezembro 2007*, www.eu2007.pt/UE/vPT/Presidencia_Conselho/PriorPPUE.

Presidencies observe the negotiation process and, in cases of deadlock, give fresh impulses. When new negotiation mandates are developed, the Presidency is primarily needed as a broker, both between member states and between Council and Commission. After the negotiations have been concluded, the association agreements need to be ratified by the European Parliament.

Meanwhile, no formal procedure is required for the elaboration of strategic partnerships, which initially only consists of a joint statement by both partners. While the aforementioned Council working groups are included in the consultations, no Council decision is required. Only the Political and Security Committee (PSC) needs to approve a strategic partnership. As a result, the opportunities for the Council and its Presidency to influence the process are limited. However, the Council Presidency can take part in the organisation and content of bilateral political dialogues as part of the bilateral Troika meetings together with the High Representative and the Commission (TEU article 18).

In the case of policy towards Cuba, the Council had to reach two decisions as part of its direct responsibility for CFSP (TEU article 13ff.): first, the evaluation of the 1996 common position and, second, the development of a medium- and long-term Cuba strategy for the EU. The German Presidency had several opportunities to directly represent the EU externally, namely as part of the EU Troika meeting with representatives of Mercosur, the Rio Group, the San José Process, the Andean Community and Mexico in Santo Domingo in April 2007 as well as with Brazil in Brasilia in May 2007.

2. Demands on the German Presidency

Since the 1980s, Latin America and the Caribbean have played a key role for the EU in its efforts to establish itself as a global actor. For a long time, the region acted as the prime example of the strategy of interregionalism, through which the EU developed partnerships with similar areas of integration. With the slow-down in Latin American integration and the increasing importance of Asian economies, the

region's significance for the development of European foreign policy has been remarkably reduced. Europe's interest in the area has only increased anew because of the (potential) disadvantages for the European economy that a free-trade agreement of individual states or regions with the USA would entail. Moreover, on both sides of the Atlantic no opportunity is lost to point to historic connections and existing communities of values, seen as stable foundations for joint initiatives in international forums.

Association agreements with the Andean Community, Central American and Mercosur. There has been a political dialogue with the Rio Group³ since 1990, and in 1999 a "bi-regional strategic partnership" was agreed, leading to biennial EU-Latin America-Caribbean summits.⁴ The 'bi-regional' approach is supplemented by specific dialogues with sub-regional blocs. This aims to support, through the EU's association agreements,⁵ not only market opening but also the consolidation of Latin American efforts at integration.⁶ Here, the EU's main partners are Mercosur,⁷ the Central American Integration System (SICA)⁸ and the Andean Community (CAN).⁹ In a departure from the general (sub-)regional approach bilateral agreements have in the past been signed with Mexico and Chile, since neither are full members of any of these blocs.

At the 4th EU-Latin America-Caribbean Summit in Vienna in May 2006 the EU had decided to begin talks with Central America on an Association Agreement and to initiate with the Andean Community "a process leading to the negotiation of an Association Agree-

ment."¹⁰ Until recently, the EU had been sceptical regarding the ability of the Andean bloc to consolidate itself politically and economically, especially since Venezuela had announced its withdrawal in April 2006. On the other hand, it was precisely this instability that meant that supportive measures on the part of the EU were in demand.

In December 2006 the Commission had presented recommendations concerning the negotiation mandates for Central America and the Andean Community. Since the start of negotiations had been on the agenda for a while, member state positions were well-explored, and there was generally a broad consensus. The demands on Presidency management were thus reduced to a minimum. In addition, among the delegations, the Council and the Commission, there were only a small number of subsidiary questions that remained unanswered: for both Central America and the Andean Community these concerned services, good governance in tax policy and the insertion of revision and anti-terrorist provisos. Their insertion was resolved directly by the legal services of the Commission and the Council. A further need for clarification existed in the relationship with the Commission (Directorate General Trade), which aimed, in contrast to the Council, to deal with the Association Agreements with Asia and Latin America *en bloc*. This was due to the goal to announce the (as far as possible) simultaneous start of association negotiations with a number of partners in Asia and Latin America. This was meant to demonstrate publicly the EU's unity on trade policy. Moreover, the Commission insisted that the SICA adhere to its self-imposed commitment to complete its customs union before negotiations with Central America began. In contrast, the member states were willing to enter into negotiations even if this precondition was not met.

