

**Interlinkages Within the  
Euro-Mediterranean  
Partnership**

**Linking Economic, Institutional  
and Political Reform:  
Conditionality Within the Euro-  
Mediterranean Partnership**

– Dorothee Schmid –

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*Interlinkages Within the Euro-Mediterranean Partnership  
Linking Economic, Institutional and Political Reform: Conditionality Within the Euro-  
Mediterranean Partnership*

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## Summary

For the past decade, the European Union has made increasing use of political conditionality as an instrument to promote human rights and democratic norms in external relations. It is, therefore, appropriate to examine whether and to what extent such a mechanism is currently being used to encourage political change in the Mediterranean region, particularly in the context of the Euro-Mediterranean Partnership. The Euro-Mediterranean Partnership, more commonly known as the Barcelona Process, was launched in 1995 as an attempt to tackle regional instability. It relied originally on an idealised vision of international relations, linking economic liberalisation to political change. The current record of achievements in the Barcelona Process, however, apparently raises questions about the practical relevance of this liberal hypothesis, based as it is on the concept of the virtuous circle. Even if the initial pattern of economic liberalisation seems to be being gradually spread through the application of bilateral free-trade agreements, Barcelona's political impetus, by contrast, seems to have dramatically slowed down. Under such circumstances, conditioning financial aid to the application of institutional or political reforms could be seen as an effective way of optimising the reformist potential of Euro-Mediterranean cooperation.

Barcelona's legal and institutional basis actually allows for such opportunities, as they provide a solid basis for political and macro-economic bilateral conditionalities. This study seeks to review the potential for such conditionalities to be effectively enforced within the Euro-Mediterranean framework. The issue was investigated through an evaluation of the details of bilateral cooperation in two very different case-studies, first between the European Union and Morocco and then with Turkey. Field research helped to identify the basic obstacles to an effective use of conditionality and both case-studies confirmed that, far from being confined to legal issues alone, conditionality also involves major political concerns. In both countries under examination, the implementation of political and macro-economic conditionality appeared to be particularly sensitive to the implicit balance-of-power between Europe and its Mediterranean partners.

Drawing on the essential principles established by past academic analysis and recent observation, this paper concludes by summarising the basic prerequisites for a Euro-Mediterranean conditionality mechanism that would be both legitimate and efficient. The institutional and cultural specificities of the Partnership must be appropriately factored in, in order to avoid rhetorical disillusion and to offer new insights for what has become a classical theme. Nonetheless, a demand for positive, negotiated and gradual conditionality is actually emerging from partner-countries themselves. Further analysis could thus focus on a concept for a new kind of shared conditionality, which would specifically reflect regional and bilateral aspects of the Partnership.

## Introduction

In November 1995, twenty-seven countries from Europe and the Southern Mediterranean signed a document in Barcelona that proclaimed their commitment to a free-market economy and democratic governance around the Mediterranean basin. Seven years after the founding conference of the Euro-Mediterranean Partnership (EMP), the Barcelona Declaration remains the normative ideal but is rarely cited in support of their objectives by human-rights activists. Instead, the day-to-day implementation of the EMP has concentrated essentially on the economic basket, apparently confirming the perception that European political objectives were ill-defined from the outset.

### ***The EMP: Process and outcomes – a controversy***

There is, as a result, a controversy about the true goals of the Partnership and this, coupled with the manifest inadequacy of the means provided to realise them, continually feeds a critical analytical discourse<sup>1</sup>. Yet, even if we assume that the “double liberalisation” scheme underpinning the Barcelona Process – economic liberalisation leading to political reform – is valid, there are still serious questions about the vagueness of the timetable and schedule by which this is to be achieved. Developing viable indicators to assess the success of the Euro-Mediterranean initiative is understandably an imperative for European bureaucrats but, as long as the 2010 deadline has not been reached, decision-makers could perhaps more usefully concentrate on the mechanisms of the Partnership, rather than on its results. In other words, focusing on the Barcelona Process as such – that is, on the liberal dynamic launched in Barcelona – rather than on the current outcomes of the Partnership, might be a more useful approach if the EMP is not to be prematurely condemned to death!

#### CONDITIONALITY: QUESTIONS AND AMBIGUOUS RESPONSES

This is not the place to discuss whether or not the objectives proclaimed in the Barcelona Declaration<sup>2</sup> were sincerely meant. Our purpose is, rather, to improve existing instruments, in order to translate these intentions into fact. Indeed, this inquiry into conditionality is part of a long-term project to the following end: is linking specific conditions to the provision of economic aid an appropriate way of sustaining the liberal dynamic of the Barcelona Process? The potential of such an instrument within the Euro-Mediterranean framework will be evaluated in what follows, by correcting the conceptual argument with pragmatic responses from “the field”.

The debate over conditionality actually goes back to the very beginning of the Barcelona Process. It has been particularly fuelled by militant claims and fantasies, inspired by the well-known suspension clause inserted in all Euro-Mediterranean bilateral agreements. Yet, in reality, alongside

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<sup>1</sup> The critics include the “view from the South”, see Bichara Khader, *Le Partenariat euro-méditerranéen vu du Sud*, L'Harmattan, Paris, 2001; for a relatively balanced appraisal of the Euro-Mediterranean system, see Eric Philippart, “The Euro-Mediterranean Partnership: unique features, first results and forthcoming challenges”, CEPS Working Papers, CEPS Middle East and Euro-Med Project, n°5, February 2003; and Dorothee Schmid, “Optimiser le Processus de Barcelone”, *Occasional Paper* n°36, European Institute for Security Studies, Paris, July 2002.

<sup>2</sup> Such doubts have been expressed by Richard Youngs, leading him to a pessimistic approach to European methods of exporting democracy to Southern Mediterranean countries; see “The European Union and democracy promotion in the Mediterranean: a new or disingenuous strategy?”, *Democratization*, Spring 2002, vol . 9, n°1, p. 40-62.

this tough interpretation of the clause as a demand for conditionality, there is also room for a wide range of more subtle Euro-Mediterranean "understandings". A political deal paralleled by financial cooperation would, in effect, be acceptable within the Barcelona context, *a priori*, as both the European and Mediterranean partners had apparently agreed on common political goals from the beginning of the Process. Conditionality can then be conceived of as a means by which common objectives become more explicit, such that the relationship between the European Union and its Mediterranean Partners is more explicitly expressed in contractual terms.

Currently, there is no official doctrine over conditionality within the Partnership. Apparently, there is a legal basis for it and some elements of conditionality can already be observed through current co-operation between the partners. However, analysing these elements can only take place once preliminary clarification of the criteria has taken place. There must be clear delimitation between strictly political, institutional or macro-economic criteria, differentiation between micro- and macro-level objectives and tools must be established, and short- and long-term risks must be distinguished. Once these conceptual categories have been clarified, it becomes possible to examine the reality of day-to-day bilateral cooperation, so that observing the practical implementation of conditionality is essential if assumptions about the crucial link between economic development and political change are to be validated. The examination of case-studies quickly demonstrates that conditionality must not be explored as a legal topic alone; the process remains heavily loaded politically, not only in terms of its exemplary objectives. Once focus is directed at the way in which conditionalities are applied, a mass of complex ambiguities are suddenly revealed. To put it starkly, conditionality by-and-large seems to exist, a little like the Partnership itself, only as a discourse.

#### CONDITIONALITY WITHIN THE PARTNERSHIP: AMENDING CLASSICAL CONCEPTS?

This pessimism is not meant just to be polemical. Indeed, on the contrary, the analysis contained within this review could itself help to defuse inappropriate argument because it seeks to render the inner constraints that hinder the proper functioning of the conditionality mechanism more explicit. Conditionality is basically founded on a contract between donor and recipient. This contract is based on a specific balance-of-power that usually favours the donor. Only in such a configuration can the donor really influence the result of the process, by threatening to cut off co-operation with the recipient if previously agreed criteria are not met. Yet this basic configuration is hardly ever encountered as such in reality. Many factors regularly interfere to dilute the ideal scheme, finally precluding the imposition of sanctions upon a non-complying state.

Technical restraints, such as management difficulties provoked by slow procedures, resistant bureaucracies and uncertain timelines, might of course be the cause of undeclared compromises. Donor and receiver might, in fact, implicitly agree to ease up on conditionality for different reasons, even if the official discourse remains unchallenged. All these practical constraints must be acknowledged in order to give a fair picture of current European efforts within the Euro-Mediterranean cooperation framework. Yet concessions are also frequently inspired by political considerations. The terms and the execution of these conditions actually depend as much on the concrete balance-of-power between the contracting parties, as on the material means provided to enforce conditionality.

This consideration of conditionality finally has to confront the crucial issue of the actual political balance within the Euro-Mediterranean Partnership itself. The long-established economic asymmetry between the North and the South of the Mediterranean region appears to be counterbalanced by specific bilateral equilibria and is also diluted by the consensual spirit inspiring the institutions of the Partnership. The heavy-handed application of conditionality would thus obviously contradict the inherent logic of Partnership whereas optimising its use would mean further contractualisation. Such an approach might make it possible to suggest practical improvements within the context of the Barcelona Process's consensual rationale.

## Chapter I: The assumptions behind Barcelona – a case for conditionality

When, in the early 1990s, the European Commission began to consider how it could improve the Euro-Mediterranean relationship, it made it clear from the outset that it would pursue political and strategic aims in the region through an economic strategy<sup>3</sup>. This choice was partly dictated by practical considerations, for economic and financial cooperation had formed the basis of the European Union's Mediterranean policy since the 1970s. In addition, this essentially indirect security strategy was also tactically inspired by new theories of conflict prevention that emerged in the 1990s<sup>4</sup>. In essence, the Commission had to re-organise its cooperation with third Mediterranean countries to allow for new political risks and threat perceptions emanating from the South. And, of course, fortuitously, this new comprehensive theoretical approach to security seemed to correspond to European assets and liabilities with respect to the Mediterranean.

### ***Barcelona's liberal design: the "twin liberalisation" theme***

Ever since the Barcelona Conference, this new European Union strategy for stability promotion in the Mediterranean has been described as holistic. The Barcelona Declaration proclaims the importance of simultaneous action in three different fields : politics, economics and culture in its widest sense<sup>5</sup>. On the other hand, the detailed schedule focuses far more on the second basket of the EMP, which deals with the Economic and Financial Partnership. Indeed, concentrating on the macroeconomic environment of the Southern shore of the Mediterranean is for Europe a technique indirectly leading towards political reform. Improving the living conditions of the populations of Mediterranean Partner countries will firstly dissuade them from emigrating and may, secondly, turn them away from radical Islamism<sup>6</sup>. In the same way, arbitrary political moves should be avoided at all costs because they could lead to economic disruption, thus damaging the virtuous circle leading from economic growth to political stability. Amendment of political institutions and liberalisation of authoritarian regimes are providentially conceived as virtually mechanical steps to be taken on the way to economic openness and liberalism<sup>7</sup>.