The decision to start negotiations on new Association Agreements brought with it demands in terms of strategic guidance. WTO compatibility needed to be the maxim of EU trade policy. Otherwise, the EU would be in danger of further overfilling the global "spaghetti bowl" of bilateral and bi-regional trade agreements, whose inflationary increase is seen as a potential hurdle for multilateral trade liberalisation.¹¹

³ All Latin American states, the Dominican Republic and a representative of the Caribbean Community (CARICOM).

⁴ The participants of the so-called EU-LAC meetings are the foreign ministers and heads of state and government of the EU and the Rio Group.

⁵ See Wulfdiether Zippel, "Die Politik der Assoziationsabkommen—materielle Grundlagen und globale Struktur," in: Peter-Christian Müller-Graff (ed.), *Die Rolle der erweiterten Europäischen Union in der Welt*, Baden-Baden 2006, pp. 205–223.

⁶ See Jean B. Grugel, "New Regionalism and Modes of Governance—Comparing US and EU Strategies in Latin America," in: *European Journal of International Relations*, Vol. 10, No. 4, 2004, pp. 603–626 (617).

⁷ Argentina, Brazil, Paraguay, Uruguay and Venezuela (Full membership not yet ratified). A framework agreement with the EU was agreed in 1995.

⁸ Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Belize and Panama. Panama has not yet joined the economic integration process (SIECA).

⁹ Bolivia, Ecuador, Columbia, Peru.

¹⁰ www.eu2006.at/includes/images/EULAC/EU-LACViennaDeclarationEN.pdf, p. 14.

¹¹ See EU Commission, *Global Europe. Competing in the World*, Brussels, October 4, 2006, http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc_130376.pdf (accessed: August 12, 2007).

The negotiations with Mercosur, interrupted since 2004, placed demands on the Presidency in its initiative and impulse function. However, the Commission and the Brazilian President Lula agree that the core modalities of the agricultural sector at the very least need to be decided upon in the Doha Round before it would make sense to resume these negotiations. The Commission hoped that the deepened relationship with Brazil (see below) would give a clear impulse to the Mercosur negotiations as well. Thus, Germany as the representative of the Council *vis-à-vis* the Commission was at first needed to push for the immediate resumption of EU-Mercosur negotiations in order to get closer to the goal of concluding these negotiations, an aim listed in the Presidency programme.

Strategic Partnership with Brazil. Over the past two years, the EU's relationship with Brazil has—almost systematically—been upgraded by high-ranking visits. In July 2005, the External Relations Commissioner Benita Ferrero-Waldner travelled to Brazil. In its December 2005 Communication “A Stronger Partnership between the European Union and Latin America,” the Commission had called for the “special treatment” of the “major players” Brazil and Mexico, an idea welcomed by the Council in February 2006.¹² In May 2006, the Commission President Barroso went to Brazil on an official visit for the first time. During that visit, Brazil had proposed setting up a strategic partnership. The Council Secretariat and the Commission developed an internal analysis on this topic, which was first discussed in October/November 2006 in the Latin America working group COLAT. The PSC agreed to the proposal in November 2006.