This ideal progressive design could best be summed up as the "twin liberalisation scheme" – political liberalisation and economic liberalisation are quite systematically linked in the logic of the Commission. The embodiment of this liberal vision in practice lies in the "interlinkage" mechanism between the three baskets of partnership measures that go to make up the overall Partnership. The three partnerships envisaged in the political, economic and cultural fields must both progress

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<sup>3</sup>Eberhard Rhein "La politique méditerranéenne de la Communauté", *Confluences Méditerranée* n°7, été 1993, p. 21-30.

<sup>4</sup>See for instance Barry Buzan, *The European Security Order Recast: Scenarios for the Post-Cold War Era*, London, Pinter, 1990.

<sup>5</sup> The founding text of the EMP states outright that Europeans are "convinced that the general objective of turning the Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity requires a strengthening of democracy and respect for Human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between, cultures, which are all essential aspects of partnership"; Preamble, *Barcelona Declaration adopted at the Euro-Mediterranean Conference, 27-28/11/95*.

<sup>6</sup> "Social development must go hand in hand with economic development", *Barcelona Declaration*, "Economic and Financial Partnership: Creating an Area of Shared Prosperity".

<sup>7</sup> Eberhard Kienle, "Destabilization Through Partnership? Euro-Mediterranean Relations After the Barcelona Declaration", *Mediterranean Politics*, vol. 3, n°2, Autumn 1998, p. 1-20.

in step and must reinforce each other<sup>8</sup>. Indeed, the driver for the Barcelona Process relies on the mechanism of interaction between the three areas of intervention. Economic liberalisation, political reform and strategic stability, as well as cultural dialogue and understanding, are supposed to be organically linked, and the success of the whole project depends on these links being transformed into fact.

### ***Ideal schemes and pragmatic realities***

Economic liberalism has come to be associated with liberal political regimes in the eyes of many theorists especially after the fall of the Berlin Wall, for this event revealed significant evidence of the failure of centralised Marxist political systems to ensure economic growth and social welfare. After decades of irrational bureaucratic management, the decline of Eastern European economies led to the collapse of oppressive political regimes. Market economies then developed in the East at unexpected speed, whilst political institutions reformed more or less according to the Western European model. The liberal impetus seemed relentless and very much impressed American and European analysts at the time<sup>9</sup>.

#### THE ACADEMIC DEBATE: UNCERTAINTIES OVER THE LIBERAL CONNECTION

Whether this theoretical scheme of twin liberalisation is a universal one, historically dominant and applicable to all cultural areas is a matter still unresolved in the academic debate<sup>10</sup>. Even if the ideal liberal vision has been extrapolated from empirical data, it does not receive unreserved support in the literature. Outside Europe, the supposed causal connection between economic and political liberalism has been widely challenged in practice<sup>11</sup>. The example of the Asian economies, in particular, has raised serious doubts over the validity of the reform design advocated by Europe in the Mediterranean context. South Korea is often quoted as a test-case: after three decades of autocracy, this country has now become a wealthy industrialised nation-state, thanks to relatively liberal internal economic policies<sup>12</sup>. Yet the political regime has not been magically transformed into a Western-style democratic system. Instead, political control is seen as a structural prerequisite to manage economic success. Along the same lines, rapid economic development has consistently increased the relative independence of ASEAN states, allowing them to jointly reject the assumption that liberal political values are universally shared.

In addition, there are some common confusions over terms that blur the debate on liberal diffusion and these need to be emphasised at this stage. Political reform is not synonymous with liberalisation; neither does liberalisation automatically mean democratisation. Since the mid-1970s, commentators have noted the appearance of democratic regimes that cannot be identified as

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<sup>8</sup> This terminology has been endorsed by the Barcelona Senior Officials themselves and is reflected in EuroMeSCo's current research program.

<sup>9</sup> Literature about liberalism flourished in these exceptional circumstances; see for instance "After Communism: Liberalism?", *Critical Review*, special issue, vol. 5 n°1, Winter. 91, p. 1-79; Daniel H. Deudney and John Ikenberry, "The logic of the West", *World Policy Journal*, vol. 10 n°4, Winter 1993-94, p. 17-25; David Held, "Liberalism, Marxism and democracy", *Theory and Society*, vol. 22 n°2, April 93, p. 249-281

<sup>10</sup> For an historical account on the hazardous parallel between economic and political developments, see Albert O. Hirschman, "Des liens accidentés entre progrès politique et progrès économique", *La Pensée politique*, Vol. 2, 1994, p. 117-127; For a more precise exploration of the link between economic and political liberalisation, see the special issue of *World Development*, "Economic liberalization and democratization: exploration of the linkages", Vol.21 (8), August 1993, p. 1245-1393.

<sup>11</sup> For a philosophical insight into the conceptual divorce between liberal political thinking and its economic counterpart, and the chances of its revival, see Russell Hardin, "Liberalism: Political and Economic", *Social Philosophy and Policy*, vol. 10, n°2, Summer 1993, p. 121-144.

<sup>12</sup> See for instance Jonathan Moran, "Contradictions Between Economic Liberalization and Democratization: the Case of South Korea", *Democratization*, Winter 1996, vol.3: n°4, p.459-490; Vincent J. H. Houben, "Economic crisis and the culture of reform in Southeast Asia", *European Review*, 1999-10, vol.7: n°4, p.487-496; Xing Li, "State, market and authoritarianism in East Asia: a development and ideological challenge", *Scandinavian Journal of Development Alternatives*, (1995-12) vol.14: n°4, p.35-55.



liberal<sup>13</sup>. Similarly, the liberalisation of political institutions or societies does not automatically imply their democratisation. Sharing power usually proves more difficult than delivering a degree of freedom to the population-at-large. These terminological confusions reveal conceptual failings that can be partly put down to the militant enthusiasm of the supporters of liberalism. Furthermore, over-simplification of the arguments is also used as a method to foster debate but can cause serious distortion. Such misrepresentations need to be urgently addressed when it comes to policy-making.

#### PRACTICAL EXPERIENCE IN THE MEDITERRANEAN

To date, there have been no serious studies of “twin liberalisations” in practice in Southern Mediterranean countries. Middle-Eastern studies have regularly focused on the issue of democratisation but have not provided meaningful recommendations about fighting political authoritarianism in the region<sup>14</sup>. For their part, economists have concentrated mainly on elucidating the origins and persistence of rent economy structures<sup>15</sup>. Some specialists in political economy have also tried to connect these two fields of investigation, producing useful descriptions of both immutable and new, dynamic social patterns which have been involved in chronic under-development<sup>16</sup>. The reasons for this lack of empirical studies about trends in political and economic liberalism and the links between them in the region probably reflect the reality of societies that are rigorously controlled by systems that are usually dominated by the state. As previously mentioned, the spontaneous surge of liberal economic policies in South-East Asia in the 1980s initially triggered research on this topic and perhaps the Euro-Mediterranean Partnership should be encouraged to import the liberalism debate into the Mediterranean, thus stimulating discussion, even if there can be no definitive conclusion yet because of the lack of information.

#### THE FLAWS IN THE BARCELONA LOGIC

A few analysts rejected the initial enthusiasm for the ideal liberal scheme enshrined in the Barcelona Declaration very early on. Pushing pessimism to its limits, Eberhard Kienle suggested, shortly after the birth of the new Partnership, that the whole initiative might well “have more negative than positive consequences for the prosperity and stability of the countries concerned”<sup>17</sup>. This depressingly pragmatic vision was mainly a reflection of the author’s doubts about the capacity of economic liberalization to foster economic growth on the Southern shore of the Mediterranean. According to Kienle, the Partnership would predictably lead to economic failure and provoke social unrest. Béatrice Hibou and Luis Martinez argued a slightly different case at about the same time, unveiling the apparent hidden agenda of the Barcelona Process – namely that the true goal of the Euro-Mediterranean Partnership was to reinforce authoritarian regimes in the Mediterranean in order to preserve regional stability<sup>18</sup>.

This latter view has the merit of explaining many of the subsequent compromises that were made, in the context of the EMP. While the disasters foreseen in Kienle’s fatalistic vision did not materialise, Hibou and Martinez’s insights could be considered valid today. The current picture of the implementation of the Barcelona Process is ambivalent, and recent literature about the

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<sup>13</sup> Marc F. Plattner, “From liberalism to liberal democracy”, *Journal of Democracy*, vol.10 n°3, July 1999, p.121-134.

<sup>14</sup> See the classic study by Ghassan Salamé (ed.), *Démocraties sans démocrates : politiques d'ouverture dans le monde arabe et islamique*, Fayard, Paris, 1994.

<sup>15</sup> Giacomo Luciani, *The Rentier State*, Croom Helm, London, 1987.

<sup>16</sup> As for instance Oliver Schlumberger, “The Arab Middle East and the Question of Democratization: some Critical remarks”, *Democratization*, vol. 7, n°4 (2000), p. 104-132.

<sup>17</sup> Eberhard Kienle, art. cit., p. 20.

<sup>18</sup> Béatrice Hibou et Luis Martinez, “Le partenariat euro-maghrébin : un mariage blanc ?”, *Etudes du CERJ*, n°47, nov. 1998.

Partnership displays little excessive optimism. The theoretical concept of an "automatic pilot"<sup>19</sup> has been powerfully refuted by practical developments in Euro-Mediterranean co-operation, so that the economic objectives of the Partnership are slowly being put into effect, while the political component is gradually disappearing from view.

In economic terms, an objective analysis of the results obtained to date would demonstrate that the effects of the Partnership have not been decisive, either in initiating economic growth, or in restructuring the fundamental features of economic regimes<sup>20</sup>. The progressive development of the Euro-Mediterranean Free Trade Area (EMFTA) only confirms the powerful asymmetry between the Northern and Southern economies of the Mediterranean, which endangers the current external balances of Mediterranean partner countries. The chronic dearth of foreign direct investment from the North does not allow for the growing trade deficits of the South to be compensated. Overall, the consequences for external trade have been far from positive<sup>21</sup>. For our purposes, however, the internal outcomes in terms of policy-making are particularly meaningful and political economic analysis has demonstrated that the Partnership has apparently failed to trigger a new dynamic that could eradicate long-established rent-seeking behaviour<sup>22</sup>.

Moreover, in political terms, the logic of economic co-operation as understood in Brussels seems to have produced unexpected counter-effects, which have seriously undermined the liberal rationale behind the Barcelona Process. According to Bradford Dillman, a close scrutiny of recent developments in Maghribi political systems raises significant questions in that respect. The author bluntly points out that the sub-region has "experienced little political liberalisation despite undergoing significant economic liberalisation". He argues that Maghribi state elites have only encouraged partial economic reform in order to defend their dominant economic and political position, thus precluding any genuine democratic evolution. At the end of the day, the bilateral relationship with Europe seems to have reinforced, rather than eroding the original distribution of power in the political systems that were targeted. The final outcome is thus closer to the sceptical scenario proposed by Hibou and Martinez than the optimistic vision invariably repeated by the Commission.

In fact, very little political change can be fully attributed to the Partnership. Most analysts have therefore been critical of European ambiguities and hesitations in the specific fields of democracy and human rights promotion<sup>23</sup>. The Euro-Mediterranean Human Rights Network, which is primarily committed to this topic, has provided a detailed and pragmatic account of the impact of European cooperation programmes in the sphere of human rights<sup>24</sup>. The overall conclusion drawn from direct field observation is that "the Barcelona Declaration did not keep to what it promised in 1995 in terms of human rights promotion and protection". Worryingly, the EMHRN even claims that "except for a few cases, the human rights situation deteriorated, in particular following the outbreak of the Al Aqsa Intifada and the events of September 11<sup>th</sup>". In short, far from being out-of-date, debate about liberalisation within the Partnership is thus gaining relevance.

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<sup>19</sup> The expression is fittingly used by Dimitris X. Xenakis and Dimitris N. Cryssoschoou, "Between Good Governance and Democratization: Assessing the Euro-Mediterranean Condition", *Jean Monnet Working Papers in Comparative and International Politics*, n°38, Department of Political Studies, University of Catania, October 2001, p. 12.

<sup>20</sup> Alfred Tovias and Mehmet Ugur have produced a rather pessimist technical assessment on the capacity of the Partnership to induce or accompany economic policy major changes: "Can The EU Anchor Policy Reform? The Case of the Euro-Med Partnership", Paper presented at the first Pan-European Conference on European Union Politics, The Politics of European Integration: Academic Acquis and Future Challenges, Bordeaux, 26-28 September 2002.

<sup>21</sup> FEMISE, the Euro-Mediterranean Forum of Economic Institutes, *The FEMISE report on the Evolution of the Structure of Trade and Investments Between the European Union and its Mediterranean Partners*, co-ordinated by Heba Handoussa and Jean-Louis Reiffers, March 2002, available on [www.FEMISE.org](http://www.FEMISE.org).

<sup>22</sup> Bradford Dillman, "International Markets and Partial Economic Reforms in North Africa: What Impact on Democratization?", *Democratization*, Spring 2002, vol. 9, n°1, p. 63-86.

<sup>23</sup> As indicated by prior references, a particularly sound discussion concerning democratization within the Euro-Mediterranean frame is to be found in a special issue of *Democratization*, Spring 2002, vol. 9, n°1.

<sup>24</sup> Special report issued by the Euro-Mediterranean Human Rights Network, *Human rights implications of the MEDA programme*, issued in 2002, available on the EMHRN website, <http://www.euromedrights.net>.

These shortcomings need be emphasised, for they now threaten the rationale of the whole Barcelona Process. The failure of the original concept of the Barcelona Process clearly raises questions about what was originally supposed to be the automatic nature of the link between the two liberalisation processes. Yet, if the liberal rationale is taken as true and the current level of disappointment is put down defects in the mechanism, ways must now be found to activate the liberal link. In this context, Richard Youngs has crucially observed that "the EU's more critical deficiency was its adherence to an overly vague assumption that economic reform would eventually filter through to political change in the absence of any detailed engagement capable of analysing or effecting such spill over."<sup>25</sup> This highlights the pragmatic flaw in the Barcelona theoretical rationale and is one to which this article is directed, by making use of a classical concept often evoked within the Barcelona framework: conditionality.

### ***The case for conditionality***

Conditionality is one of the methods available for obtaining targeted, pre-determined results, within a framework of financial co-operation. Its basic function is to establish an explicit link between the delivery of financial or technical aid and the realisation of certain pre-determined reforms. Conditionality can then either focus on more economic, broadly institutional or stricter political aims. These three kinds of differentiated goals also correspond to the historical evolution of the concept.

#### ECONOMIC CONCEPTS IN POLITICS

Originally, the concept of conditionality comes from the field of applied economics and was developed by the leading international financial institutions, namely the International Monetary Fund (IMF) and the World Bank. They included conditions in their operating contracts with beneficiary countries, mainly in order to rationalize the lending process and to assess the appropriate implementation of development policies<sup>26</sup>. Conditionality has thus been part of the management routine of the international financial institutions since the 1950s<sup>27</sup>. It was subsequently developed to its highest degree of sophistication in 1986, with the introduction of IMF's Structural Adjustment Facility.

Structural conditionality imposed on non-industrialised countries substantially increased thereafter, leading to ever more intense parallel discussions over the efficiency and the legitimacy of such practices. The debate particularly focused on the gradual shift from strictly economic to more institutional conditionalities. In the 1980s, international financial institutions began to face regular attack on political grounds, being accused of intervening in the domestic political debates of recipient countries without a democratic mandate<sup>28</sup>.

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<sup>25</sup> Richard Youngs, "The European Union and Democracy Promotion in the Mediterranean: a New or Disingenuous Strategy?", *Democratization*, Spring 2002, vol . 9, n°1, p. 54.

<sup>26</sup> For a vision on economic and financial conditionality within the IFI doctrine and practice, see Axel Dreher, "The Development and Implementation of IMF and World Bank Conditionality", Hamburgisches Welt-Wirtschafts-Archiv (HWWA) Discussion Paper n°165, Hamburg Institute For International Economics, 2002, available on <http://econwpa.wustl.edu/>.

<sup>27</sup> The first program with binding performance criteria initiated by the IMF was with Portugal in 1958; it included a maximum commitment level for public work programs and budget expenditure.

<sup>28</sup> This criticism has become commonplace and still feeds a very lively debate about the democratisation of international financial institutions themselves; the latest important contribution to this controversy comes from Joseph Stiglitz, in *Globalization and its Discontents*, New York, W. W. Norton, 2002.

Paradoxically enough, the critical debate about their use of conditionality ran in parallel to the development of the concept of political conditionality itself by the international community. Foreign policy-makers from industrialised countries started considering the use of conditionality as a foreign policy tool, especially after the end of the Cold War. They were apparently inspired by the rapid spread of democratic norms into former Eastern Bloc countries and tried to disseminate their political values to Third World countries as well. Gordon Crawford describes this new philosophy as "a striking departure (...) in the foreign aid policies of Northern governments" and remarks that "there was a remarkable consensus on both the ends and the means declared in the policy statements pronounced by donor governments in the immediate post-cold war period"<sup>29</sup>. This initial attempt<sup>30</sup> to export Western values could easily be sustained in a context of structural economic supremacy for the North. The practical framework for enforcing political conditionality continued to be developmental co-operation policies as government in the North gradually imposed institutional and/or political conditions upon the granting of development aid.

At present, the concept of political conditionality, even if frequently contested on functional and moral grounds, has solidified into a widely accepted definition. While economic conditionality links benefits to the fulfilment of economic conditions, political conditionality can be strictly defined as "the linking, by a state or an international organisation, of perceived benefits to another state (such as aid), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles"<sup>31</sup>.

#### CLASSICAL DEVICES

The mechanism of political conditionality implies the mobilisation of two complementary elements: sound norms and operative instruments. The norms should be explicit, as they set the direction for reform. Conditionality can rely on already codified international norms and instruments, or on principles enshrined in bilateral legal agreements. As an example, the human rights regime is a well codified domain in international law<sup>32</sup> while institutional conditionalities could be included in highly targeted cooperation programs. In practice, however, the growth in the number of international covenants does not guarantee the success of bilateral conditionality. The potential success of conditionality, in fact, partly depends on the legitimacy, and partly on the acceptability of norms<sup>33</sup>. Acceptance can be achieved more easily within a game with a limited number of participants!

Karen Smith suggests the following opportunities that would allow Europeans to politically condition their relationship with third countries<sup>34</sup>. The granting of trading preferences, the signing and implementation of cooperation and association agreements, the provision of financial aid, the award of diplomatic recognition or eventual EU membership, are all circumstances in which the European Union is in a position to gain advantage through targeted and precise initiatives. In all these circumstances, a donor can exploit instruments that impose requirements on a recipient country.

The original concept of conditionality was essentially based on a punitive vision, relying on threat and sanction to force the recipient country to comply. Graduated restrictions can also be invoked on political grounds, in the context of financial co-operation. Measures can include, for instance,

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<sup>29</sup> Gordon Crawford, "Foreign Aid and Political Conditionality: Issues of Effectiveness and Inconsistency", *Democratization*, Vol. 4, n°3, Autumn 1997, p. 69.

<sup>30</sup> See Peter Uvin and Isabelle Biagiotti, "Global Governance and the 'New' Political Conditionality", *Global Governance* n°2, 1996, p. 377-400. The authors observe that this new "political conditionality regime" "was the first major international attempt to change state's domestic structures and behaviours in a peacetime period".

<sup>31</sup> This definition is due to Karen E. Smith, "The Use of Political Conditionality in the EU's Relations with Third Countries: How Effective?", *European Foreign Affairs Review*, n°2, 1998, p. 256.

<sup>32</sup> Starting with the 1948 *Universal Declaration of Human rights*, that subsequently generated a sophisticated legal apparatus dealing with more specific issues such as torture and slavery.

<sup>33</sup> Peter Uvin and Isabelle Biagiotti, art. cit., p. 378.

<sup>34</sup> Karen E. Smith, art. cit., p. 253.

partial or full suspension of project aid, the suspension of programme aid or balance-of-payments support, or an overall reduction of aid allocation or disbursements. Over the last decade, however, there has been a clear shift from this kind of "negative conditionality" to "positive conditionality", understood as a more cooperative alternative and based on support and incentive. Positive and negative conditionality can also be employed symmetrically through a common set of norms. Positive conditionality then offers benefits to a state if it fulfils the required conditions; while negative conditionality involves reducing, suspending or ending those benefits if the state makes no effort to satisfy or intentionally violates the agreed conditions. The advantages and disadvantages of either approach must be carefully balanced against each other, especially in a consensual context such as the Euro-Mediterranean Partnership.

#### CONDITIONALITY AND REVIVING BARCELONA

The use of conditionality could have practical value within the Barcelona framework. Given the growing discrepancy between the final objectives of the Partnership and its current status, intermediary objectives need to be established and new, more efficient instruments need to be developed. If there continue to be significant institutional deficiencies in the Partnership, capacity-building alone might not provide a comprehensive solution although, incidentally, the way institutions work and the values they embody should be a major issue of concern to all the partner-states. In such circumstances, European partners might usefully recall the historical record for it shows that, if regional institutional leverage is restricted, the most effective tool to foster political reform is conditionality<sup>35</sup>. One advantage of conditionality as an instrument is that it is a subtle mechanism compared to institutional solutions. The recipient country, after all, has to cope with reforms, whilst its partners maintain dialogue and ensure assessment, together with further action. Conditionality is also a well-developed process that has been tested in many other areas and under varying circumstances.