Until then, the EU had always given preference to biregional relations with Mercosur over bilateral relations. Thus, only Mercosur was mentioned as a partner in Latin America in the 2003 European Security Strategy. The special emphasis on Brazil, prepared during the German Presidency and declared early July at the beginning of the Portuguese Presidency, represents a departure in European foreign policy strategy. This is why the Chair's strategic guidance was especially

¹² See EU Commission, *A Stronger Partnership between the European Union and Latin America*, COM (2005) 636 final, December 8, 2005, p. 7, http://ec.europa.eu/external_relations/la/doc/com05_636_en.pdf (accessed: August 3, 2007); *Council Conclusions on EU-Latin America Relations*, 2711st General Affairs Council Meeting, Brussels, February 27, 2006, www.consilium.europa.eu/uedocs/cmsUpload/Final_Latin_America.pdf.

required on this topic, as this step had been decided upon without a broad debate on its medium- and long-term implications for the bi-regional relationship. There was internal pressure on Portugal to produce results in the area of relations with Brazil, and this pressure resonated at the top of the Commission via the Portuguese Commission President Barroso. Given this context, it seems reasonable to doubt that the special emphasis on Brazil was agreed without critical evaluation. It was the responsibility of the Presidency to place Portuguese ambitions and the European strategy of bi-regionalism within a medium-term CFSP perspective. First, the Presidency should thus have asked why the EU should enter into a bilateral partnership with the actor which had proved to be a major stumbling block in the negotiations with Mercosur and in the Doha Round.¹³ Second, the special emphasis on Brazil could reduce its interest in the political dialogue with Mercosur and the EU-Mercosur Association negotiations. Third, it was not clear whether this implied an implicit downgrading of proven partners on the subcontinent—Chile and in particular Mexico, with which there already is a bilateral global agreement, one of the EU's broadest such agreements with a country outside Europe.¹⁴ While some of these reservations were addressed during the discussions in the Latin America working group COLAT, in the end none of the member states opposed setting up the partnership. Germany did not have to play the role of a broker since the member states seemed to hope that the aforementioned problems could be avoided through a balanced design of the strategic partnership. Due to the pressures of time, the German Presidency did however need to increase its co-operation with the subsequent Portuguese Presidency in order to co-ordinate a road map for the strategic partnership.

Debates concerning Cuba policy. European policy towards Cuba is based on a Common Position adopted in 1996¹⁵ which offered intensified co-operation as

¹³ On this, see Günther Maihold, *Brasiliens Aufstieg in die 1. Liga der EU-Außenbeziehungen. Potential und Grenzen einer strategischen Partnerschaft*, Berlin: Stiftung Wissenschaft und Politik, July 2007 (SWP-Aktuell 40/07).

¹⁴ See Marcela Szymanski and Michael E. Smith, “Coherence and Conditionality in European Foreign Policy: Negotiating the EU-Mexico Global Agreement,” in: *Journal of Common Market Studies*, Vol. 43, No. 1, 2005, pp. 171–192 (171).

¹⁵ Common Position of 2 December 1996 defined by the Council (96/697/CFSP), in: *Official Journal* L 322, December 12,

soon as Cuba began to show progress towards democratisation. In reaction to a wave of arrests of opposition activists in Cuba, the EU had in July 2003 implemented sanctions, which *inter alia* limited high-ranking visits.¹⁶ These sanctions had been suspended in January 2005.

The evaluation of the Common Position and thus the review of the situation after the suspension of sanctions were on the agenda of the German Presidency. It was hotly contested among member states whether the human rights situation had improved enough for sanctions to be removed completely. While a group of member states followed the Spanish position and argued for the immediate removal of sanctions, a group led by the Czech Republic spoke out in favour of tying the removal to certain conditions. The visit of the Spanish Foreign Minister to Cuba, which was not co-ordinated with the Presidency, shows how heedlessly the interests of individual states were placed above the common interest in a coherent European foreign policy. Here, the Presidency was needed as a neutral broker if the member states were to agree on a common stance. Due to the time limit imposed by the June 2007 deadline, a certain amount of management ability was also required.