For their part, the Mediterranean partner-countries might also find an open conditionality process of interest for this would allow greater contractual dimensions in their relationship with Europe. The partner-countries are not by definition hostile to dialogue or unwilling to benefit from Commission guidance. At the same time, setting conditions also involves establishing explicit norms and this could initiate a valuable debate about mutual perceptions and expectations, as well as about the present status of the Partnership. Assessing the potential for Euro-Mediterranean conditionality is thus part of a reflection on how to optimise existing mechanisms and know-how to ensure the success of agreed objectives. Karen Smith describes conditionality as "an enabling norm...making new types of action possible, while neither guaranteeing action, nor determining its results"<sup>36</sup>. In other terms, conditionality is a wager. Under present circumstances, given the growing disappointment over the Partnership, it is probably worth taking up the wager if the opportunity occurs!

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<sup>35</sup> Timothy Dunne, "Liberalism", in *The Globalization of World Politics*, ed. John Baylis and Steve Smith, Oxford University Press, 1997, p. 147-163.

<sup>36</sup> Karen E. Smith, art. cit., p. 256.

## Chapter II: The Barcelona framework and conditionality

Conditionality might, therefore, be a reasonable option to encourage Mediterranean partner-countries into reform and, as a strategy, is certainly relevant to Euro-Mediterranean relations, as different legal mechanisms exist to sustain it. The range of these mechanisms, however, should be examined in the light of past European practices of conditionality, before examining specific examples of bilateral co-operation.

### *The European record on conditionality*

The European Union has developed a specific philosophy and legal mechanisms in implementing conditionality with third countries, so that there is now what could be called an "*acquis conditionnel*", a fundamental source of information available for issues of Euro-Mediterranean conditionality. From the macro-economic conditionalities, traditionally used in co-operation agreements, the Union has developed concepts of political conditionality over the last ten years. The promotion of human rights and democratic values is now part of the ethical background of the European Union's external policies, although disagreements still exist about the manner of its application.

#### NORMS AND HUMAN RIGHTS PROMOTION

As an important international donor, the European Union has long made use of classic economic conditionality. The shift to political conditionality is more recent and is chiefly linked to the end of the Cold War. Europe long avoided expressing clearly its views on the administration of democracy and human rights beyond its borders<sup>37</sup> and normative demands were only expressed with regard to countries applying for European membership. Thus Greece, Portugal and Spain were not eligible for membership until they embraced democracy and the official discourse of the European Union regularly linked development of relations with Southeast European countries to their progress towards democratic structures and the rule of law. This normative preoccupation eventually spread into external relations outside Europe and the Lomé IV Convention, signed in 1989 with the seventy ACP countries, was the first external agreement containing an explicit reference to human rights in the text of the agreement itself, and not just in the preamble to the Convention<sup>38</sup>.

Yet conditionality subsequently proved to be an important instrument in managing Eastern European relations. Fostering reform there was considered vital if a return to Communist rule was to be avoided and rapid integration into Europe were to occur. The ultimate goal here was to ensure lasting stability and security on a reunified continent, so that the European Union applied political conditionality to Central and East European countries at the very beginning of the 1990s, using trade and cooperation agreements to activate the reform process there. In 1990, the signing of the Europe Association Agreements with Central and Eastern European Countries explicitly established five principles for this process: the rule of law, respect for human rights, a multi-party system, free and fair elections and a market economy. Then at the end of 1991, the European Parliament voted an important resolution "on human rights, democracy and development", designed to systematically link "democracy promotion to the process of economic reforms in the developing countries"<sup>39</sup>. This political initiative matched the mood of the Commission for, in the

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<sup>37</sup> Internally speaking, the "respect for rights" seems to be at the top of the Community legal order; the Maastricht Treaty states that "The Union is founded on the principles of liberty, democracy, respect for rights and fundamental freedoms, and the rule of law, principles which are common to all member states".

<sup>38</sup> Article 5 of the 1989 Lomé Convention states that development entails respect for rights.

<sup>39</sup> JOCE, n°C 326 du 16/12/1991.

same year, it issued a communication arguing that the uprisings in Eastern and Central Europe and the new prospects for democratisation in Africa and Latin America had to be encouraged by its own actions<sup>40</sup>. In the wake of this recommendation, the June 1991 Luxembourg European Council issued a declaration that clauses on human rights could be included in economic and cooperation agreements with third countries. In November, the development council of ministers agreed that these considerations should play an important role in the Community's relations with developing countries and insisted on including such clauses in the future. A positive approach to human rights was to be a priority and was to be encouraged through financial support and incentives; systematic dialogue should be the preferred approach whilst suspension and other negative measures being envisaged only as a last resort.

Yet, even though the principles had been clearly established, the mechanisms for implementing conditionality still had to be conceived. On May 11, 1992, the Council decided that all co-operation and association agreements concluded with CSCE states would contain a clause allowing for the suspension of the agreements if human rights, democratic principles of governance and the principles of market economy were not respected. The language of this clause evolved over time from the threat of immediate unilateral sanctions, to a more diplomatic approach allowing for measures to be taken only after mutual consultation<sup>41</sup>. Such legal arrangements set an innovative precedent that later on had a significant influence on the drafting of all association agreements. In May 1995, the Council confirmed that all agreements with third countries would contain a provision for the defence of human rights in the following form: references to the issue of human rights in the preamble, an essential element clause, a non-execution clause and an interpretative declaration attached to the agreement. A suspension mechanism was thus added to the "essential element" clause. This scheme is still in operation and describes the structure of the so-called "human rights clause" inserted in all agreements that the European Union concludes with third countries. It has also been introduced in all Euro-Mediterranean agreements signed after the Barcelona Conference in November 1995.

In the meantime, the Copenhagen European Council established in June 1993 a set of political standards to be met in order to join the European Union, which is now widely accepted: stability of institutions ensuring democracy, the rule of law, respect for human rights and the protection of minorities. It is worth bearing in mind that the Maastricht Treaty pointed out that one of the objectives of the common foreign and security policy was to develop and consolidate democracy and the rule-of-law, together with respect for human rights and other fundamental freedoms. The Maastricht second pillar thus seems to have been transformed into a legal instrument to serve the promotion of democracy, the rule-of-law and the respect for human rights and fundamental liberties.

#### IMPLEMENTING CONDITIONALITY: POSITIVENESS AND TOLERANCE

These legal assumptions have to be confronted with reality, a process that reveals that Europeans quite systematically avoid sustained use of instruments that could lead to unwanted confrontation with other states. The European use of conditionality is officially regulated by the principle that "international cooperation must focus especially on positive measures providing incentives for the promotion of democracy and human rights; the use of sanctions should be considered only if all other means have failed"<sup>42</sup>. This statement by the Commission summarises the philosophy driving European support for democracy and human rights in third countries: European co-

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<sup>40</sup> Communication de la Commission au Conseil et au Parlement européen, "Droits de l'homme, démocratie et politique de coopération au développement", SEC (91) 61 final.

<sup>41</sup> This new formulation is known as the "Bulgarian clause" because it first appeared in the bilateral agreement signed with Bulgaria.

<sup>42</sup> European Commission, *On the Implementation in 1993 of the Resolution of the Council and of the Member States meeting in the Council on Human rights, Democracy and Development, Adopted on 28 November 1991*, COM (94) final, 23 February 1992, p. 11; quoted by Karen E. Smith, art. cit., p. 265.

operation is rarely politically binding and up to now the Union has always emphasised the positive version of the concept of conditionality.

As stated earlier, the integration of political requirements within a framework of negotiated external economic relations is quite recent. Previously, the European Community, embarrassed by its equivocal international status, had always kept a low political profile in all external initiatives and maintained neutral links with partner states. During the Cold War, Western Europeans clearly considered that it was more important to retain trade relations with their Eastern neighbours than to risk breaking existing ties for reasons of political activism. Similarly, until recently, recipient countries regarded European development aid as far less binding than other sources of funding. Political conditionality was, for instance, virtually non-existent in practice in the framework of the Lomé Convention until the 1990s<sup>43</sup>.

Nowadays, Europeans apply conditionality based on positiveness and proportionality; it is generally enforced through the definition of concrete goals, coupled with appropriate incentives. Positive measures are favoured, including the granting of more aid to countries showing sufficient motivation for progress and demonstrating effective action in the promotion of human rights and democratic principles. Committing specific aid to help civil society to carry out democratisation projects is also a classic measure of this kind. Negative measures are rarely taken, sanctions being imposed only as a last resort – at the most, the negotiation of trade and co-operation agreements may have been delayed, as a demonstration of disapproval of existing political traditions or regimes<sup>44</sup>.

The arguments in favour of positive conditionality are numerous and can be justified by both moral and pragmatic or tactical considerations. First of all, Europe might not always be in a position to dispense universal ethical lessons to partner countries, for respect for the principle of national sovereignty is a major restriction on the use of unilateral sanctions. Moreover, the academic community, as well as decision-makers, have long evinced considerable scepticism over the effectiveness of sanctions. It is particularly clear that sanctions on aid are considered unlikely to have as much impact as sanctions on trade<sup>45</sup>. Furthermore, punitive measures have often proven to be dangerous in practice. They may eventually jeopardise both the regime of a given country and the survival of its population. Sanctions imposed from the outside and perceived as unjust or ill-judged can ultimately even rally a population to a previously unpopular political regime.

However, apart from these reasonable objections to negative conditionality, European indulgence towards the misdemeanours of its partners could also be explained away through simple institutional weaknesses, for the European Union is traditionally badly equipped to impose punitive measures on third countries. This limitation, which impaired, for example, Europe's ability to manage the recurrent crises in the states of the former-Yugoslavia, also appears in the Euro-Mediterranean context. It is even evident there in a more pervasive form, because of the specificities of the Partnership system.

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<sup>43</sup> Because of long-standing reservations amongst the ACP countries, the Lomé conventions did not mention "rights" at all before 1985. The picture has evolved since then in a negative direction, for sanctions have been taken against various African countries. See Peter Hilpold, "EU Development Cooperation at a Crossroads: the Cotonou Agreement of 23 June 2000 and the Principle of Good Governance", *European Foreign Affairs Review*, 7/2002, pp. 53-72, specifically pp. 60-62; for a review of traditional economic perceptions of the Lomé cooperation system, read Dominique Bocquet, *Quelle efficacité économique pour Lomé?* La Documentation française, coll. "Rapports officiels", Paris, 1998.

<sup>44</sup> For intensive developments on the matter, see Tanguy de Wilde d'Estmael, *La dimension politique des relations économiques extérieures de la Communauté européenne – Sanctions et incitants économiques comme moyens de politique étrangère*, Bruxelles, Bruylant, 1998.

<sup>45</sup> See G. C. Hufbauer et al., *Economic Sanctions Reconsidered*, Washington DC, Institute for International Economics, 1985.



### **Technical opportunities: The Euro-Mediterranean legal framework**

The practical basis for the use of conditionality within the Euro-Mediterranean framework is twofold. Firstly, the inherent liberal values have been enshrined in the Barcelona Declaration and all association agreements include a classic human rights clause. Secondly, some forms of conditionality operate through economic co-operation programs. We can then theoretically distinguish two functional levels through which conditionality is implemented, each of which is directed towards different objectives<sup>46</sup>.

In fact, if we assume that conditionality can be justified in two different ways – political or economic – we can see that the application of the MEDA financial regulation system is also subject to dual political and macro-economic conditionality. Yet the distinction may be more formal than real, for classical macro-economic conditionality has progressively invested the political field by integrating detailed institutional criteria and elaborating “good governance” standards<sup>47</sup>. This ambiguity needs to be explored within the Euro-Mediterranean context, as the tools originally designed for political conditionality have failed to impose the political values agreed in common at the Barcelona Conference.

#### POLITICAL CONDITIONALITY: SANCTIONS THROUGH HUMAN RIGHTS

Political conditionality is clearly included in the legal corpus of the Euro-Mediterranean Partnership. The Barcelona Declaration, the founding act of the EMP, establishes a list of commonly agreed principles and objectives expressing the spirit of the Partnership, particularly in the political realm. The preamble of the Declaration states that “the strengthening of democracy and respect for human rights” are “essential aspects of partnership”. In addition, Article 3 of the MEDA financial regulations also states that the MEDA program is based on “The respect for democratic principles and the rule of law and also for human rights and fundamental freedoms, which constitute an essential element thereof, the violation of which elements justifies the adoption of appropriate measures”. Finally, all the bilateral agreements signed with Mediterranean partner-countries contain a now famous clause urging the respect of human rights and democratic principles. Following a well-established pattern<sup>48</sup>, this clause, included in the second article of every association agreement, is actually divided into two distinct parts.

The first part contains an “essential element clause”, generally providing that “relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for Human rights and democratic principles which guide their domestic and international policies and constitute an essential element of the Agreement”.<sup>49</sup> The second part of the mechanism is included in the final dispositions of the agreement that provide for the possibility to take “appropriate measures” in the case of the violation of an essential element of the agreement. This “non-execution clause” allows the European Union or the partner-country to suspend the agreement, in line with the relevant provisions of the Vienna Convention of the Law of the

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<sup>46</sup> For lengthier legal discussions of this differentiation, read Adam Mekaoui, *Le Partenariat économique euro-marocain, une intégration régionale stratégique*, L'Harmattan, Paris, 2000, p. 237-271; and Erwan Lannon, Kirstyn M. Inglis and Tom Haenebalcke, “The Many Faces of EU Conditionality in Pan-Euro-Mediterranean Relations”, in Erwan Lannon and Marc Maresceau (ed.), *The Eu's Enlargement and Mediterranean Strategies: a Comparative Analysis*, Basingstoke: Palgrave in association with European Institute, University of Ghent, 2001, p. 97-138.

<sup>47</sup> Béatrice Hibou, “Banque mondiale: les méfaits du catéchisme économique. L'exemple de l'Afrique subsaharienne”, *Esprit*, n° 245, Paris, août-septembre 1998.

<sup>48</sup> For more details on the legal form and possible interpretations of such clauses, see Elena Fierro, “Legal Basis and Scope of the Human Rights Clauses in EC Bilateral Agreements: Any Room for Positive Interpretation?”, *European Law Journal*, vol. 7 n°1, March 2001, p. 41-68.

<sup>49</sup> Article 2 of the Euro-Tunisian Agreement. The traditional wording for such clauses included in European external co-operation agreements is actually the following: “respect for democratic principles and fundamental rights, established by the Universal Declaration of Human Rights, inspires the internal and international policies of the Parties and constitutes an essential element of this agreement.”; see Elena Fierro, art. cit.

Treaties. Article 90 of the Euro-Tunisian Agreement, for instance, specifies that “appropriate measures” will be taken if a party fails to fulfil its obligations. This general non-execution clause provides for early bilateral consultations and a conciliation procedure within the Association Council in order to solve the crisis<sup>50</sup>. Similarly, “in the selection of measures” likely to be taken, “priority must be given to those which least disturb the agreement”. The aims here are clearly to try to keep the agreement in effect as extensively and as long as possible. Joint interpretative declarations relating to this suspension clause have then been added to most agreements, defining with more detail the situations likely to initiate the consultation process, and providing that the suspension of the agreement can occur without any intervention of the Association Council, in case of “special urgency”<sup>51</sup>.

#### A CORPUS IN THE MAKING

The presence of this “suspension clause” in the bilateral agreements themselves gives more solid legal support to the political principles enshrined in the Barcelona Declaration, than if it were only included in the MEDA regulations. In theory, it conditions all aspects of Euro-Mediterranean co-operation, whether financial, economic or political, and makes it theoretically possible to suspend an agreement in force with a country openly committing human rights abuses or threatening democratic principles. The famous article 2 clause and its operational instruments can thus be considered the cornerstone of a political conditionality mechanism within the Euro-Mediterranean framework.

Apart from considerations of their operability that will be examined below, vigilance over the inclusion human rights and suspension clauses within Euro-Mediterranean agreements in the future is well-advised. At the beginning of 2003, the bilateral legal framework of the Euro-Mediterranean Partnership was made up from a network of eleven Euro-Mediterranean Association Agreements, with only one bilateral agreement still outstanding – that with Syria – before the network originally planned by the Commission would have been completed. All agreements so far have followed the same pattern; however, since the events of September 11, 2001, human rights and democracy, together with the clauses that enshrine them, have become a subject of negotiation with Mediterranean partner governments. Some political analysts and human rights activists now tend to carefully check the formulation of the human rights clause, in particular, to see if it might be subject to different types of interpretation in the future.

#### ECONOMIC CONDITIONALITY: OBLIGATION THROUGH COOPERATION

Macro-economic conditionality in the Euro-Mediterranean Partnership is embedded in the rules for bilateral economic and financial co-operation. Prior to the adoption of the Barcelona Declaration, this co-operation was implemented through binding protocols annexed to the agreements. The adoption of these protocols was subject to the approval by the European Parliament<sup>52</sup>, which made regular use of its veto, not just to sanction inadequate economic performance but to castigate politically incorrect behaviour from partner-states<sup>53</sup>.

Financial procedures, however, have changed with the evolution of Europe’s Mediterranean policy. The EMP differs from previous policy in that, in the realm of financial assistance, it is based on a concept of partnership rather than simple assistance. The MEDA regulations now detail “the financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean Partnership”. Its purpose is to support the process of

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<sup>50</sup> This special clause is directly copied from the “Bulgarian clause” already mentioned, inserted for the first time in the trade and cooperation agreement signed with Bulgaria in 1992; see E. Lannon, K. M. Inglis and T. Haenebalcke, art. cit., p. 105.

<sup>51</sup> See Adam Mekaoui on the Euro-Moroccan agreement, op. cit., p. 238.

<sup>52</sup> Since 1987, the European Parliament must give its assent in matters concerning association treaties and financial protocols.

<sup>53</sup> This point will be developed below.

economic and social reform undertaken by partner-countries. In practice, the Commission jointly develops a National Indicative Programme with the recipient country, setting priorities in social and economic affairs and defining its corresponding financial needs. Objectives are thus defined in common with the recipient country and adopted by the Council of Ministers through qualified majority voting, on the proposal of the Commission.

The allocation of funds is, in fact, decided within the larger framework of the partner- country's strategy for structural adjustment. The progress of structural economic reform thus conditions the provision and focus of European aid. Article 5 of the MEDA regulations establishes that the measures to be financed are selected on the basis of five criteria: the beneficiaries' priorities, their evolving needs, their absorption capacity, progress towards structural reform, and the effectiveness of those measures in achieving the objectives of Community support<sup>54</sup>.

The last three criteria are obviously the more constraining of the five and form the core prerequisites for MEDA economic conditionality. The criterion of "absorption capacity" is an indirect encouragement to improve management capacity. The issue of "structural reform" implicitly refers to structural adjustment, with particular focus being given to the reform of economic, social and administrative structures. Finally, the last criterion introduces a degree of flexibility in management. This legal flexibility accounts for many of the implicit deals that emerge in the day-to-day process of co-operation. Indeed, as is now well-established, the Barcelona Process is adaptive and incremental, for it is always evolving and open to technical improvement. This potential elasticity, however, is often damaged by specific objections from either of the contracting parties.

#### SPECIFIC OBLIGATIONS FOR FUTURE UNION MEMBERS

As already mentioned, the June 1993 Copenhagen European Summit laid down the economic and political criteria that applicant countries wishing to join the EU had to satisfy to open accession negotiations. These requirements apply to all Mediterranean countries that wish to become member of the European Union – Cyprus, Malta and Turkey. The Copenhagen political criteria include institutional stability, understood as a guarantee of democratic order, the rule-of-law and respect for human rights; the protection of minorities; a functioning market economy; and the acceptance of the obligations of membership, namely political, economic and monetary union<sup>55</sup>. These standards were strictly applied to Eastern European states and, given the prospect of membership, proved to provide essential leverage to foster reforms. As will be demonstrated later, the Copenhagen criteria have also become a crucial symbolic goal and a matter of internal concern for Turkey over the past three years.

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<sup>54</sup> It is also worth noting that the MEDA regulations include the notion of "good governance", which is not explicitly mentioned in the Barcelona Declaration or in the bilateral agreements.

<sup>55</sup> Jolanda Van Westering, "Conditionality and EU Membership: the Cases of Turkey and Cyprus", *European Foreign Affairs Review*, n°5: 2000, p. 95-118.

### ***Specific political constraints of the Barcelona system***

The legal basis for political and macro-economic conditionality is thus clearly established within the Barcelona framework. Yet it is not merely a strictly legal issue and must also be seen within the broader political context created by both the explicit and implicit rules of the Partnership.

#### DECISION MECHANISMS: MAJORITY RULE

The European Union's competence as an actor in the international system is a subject for endless academic and political debate<sup>56</sup>. The central obstacle preventing the Union from decisive influence and action in international affairs is essentially that Europe cannot act collectively if member-states do not first agree on common norms and instruments. The norms and instruments of political conditionality belong to the sphere of the Common Foreign and Security Policy (CFSP) where decisions made by majority rule, often meaning, in practice, a search for consensus.