At the same time, the European policy towards Cuba needed to be realigned: in mid-June 2006, the Council of Ministers had issued a mandate to develop a new medium- to long-term Cuba strategy. In a surprise move one-and-a-half months later, Fidel Castro transferred his official functions to his brother Raúl, making the issue of the mandate more topical and urgent. When the dossier was handed to the German Presidency, the great differences of opinion between the member states were already well-known. The Finnish Presidency had presented a Common Denominator Paper on the matter in December 2006. The German Presidency could thus concentrate on its role as broker, but also needed to provide a measure of strategic guidance in order to move member states towards a coherent European stance. Policy towards Cuba presented the most challenges for the German Presidency of all the Latin America-related dossiers.

Troika meetings in Santo Domingo and Brasilia.

Germany had to represent the EU in its dialogues with the various regional organisations as well as with Mexico and Brazil. Joint statements needed to be

prepared and co-ordinated with the Latin American side. The German Presidency also had to chair the meetings in Santo Domingo. A coherent dialogue is only guaranteed if the Presidencies, which change every half year, plan ahead carefully and engage in close co-operation.

3. Available Resources

Within the EU, Germany is one of the countries that have a fundamental interest in a European policy towards Latin America. This is why Germany is seen as one of the Subcontinent's most important partners in the EU after Spain (and, in the case of Brazil, Portugal). The German Presidency could profit from this in framing EU relations to Latin America.

Due to its foreign office staff, Germany is certainly one of the EU states best equipped in terms of resources. Because of these advantages, the German Presidency could sound out member state positions on the various Latin America dossiers largely single-handedly, without needing to make use of the Council Secretariat's resources. This is an expression not just of administrative capacity but also of a certain scepticism regarding the Secretariat.

The simultaneous German G8-Presidency did not make tackling the challenges in EU policy towards Latin America easier in any meaningful way. At the most, the increased frequency of contact with Brazil due to its participation in the G8's outreach process¹⁷ may have been an advantage for the goal of deepening the EU's relationship with it. However, this advantage is a limited one, as dissatisfaction with the results of the outreach process could have an effect on the relationship with the EU.

¹⁷ Within the framework of the outreach process the G8 invites non-members and international organisations to an extended dialogue which takes place at every G8 meeting. The list of invitees to the outreach process is the responsibility of each host country. It is planned that the dialogue with Brazil, China, India, Mexico and South Africa will be continued on a permanent basis. Since the 2007 G8 summit it is called the Heiligendamm process.

1996.

¹⁶ <http://europa.eu/bulletin/en/200306/p106025.htm>.

4. The European Policy towards Latin America between Management and Substantive Influence

Generally speaking, the European policy towards Latin America offered the German Presidency few opportunities to leave its mark. The adoption of negotiation mandates for Central America and the Andean Community were a compulsory exercise which demanded management, brokering and the representation of the Council *vis-à-vis* other EU institutions. Considering the extent of German resources, it was to be expected that the Presidency would master these challenges. The fact that the final differences of opinion on technical matters could be cleared up is indeed down to the compromises proposed by the German Chair, and these compromises were praised by various member states for their balanced formulation. In the disagreement with the Directorate General Trade, the Council managed to push through its opinion that Latin America and Asia do not necessarily have to be dealt with *en bloc*. This result was partly due to the personal intervention of the German Foreign Minister. With this, the main preconditions for the adoption of negotiation mandates during the German Presidency were present. As far as strategic guidance is concerned, it is significant that the new negotiations with Central America and the Andean Community are mainly of political importance. In the case of the Andean Community the political aim of supporting Latin America's weak integration in particular was heavily emphasised.

The EU-Mercosur negotiations were repeatedly placed on the agenda by the German Presidency, but the stagnation reached in the negotiation could not be overcome. The reason for the failed resumption of talks lay in the absence of even minimal advances in the Doha Round: both sides are still waiting for achievements on that front. Thus, it should not come as a surprise to anyone that no progress was made in this matter during the German Presidency. More surprising is the fact that the German Presidency even lent the Mercosur dossier such prevalence in its programme—this could be understood as an expression of its priorities, at odds with the priorities of Portugal, Germany's partner in the trio of Presidencies: it was well-known that Portugal was strongly focused on the bilateral relationship with Brazil.