This naturally applies to the Euro-Mediterranean Partnership where, given the common decision mechanisms, "appropriate measures" - for instance, a suspension of aid - should be decided by the Council by a qualified majority, once this has been proposed by the Commission. The preliminary debate inside the Council over majority rule<sup>57</sup> was intense, with different European delegations defending opposed notions of conditionality. Northern European states favoured a strict interpretation, requiring defined objective criteria and allowing for an automatic use of the suspension clause in case of breach by the recipient country. The European Commission held a more relativist position, advocating a kind of qualified conditionality. In its view<sup>58</sup>, financial co-operation should ideally be progressively curtailed in proportion to the significance of the infraction. It is now accepted that a member-state cannot impose its veto in order to avoid the adoption of "punitive measures" against a Mediterranean partner-country. It is, however, extremely doubtful that sanctions could be adopted without consensus amongst the member-states<sup>59</sup>.

#### THE PARTNERSHIP SYSTEM AS POLITICAL RESTRAINT

Despite the expectations of political observers, the Partnership system has proven to be highly conservative in practice, for it is animated by a spirit of consensus that significantly downgrades its subversive potential. Furthermore, the original concept of the Partnership has evolved into a very asymmetric system, with leadership firmly upon the European side. The European Commission, in particular, ensures the day-to-day operation of the Barcelona machinery, something that is clearly detrimental in motivating Mediterranean partner-countries into influencing what should actually be a shared activity. Many analysts have called for a systematic effort to reverse this fatalistic attitude. In such an unbalanced context, then, conditionality becomes a tool reinforcing a powerful bias in favour of European values and interests. Some analysts simply argued that the political conditionality behind the economic and financial partnership "exposes the MPCs to the good will of the Europeans, thus offending their demand for equal partnership"<sup>60</sup>.

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<sup>56</sup> See the seminal article by Christopher Hill, "The Capability-Expectations Gap, or Conceptualizing Europe's International Role", *Journal of Common Market Studies*, 31 (3), 305-28.

<sup>57</sup> Adam Mekaoui gives a clear account of the debate; *op. cit.*, p. 240.

<sup>58</sup> A view that is shared by member-states with significant interests in Mediterranean matters, such as France

<sup>59</sup> Erwan Lannon, Kirstyn M. Inglis and Tom Haenebalcke, p. 127.

<sup>60</sup> Annette Jünemann, "Europe's Interrelations with North Africa in the New Framework of Euro-Mediterranean Partnership - A Provisional Assessment of the Barcelona Concept", Conference proceedings, *The European Union in a Changing World*, Luxembourg, 1998, p. 383, quoted by Dimitris K. Xenakis and Dimitris N. Crysochoou, *art. cit.*, p. 11.

In reality, this coercive approach is never used, for classic technical obstacles give way to the complexity of European decision procedures. Yet there are real constraints linked to the claimed "spirit of Partnership" in the Barcelona Process. Although the Barcelona Declaration describes a multilateral framework for co-operation, explicitly "based on a spirit of partnership, with due regard for the characteristics, values and distinguishing features peculiar to each of the participants", the sovereignty of states is also a principle regularly enshrined in Euro-Mediterranean legal texts. Such restrictions immediately contradict the spectacular political impetus primarily generated by the Commission<sup>61</sup>.

Some authors are therefore right to point to the limits of Europe's consensual approach towards its Mediterranean partners. According to these analysts, Europe's stance is in fact contradictory and its intentions become confused because "it remains conscious of the danger of adopting a too paternalistic or neo-colonial approach that could be harmful to the declared 'spirit of Partnership' of the Barcelona Process"<sup>62</sup>. On the Southern Mediterranean side, authors argue that the enforcement of sanctions, backed up by legal reference to the human rights clause, may cause more difficulties rather than resolve a conflict situation<sup>63</sup>.

This consensual approach, self-evident to readers familiar with European internal affairs, is very original in the context of mechanisms for external relations<sup>64</sup>. From a European standpoint, the "Partnership spirit" probably exacerbates the basic constraints of CFSP, hindering European states from expressing severe judgement on their Partners' deeds. Ultimately, Richard Gillespie and Richard Young observe that "the Partnership approach arguably constrains the EU more than it does its partners"<sup>65</sup>. These authors consider that whenever the European Union could choose between the promotion of human rights and the preservation of the Partnership, it has so far systematically opted for the second choice. Stability might not have been consciously preferred to reforms; it has simply become a natural side-product of the spirit of Partnership.

### ***"Soft" practice in the EMP and conditionality***

Even if a whole range of instruments could be used to enforce the human rights clause and push forward reformist potential of the Barcelona Process, in reality, none have been used to date, which suggests that the Partnership system has little potential to enforce tough conditionality conditions.

#### "HARD" CONDITIONALITY: A DECREASING PROBABILITY

Human rights and democracy issues have rarely seriously interested Euro-Mediterranean analysts until recently. It was not a major issue in the negotiations for the first renewed co-operation agreements<sup>66</sup> and the debate on conditionality within the Partnership thereafter moved to the

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<sup>61</sup> It is also important to keep in mind that the Barcelona Declaration, the founding act of the Barcelona Process and a text that can be regarded as the bill of rights of the Partnership, is not legally binding in itself. It is a political declaration and was not even formally signed by the participants to the Barcelona conference. Paradoxically enough, the most symbolic expression of a common pledge in favour of shared political values is thus not significant in strictly legal terms.

<sup>62</sup> Erwan Lannon, Kirstyn M. Inglis and Tom Haenebalcke, art. cit.

<sup>63</sup> Adam Mekaoui, op. cit., pp. 239 and sqq.

<sup>64</sup> This Mediterranean approach notably contrasts with the strict demands unilaterally imposed on countries wishing to join the EU, or with the very asymmetric negotiations with the ACP countries in the Lomé-Cotonou framework ; on the asymmetry of power within the Euro-ACP relationship, see Ole Elsgtröm, "Lomé and post-Lomé: asymmetric negotiations and the impact of norms", *European Foreign Affairs Review*, Summer 2000, vol.5:n°2, p.175-195

<sup>65</sup> Richard Gillespie and Richard Youngs, art. cit., p. 13.

<sup>66</sup> In the case of Tunisia, the possibility of using the suspension clause was only raised by activists at the end of the 1990s, whereas the agreement had been the first renewed Euro-Mediterranean agreement signed in 1994.

academic scene, keeping only a tenuous and virtual link with practitioners. It is, in short, a paradox that opportunities for “hard conditionality” in the form of sanctions have decreased over time, as Europe’s Mediterranean Policy has matured for earlier Euro-Mediterranean co-operation contained several examples of suspension of financial aid. The European Parliament regularly used its veto on financial protocols between the end of the 1980s and the beginning of the 1990s. It refused for the first time to give its assent to three bilateral protocols concluded between the Community and Israel in 1987, and also refused two financial protocols with Turkey in the same year, because of human rights concerns. This was repeated in 1992 with Morocco<sup>67</sup>. Syria was likewise affected by such financial sanctions in the 1990s.

In all these cases, the initiative to penalise partner-states for not respecting their obligations over human rights came from the European Parliament but, within the Barcelona Process, it cannot do this. Yet it was able to impose its veto on political grounds in a different context, blocking financial aid to Turkey, as compensation for the customs union with Europe, in 1997. However, since then, no effective action of this kind has been undertaken by European institutions against authoritarian abuses in the Mediterranean region. The suspension of a Euro-Mediterranean agreement has not been seriously considered by European policy-makers so far and the sophisticated sanction mechanisms described above are very unlikely to be tested in the near future.

One recent case illustrates the complex dilemmas in European policy-making in this field. Formalised “conditionality to settle the Arab-Israeli conflict” was first proposed in 1999 by human rights defenders<sup>68</sup>. Palestinian activists have argued that Europe could use Euro-Israeli agreement and its continuing scientific co-operation with Israel to force it to respect its commitments. In April 2002, following the intensification of the Al Aqsa Intifadah and of the Israeli repression in the Occupied Territories, the European Parliament adopted a resolution calling for an embargo on European arms sales to Israel and urging a meeting of the Euro-Israeli Association Council in order to suspend the Association Agreement. This bold initiative received no effective response from the Council although, unexpectedly, the President of the Commission, Romano Prodi, officially declared that he supported the Parliament’s endeavour. Member-states, on the other hand, vied with each other to invent bilateral solutions corresponding to their individual national convictions. Given these basic contradictions, there was no chance that sanctions could have been voted in. The parliamentary resolution only raised a media storm that added to public confusion over the European Union’s external policies. In short, the human rights clause is never invoked to achieve change in practice and many analysts deem it to be a dead letter. The Partnership has apparently evolved towards so indulgent a use of the concept that there appears to be no political conditionality left at all – perhaps a unique aspect of Europe’s Mediterranean policy!

#### PUBLIC DEBATE AND ACTIVIST RESPONSE

In effect, a particular tolerance is towards the Mediterranean region insofar as human rights and democracy issues are rarely evoked by the Commission or the Council. The only actor really involved in controversial political debate on these topics is the European Parliament. It acts as a regular watchdog, but is really using the issue to assert its contested political stature in the power struggle between European institutions. Yet the noise that it makes on the issue is certainly heard elsewhere in Brussels, although decision-makers probably only take the message to heart when it is echoed by public opinion. Thus, the only role left to the Parliament in the context of Euro-Mediterranean conditionality is to draw public attention to such dangerous political topics. Human rights activists from militant non-governmental organisations have been advocating an active use of the human rights clause for several years, but to little effect, although the recent experience with Israel has widened the public debate, with the Parliament acting as a conduit.

The question remains, however, as to whether rhetorical denunciation exerts any influence at all on the implementation of the EMP. After all, the discussion here has emphasised that the threat to

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<sup>67</sup> For a detailed account of the subsequent political crisis, see Adam Mekaoui, *op. cit.*, pp. 246-247

<sup>68</sup> See for instance Isabelle Avran, “Plaidoyer pour une conditionnalité européenne”, Marc 1999, available on [www.solagral.org](http://www.solagral.org).

suspend the agreements is not realistic and has been replaced by the simple threat to publicly raise the issue. Any subsequent public debate usually focuses on the legal mechanisms and the *possibility* of enforcing sanctions, not on the *probability* of actually doing it. Such a debate is essentially theoretical and of negligible effect on decision-makers. Yet some analysts consider that there is a value in such manifestations of public awareness for the "mobilisation of shame"<sup>69</sup> could be determinant in prompting states to amend their behaviour. In the case of the Barcelona Process, however, such mobilisation of shame has been too rare to demonstrate this to be the case.

Since concrete macro-political conditionality is very unlikely to be used within the Euro-Mediterranean context, technical micro-economic alternatives should be considered, in case less visible, yet more effective conditionality can be conceived on a different scale. An examination of existing co-operation programs involving Morocco and Turkey might demonstrate whether this is the case or not. It will mean establishing whether the Commission manages to transmit common values through the programmes, using the instrument of financial co-operation.

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<sup>69</sup> Peter Uvin et Isabel Biagiotti, art. cit., p. 395.

## Chapter III: Conditionality through co-operation: two case-studies

So far, theoretical alternatives for establishing conditionality within the Barcelona framework have been examined. Since the purpose of this study is to determine how the available tools linked to conditionality can best be optimised and we have already demonstrated that direct sanctions are not appropriate, the only way to achieve this is to examine what happens in practice in the bilateral agreements.

### EXPECTED IMPACT OF ECONOMIC CONDITIONALITIES

Indeed, the anticipated impact of macro-economic conditionality, through the National Indicative Programmes, extends far beyond the purely economic rationale. For officials from Brussels, the implementation of co-operation programmes should also bring about essential institutional and behavioural changes<sup>70</sup>. In this perspective, some conditionalities might cause required institutional change, whilst others will produce implicit and immeasurable side-effects. The cultural charge involved in most of these operations planned in common is said to be high and working together is part of the process of narrowing the gap that exists between reality and the Barcelona vision. The management and outcomes of this strategy in two Mediterranean partner-countries will be examined below, using data collected through field research in 2002.

### ***Between partnership and membership: two extremes?***

A case-study basis seemed the best approach to establishing what happened in practice, as little empirical data was available. The choice of the countries for case studies was a subject of much debate, although Morocco and Turkey were eventually chosen, for the reasons discussed below:

- (1) It seemed essential to concentrate on countries that had a consistent and close relationship with the European Union. This suggested that the choice should be made amongst countries that had already signed a new association agreement with Europe and that the agreement had been ratified and put into force, so that co-operation was regularly implemented according to the principles of the Barcelona Process. This excluded most of Mashriq countries, where there have been delays in completing the negotiation process, so that they only recently began to comply with the new common rules and to familiarise themselves with Euro-Mediterranean standards.
- (2) In order to test the twin liberalisation thesis by maximising the use of conditionality as a catalyst – the ultimate point of the study – the countries selected had to have regimes openly concerned with the issue of internal reforms. This concern with reform might either have produced effective commitment to change or, on the contrary, fuel bureaucratic resistance to the dynamic of the Euro-Mediterranean initiative. This study required countries in the former category, where change could be observed and properly recorded – the situation that the European Union had hoped to create. More specifically, the study focussed encouraging dynamics of change as they developed in specific national contexts. The initial proposal, to compare Morocco and Tunisia, did not meet these objectives, as the two countries demonstrate very similar features and, furthermore, one of the two countries is presently stuck in an intermediary stage where no further move towards reform is encouraged. In other words, countries manifesting patterns of resistance that ran counter to the ideal European scheme were excluded and, although such a bias might be criticised in terms of objective research, it aided significantly the organisation of field-research.

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<sup>70</sup> Interview, EuropAid, South Mediterranean and Middle East Directorate, October 2002.



- (3) Finally, the decision to work on one country officially standing on the margins of the Partnership, Turkey, was deliberately designed to encourage reflection on how to improve the procedures of the Barcelona Process, with the intention of contributing to the debate on the relevance of present partnership rules and propose new and practical solutions.

#### COLLECTING DATA ON MOROCCO AND TURKEY

Morocco and Turkey are geographical and functional extremes in the Euro-Mediterranean system. Geographically speaking, they are situated at the two opposite ends of the region. The natures of their relationships with Europe are also, in a sense, as opposed as one has an association agreement and the other a customs union. Turkey, furthermore, anticipates membership of the Union whilst Morocco, even if it aspires to such a status, cannot expect it in the foreseeable future.

Morocco has already been described as a "pilot case"<sup>71</sup> for the Partnership. Its proximity to Europe is both geographical and historical, and its desire to be a good partner is undoubted. In consequence, the European Commission in Brussels is very positively disposed over issues of the internal evolution of the Moroccan regime. At the same time, it is prepared to overlook the most sensitive aspects of past co-operation – Morocco was one of the countries which suffered funding delays over human rights issues in the 1980s. Currently, the optimistic view is that the reforms initiated by late King Hassan II five years ago could be taken as the departure point progression that would illustrate the virtuous circle foreseen by the Barcelona Process: economic openness easing political change, and slowly bringing democratization onto the official agenda. Conditionality here would then be a tool to determine the targets for a process corresponding the expectations of the Partnership.

The choice of Turkey as a case study is more border-line, for it is effectively trapped between Partnership and potential membership. The observations of the Turkish pattern of reform can thus sustain two different kinds of conclusions. First they demonstrate the future limits of Europe and inform the debate on the core values of European identity and the European political institutions of the future. Secondly, the Turkish case is also a very telling example of what can be achieved through relatively strict conditionality imposed on third countries. Such information is especially valuable in understanding better the motivation mechanisms that might lead partner-countries to endorse Euro-Mediterranean common values voluntarily.

These preliminary comments demonstrate that the two case studies are not really comparative in nature. They each bring out specific features that enrich the general debate on linkage between the different baskets of the Barcelona Process, particularly in the fields of economics and politics, as well as in institutional terms. Yet, at the same time, the specificities of each of the partner-countries remain unchanged.

#### ***Conditionality for a close partner: the Euro-Moroccan deal***

The Moroccan case deserves to concentrate our first comments as it really epitomises the Barcelona logic. The Euro-Moroccan cooperation framework in effect includes economic, technical and institutional conditionalities, in a non-systematised effort to make sense beyond the strict economic horizon. The enforcement of the common agreed rules well confirms the limited scope and effect of classical macro-economic conditionality.

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<sup>71</sup> Adam Mekaoui, op. cit., p. 245.

The co-operation relationship between Morocco and the European Union is characterised both by its intensity and its duration. The current agreement dates back to February 1996 and was one of the first co-operation agreements signed within the new Barcelona framework. Since then, Morocco has responded well to European initiatives. The Moroccan bureaucracy has adapted to the necessities of tackling different European regulations better than the administrations of most other Mediterranean partner-countries. The Moroccans have wisely improved their diplomatic abilities in dealing with the Commission over the past five years and are definitely considered by the European side as sound partners<sup>72</sup>. Their negotiating skills have produced impressive results in specific issues in the past<sup>73</sup>.

Morocco also constantly makes efforts to be accepted as an important contributor to the conception and implementation of the Euro-Mediterranean Partnership. Moroccan officials demonstrated their particular talent for playing a subtle game between the two main dimensions of the Partnership in 2002. They have obviously been paying special attention to the Mediterranean regional dimension, regularly issuing considered views and proposals in a field that is of primary importance to the Commission<sup>74</sup>. At the same time, however, they have also been constantly seeking to improve the terms of their bilateral deal with Europe. Morocco has made clear more than once that its objective is to obtain a special status within the extensive range of Europe's external co-operation agreements. The Moroccans wish to establish a new kind of reinforced bilateral partnership with the European Union, with a customs union as a possible first stage<sup>75</sup>.

This intimate and sophisticated relationship explains much of Europe's traditional financial generosity towards Morocco. The commitment to Morocco was the largest of all those to Mediterranean countries during the MEDA I period, a total of €630 millions being disbursed between 1996 and 1999. Morocco presently remains the top MEDA II recipient, with €426 million earmarked within the 2002-2004 National Indicative Program. Morocco thus appears to be a privileged destination for European official aid and the figures become even more impressive when Community aid is combined with bilateral funding<sup>76</sup>.

Euro-Moroccan co-operation is not only important in terms of its intensity, it is also characterised by its continuity. The Commission claims to have carried out a fundamental change in its strategy since the signing of the Euro-Mediterranean agreement, emphasising the transition towards a market economy and the development of the private sector. Today, the main priorities for co-operation are threefold in nature: institution-building, trade facilitation and migration management. These attract most of the European aid available, no doubt because these are Europe's central preoccupations. Yet some aspects of the current pattern of co-operation also reflect past concerns, following paths traced in the 1980s on, for example, rural economy and the development of the Northern provinces of the country.

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<sup>72</sup> Interview, Council Secretariat, July 2002.

<sup>73</sup> Some negotiations over controversial subjects are burned into the Commission's memory. The fishing issue demonstrated Morocco's ability to resist Europeans pretensions; immigration might also develop in the future as a key obstacle to improved Euro-Moroccan relations.

<sup>74</sup> See "Pour une dynamisation du Partenariat euro-méditerranéen, commentaires et propositions formulés par le Royaume du Maroc", official draft presented at the Euro-Mediterranean Valencia conference, April 2002.

<sup>75</sup> The Direction for European Affairs in the Moroccan Ministry for Foreign Affairs had been working on a document developing that hypothesis between the Valencia Euro-Mediterranean conference and the end of 2002.

<sup>76</sup> The World Bank is also heavily engaged in Morocco, with a Country Adjustment Strategy providing for \$250 million each year for 2001-2004; France remains for its part the first bilateral sponsor of the Moroccan regime.

The Moroccan liberalisation process, as described by most political analysts<sup>77</sup>, is regarded by European decision-makers as a perfect illustration of the "twin liberalisation" thesis<sup>78</sup>. Parliamentary elections held at the end of 1997 brought a government that stemmed from the traditional opposition party to power. The latest election confirmed the young King's determination to play the formal democratic game in order to reinforce political consensus in the country. The Moroccan regime has thus undeniably inaugurated a process of evolution that is of utmost analytical interest, especially when considered in a broader geographical context. In comparative terms, the Moroccan pace of reforms sheds a genuine ray of light on an otherwise pretty gloomy regional picture. It helps us to evaluate the potentiality of pacific democratisation, engineered through economic development and excluding social chaos or systematic Islamic revivalism.

Yet from the official discourse itself, Morocco's final intentions about liberalisation still appear rather unclear. The Moroccan conception of the liberalisation process, as it emerged from the field-interviews<sup>79</sup>, seems to generally reverse the causal link that is so dear to Commission officials. Economic liberalisation clearly comes first on the agenda and is ostensibly presented as the only serious objective for the government – implicitly assuming, in effect, that political change is unstoppable and still on its way. Political liberalisation looks to be more-or-less secondary and is supported only to the extent that it fosters economic performances.

The approved function of political reform is then essentially to set out the right environment for the expansion of economic growth. Moreover, the democratisation process is presented as being autonomous of this process and is monitored by the King himself. It is admittedly a long-term initiative, quite independent from the improvement in economic standards. It is not externally driven and Europe is not supposed to exert any influence on its outcomes.

#### AMBITIOUS MOTIVES AND RESTRICTED DEVELOPMENT

Current economic co-operation in Morocco is essentially guided by political motives. The Euro-Moroccan relationship is, in effect, slowly maturing in a very particular political context. After seven years of Partnership, the Barcelona approach, essentially relying on free-trade, has not yet proven its efficiency to ensure economic growth and political stability to the region. Faced with this implicit dismantling of its illusions, Europe still searches for the element that would confirm its intuitions and choices about the future of the Mediterranean. In this context, Morocco is perceived by donors as the most stable and maybe the only reliable partner-state in the region. All official donors, if not private investors, share this positive feeling about the country<sup>80</sup>. Besides, as already noted, Morocco had developed special skills to simultaneously handle different donors in different ways, carefully balancing various sources of external financing, whether multilateral or bilateral.