The announcement of the only sensational result—the strategic partnership with Brazil—was left to Portugal, historically closely tied to Brazil. It is

particularly on this matter that one can ask whether Germany should not have exhibited stronger strategic guidance in order to weaken the strong Portuguese interests on the one hand and strengthen the fundamental aim of bi-regional ties between Europe and Latin America on the other. Germany would certainly have had the necessary resources. However, neither before nor during its term in office was it able to make sure that its arguments in favour of a restrictive use of strategic partnerships were taken up adequately in the context of the Council. The decision for a strategic partnership with Brazil was finally made due to fundamental considerations in the context of global power politics:¹⁸ so far, the EU lacked a strategic partner in South America, and only Brazil was a candidate for that role, despite all the differences of opinion regarding trade policy. In addition, the EU felt a growing need for action as Brazil was increasingly aligning itself not only with the USA, but also with Russia and China, with all of whom it had reached strategic partnerships in the past years. Considering the advanced stage of the decision, it could not be expected that the German Presidency would manage to induce a re-evaluation of this matter. However, the German Presidency could ensure that a balanced joint statement by the Commission and Brazil. The statement does emphasise that the partners still attach great importance to Mercosur.¹⁹ Apart from the fact that this sentiment can in practice be interpreted in different ways, the aforementioned concerns regarding a strategic partnership persist, especially since the following Presidencies were not given a clear road map for the implementation of the partnership.

The handling of the two Cuba dossiers (the evaluation of the Common Position and the medium-term Cuba strategy) required all of Germany's resources. The policy towards Cuba was not just highly demanding in diplomatic terms but was also a matter of internal debate among the coalition's parliamentary groups. Thus, it was inevitable that the dossier would be closely tied to the German Parliament. Considering the sensitivity of the topic, a seamless handover by the Finnish Presidency took on particular importance. In

¹⁸ See the Commission's Communication to the Council, *Towards an EU-Brazil Strategic Partnership*, Brussels, May, 30, 2007, http://ec.europa.eu/external_relations/brazil/docs/com07_281_en.pdf, p. 1.

¹⁹ See European Council, *EU-Brazil Summit Lisbon, 4 July 2007. Joint Statement*, www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/95167.pdf, p. 2 (accessed: August 12, 2007).

the last two months before the start of the Presidency, Germany was included in the preparatory meetings of the Council working groups and also had a certain influence on the agenda. This comprehensive co-operation between Presidencies nevertheless only occurred on a sporadic and limited basis: after the Finnish Presidency had handed over the problematic Cuba dossier to Germany, Finland no longer took a prominent role in the matter.

The German Presidency decided to deal separately with the Common Position and the Strategy. It originally planned to present a Cuba strategy by mid-March. A first attempt by the German Presidency to co-ordinate a strategy among European ambassadors in Cuba failed due to the differences in member state positions: while the Czech Republic and Poland in particular voted for working towards regime change, Italy and Spain were in favour of restraint as they feared that the Cuban regime would use a European “transition strategy” for propaganda purposes. Since these approaches could not be reconciled, the German Presidency finally gave up on the dossier and put its energy into the evaluation of the Common Position. However, this plan also failed in Council due to individual member states’ bilateral agendas and their obstinate refusal to negotiate. This was in spite of Germany’s special efforts in this matter: after intensive negotiations with all 27 member states, several compromise proposals were circulated, each of which tried to get closer to the common denominator. In addition, the German Presidency tried to win over states that were said to be relatively neutral on this question, for example Great Britain. In the end, neither a new strategy was launched nor an evaluation of the Common Position adopted.

In these circumstances it can however be seen as a success that, on the basis of a compromise proposal by the German Presidency, a Cuban delegation was invited to Brussels to discuss further steps.²⁰ The 1996 Common Position and the 2003 sanctions are not mentioned in the public Council conclusions, but the EU could at least signal its willingness to talk. However, this decision was not only reached because the Presidency provided strategic guidance and acted as a broker. Instead, it was equally important that Spain and the Czech Republic completely unexpectedly

jointly pushed for some action on the part of the EU despite all the differences in opinion.

The EU Troika’s dialogues in Santo Domingo were very constructive. The acting Council President Steinmeier was praised by the participants for his management of the meetings. Highly disappointing however were the public results of the dialogue with the Rio Group: only a very short declaration was released, and this restricted itself very noticeably to the restatement of some very commonplace principles.²¹ The Dominican Chair had not prepared the declaration adequately, so that a minimal declaration had to be formulated in a very short space of time, with the actual discussion results hardly finding a mention. The disappointing results were also due to Germany’s unaccommodating stance: it was not willing to allow more time for the “spontaneous” formulation of a joint statement. This is the only event where the German Presidency’s management, otherwise generally highly praised for its professionalism, was sharply criticised by some member states.

5. Conclusions

Since its inception in the 1980s, European policy towards Latin America has been characterised by an “interplay of accident and design.”²² This also applies to the elaboration of a strategic partnership with Brazil, since the somewhat hasty announcement of the partnership now needs to be followed by a period of conscious development. Its actual usefulness for the EU in terms of global politics—and especially in Latin America—will depend in the main on the careful tactical ability that the EU exhibits in the further development of the partnership. In future, it may be problematic that the EU’s bi-regional and multilateral approach has been watered down and that Brazil’s prominent position both in Latin America and within the “Global South” is contentious. Despite its own restraint, the German Presidency inadvertently contributed to the upgrading of Brazil’s position. How-

²¹ European Council, XIIIth Ministerial Meeting of the Rio Group and the European Union, Santo Domingo, Dominican Republic, April 20, 2007, *Joint Communiqué*, www.consilium.europa.eu/ueDocs/newsWord/en/er/93759.doc.

²² Andrew Crawley, “Europe-Latin American (EU-LAC) Relations. Toward Interregional Coalition Building?,” in: Heiner Hänggi, Ralf Roloff, and Jürgen Rüländ (eds.), *Interregionalism and International Relations*, London and New York 2006, pp. 168–181 (180).

²⁰ European Council, *CUBA—Council conclusions*, Luxembourg, June 18, 2007, www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/94804.pdf, p. 7.

ever, it had neither the necessary political will nor the means to prevent this.

The joint declaration with the Rio Group has to be seen as a further accident in Europe-Latin America relations. After 20 years of dialogue, the 13th ministerial meeting adopted an apparently uninspired five-point statement, in which *inter alia* the “the full validity of the principles and aims enshrined in the United Nations Charter” are reaffirmed and the topics discussed are merely listed. Ignoring the question whether such a statement accurately summarises the nature of the dialogue, the German Presidency should have prevented such a failure either before or during the meeting through consultation with the Dominican Chair.

Apart from this exception, Germany managed the daily business of relations to Latin America in a highly competent manner, but without providing new impulses. Relations with Latin America were of secondary importance to the Presidency, and it devoted little extra energy to the matter. If the Presidency had wanted to recognise the much-mentioned community of values, it would have been appropriate for the Chancellor to visit the region during the Presidency and thus leave a stronger substantive mark. As the German Presidency restricted itself to routine dialogues and statements, it left behind the image of a competent broker and manager. The emphasis on other areas reflects the relatively low level of importance Germany and Europe place on Latin America. The orientation towards Brazil is probably no more than a courtesy towards Portugal and the Portuguese Commission President, for whom relations with the new strategic partner are of far higher priority.