At the same time, Morocco is still a developing country and its recent economic data hardly corroborate comparisons by the Union with East Asia. Poverty statistics and social indicators have tended to stagnate at worrying levels, even if they have not worsened in the past decade<sup>81</sup>. The

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<sup>77</sup> Optimism is widely shared among analysts, see for instance Michel Rousset, "Le Maroc de Hassan II: une monarchie constitutionnelle", *Les Cahiers de l'Orient* n° 58, April 2000, p. 39-50. Few discordant voices uttered some doubts, see Béatrice Hibou, "Les enjeux de l'ouverture au Maroc: dissidence économique et contrôle politique", *Les Etudes du CERI* n°15, April 1996, 41 p.

<sup>78</sup> Interview with Eberhardt Rhein, former Director Mediterranean, DG 1 – b, Spring 1997.

<sup>79</sup> Interviews, Moroccan House of Representatives and Ministry of Foreign Affairs, July 2002.

<sup>80</sup> For a Spanish appreciation, see Laura Feliu, "Spanish Foreign Policy and the Promotion of Democracy and Human Rights, the Case of Morocco", presented at the First World Congress of Middle Eastern Studies (WOCMES) in Mainz, September 2002.

<sup>81</sup> Arab Development Report, UNDP.

overall growth rate is still very dependent on climatic conditions, so that the economy is in a state of chronic instability. In short, the economic outcomes of the current co-operation scheme are still mediocre but the need for continued co-operation is evident and widely recognised. It is the combination of these circumstances – regional political unrest, European will to pursue the Euro-Mediterranean experience and the intense Moroccan need for aid – that shapes the long-term relationship between Morocco and the European Union, with its advantages for both sides. This situation generates a kind of rent for the partner-country, for it reveals the European tendency to ease the conditions attached to co-operation programmes to ensure their continuance.

#### COOL RULE

Indeed, the perfect theoretical vision of conditionality tends to be adjusted in practice within the Euro-Moroccan co-operation framework and, broadly speaking, Europeans stick mainly to economic, not political, conditionality. A closer look at current co-operation programmes also shows that the conditions imposed on the Moroccan government are sufficiently technical to allow for nuances in interpretation when they are implemented. In the end, the whole conditionality mechanism is not convincing, even if formal guidelines are respected.

The disbursement process of the MEDA I €120 million structural adjustment grant is a case in point. It well characterises Europe's inclination to assess the partner-country's efforts to comply with conditions set out in advance rather vaguely, or even with remarkable tolerance. The objective of this three-year programme was to support socio-economic reforms in Morocco. Compliance with pre-established conditions was necessary to allow for the disbursement of each subsequent instalment. For example, twenty-four conditions were attached to the 1997-1998 tranche of the grant. Most of them had to do with budget procedures, the improvement of financial statistics or the extension of a privatisation programme. Overall, the nature of these criteria retained was not excessively demanding<sup>82</sup>.

Yet, as the programme advanced, it became quite clear that the slow pace of reform in Morocco, coupled with the inertia of European procedures, hindered the realisation of the original conditions in time. Conditions were thus renegotiated for each tranche, as implementation proceeded, in order to maintain a credible time frame for the disbursements. The most severe economic conditionalities – fixing the maximum level of budgetary deficit, or relating to unemployment rates or other social indicators – were eventually not interpreted in absolute terms, but in terms of trends. Conditions requiring the adoption of new legislation were also eased, in order to respond to delays in parliamentary procedure in Morocco: instead of insisting that the laws be passed, the European Union agreed that the new legislative project only had to be presented to Parliament<sup>83</sup>.

This implicit trade-off satisfied both parties. The final appreciation of Morocco's performance by the Commission was generally very positive. The Commission regularly judged that nearly all conditions had been fulfilled, and that the way was opened for the disbursement of aid. The 1999 review of the "Facilité d'ajustement structurel" thus simply stated that "out of the 24 conditions, 23 have been complied with. One condition has been transferred to the third tranche (...). In view of the above, it is proposed that the payment of the second tranche of 40 MECUS will be implemented." It is true that most donors tend to accept realities with considerable tolerance and usually abandon severe conditionalities<sup>84</sup>, so that the Union is not unique in this regard. According

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<sup>82</sup> The conditions were negotiated with the Moroccan Ministry of Finances, who understandably remained very cautious regarding future engagements.

<sup>83</sup> This was, for instance, the case with the reform of the customs code. The upgrading of Moroccan legislation is, in any case, a long-term task that meets particular obstacles. It seems that the Moroccan Parliament often tends to adopt very general legislation, in the form of outline laws, subsequently requiring the adoption of many specific decrees. The original intention of the law is thus often lost in the implementation process. This last difficulty can be illustrated by the case of health legislation, a sector of traditional concern for European co-operation.

<sup>84</sup> Axel Dreher, art. cit.

to some bilateral donors, it was probably the World Bank that initially set the trend in Morocco, misleading other donors into excessive indulgence<sup>85</sup>.

#### CONDITIONALITY IN REVERSE?

In the end, the political sinews of the Euro-Moroccan relationship remain very strong, but Europe's will to manage change in Morocco in accordance with the values of the Barcelona Declaration has not been manifest<sup>86</sup>. The reverse hypothesis might ultimately prove to be more plausible and is certainly of greater analytical interest. This is that Europe seems to be more interested in supporting the *status quo* and providing aid in exchange for political consensus. In a sense, the present relationship could be interpreted as one that has been reasonably effectively mastered by the partner-country, so that it can make use of the Euro-Mediterranean framework to pursue its own strategic objectives. Morocco certainly has a clear conscience over the hierarchy of donors and overtly appreciates the relative political neutrality of European aid, as compared to bilateral funding. Moroccan rulers have learnt to deal with different partners in order to serve their own development plans and they have made the best possible use of their numerous political resources to obtain support for the regime<sup>87</sup>. In short, Morocco can obtain considerable benefits from its European partner in a kind "reversed conditionality". This concept sums up the situation where the donor, who is theoretically in a position to impose rules on the recipient country, is driven, mainly for political reasons, to accept and enforce the latter's interpretation of them<sup>88</sup>.

#### ***The Turkish path to membership: self-imposed conditionality?***

Turkey first applied for associate European Community membership in 1959. The association agreement signed between Turkey and the European Economic Community in 1963 mentioned the prospect of Turkey's adhesion to European institutions, and a demand for European Union membership was officially made in 1987. Since the 1960s, Euro-Turkish relations have experienced ups and downs<sup>89</sup>, but the current discourse in Ankara is one of continuity. Turkey has, it claims, kept its eyes constantly turned to Europe since 1963 and would now label as treason any attempt to divert it away from European membership<sup>90</sup>.

#### GROWING MOTIVATION OF A WOULD-BE MEMBER

Turkey's motivations to join the Union have evidently developed along two main lines. From an economic point of view, over the last two decades the country has clearly chosen to anchor its economic growth to European standards entering the European single market and consequently adapting its industrial structure to the needs of reinforced trade with the Union. Being a member of the Union would, from this point of view, essentially ensure the long-awaited freedom of circulation for Turkish citizens in European states. It would also make it possible for Turkey to benefit from European cohesion funds, helping the central government in Ankara to re-balance territorial

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<sup>85</sup> Interview at the French Economic Mission in Rabat. It seems, for instance, that the World Bank granted aid without requiring strict guarantees over the privatisation of telecommunications.

<sup>86</sup> Richard Youngs, art. cit.

<sup>87</sup> Bradford Dillman, art. cit.

<sup>88</sup> One recent event can be experimentally interpreted within this pattern of analysis. The impact of the 2002 Persil/Leïla crisis on Euro-Moroccan cooperation is obviously rather difficult to evaluate, as it is conveyed through indirect channels. Yet a somewhat credible hypothesis would be that Morocco obtained concessions on the contents and volume of European financial cooperation in exchange for a temporary truce on this especially sensitive file.

<sup>89</sup> Philip Robins, "Turkey: Europe in the Middle East, or the Middle East in Europe", in Barbara Allen Robertson (ed.), *The Middle East and Europe, the Power Deficit*, Routledge, New-York and London, 1998, p. 151-169.

<sup>90</sup> Interview held at the Secretariat-General for European Union, Prime Ministry, Ankara.

development. Politically speaking, Turkey has recently appreciated the lessons from its unsuccessful efforts to impose itself as a pivotal regional power in Central Asia. Before the outburst of the Iraqi crisis, it was visibly, even if gradually, shying away from its immediate eastern neighbourhood and searching for wider security guarantees in the direction of Europe.

Formalising Turkey's membership of the European Union would, in fact, put a final touch to the reshaping of Turkey's national identity, undertaken in the immediate aftermath of World War I<sup>91</sup>. Turkey's Republican model is largely informed by European philosophical values and the inventors of the Turkish Constitution copied classic Western institutions. Now that it has been admitted as an official applicant country, Turkey has finally been given the opportunity to confirm its intention to comply with the political values and economic rules of the European project<sup>92</sup>.

On the other hand, European expectations of the Turkish application are still not completely clear. Europe's stance towards the Turkish candidacy, both refusing to consider it on an equal footing with Eastern European countries and maintaining a high degree of uncertainty over its real chances of completing the admission process, has stimulated a real debate over hidden agendas. It is, in any case, impossible to deny that Turkey's accession to Europe would jeopardise the Union's economic and political equilibrium for a period of time that is still difficult to assess.

In the meantime, a whole set of conditions has been set down in order to optimise the Turkish preparatory process – with the indirect, yet probably welcome consequence that the process of accession has been slowed down. The most remarkable feature of the conditions imposed on Turkey, compared to other Mediterranean countries, is directly related to the prospect of membership. Political conditionality is in effect being overtly used in the Euro-Turkish context, for democratic conditionality has always been a powerful imperative for European membership. It is, after all, an essential condition of being part of the European Union<sup>93</sup>.

#### AN INTERMEDIARY FRAMEWORK FOR EURO-TURKISH COOPERATION

The December 1997 European Council in Luxembourg decided to officially open accession negotiations in 1998 with six countries, accession partnership being signed with five other applicants. Turkey was at the same time given a specific status, being placed in the singular position of "pre-negotiation" and a "pre-access strategy" was defined, although the potential accession date has not been determined. At the same time as this process has been continuing, Turkey has been an official participant to the Euro-Mediterranean Partnership ever since the Barcelona Declaration in November 1995.

This ambivalence explains some of the subtleties of Euro-Turkish financial co-operation. The regulatory framework for co-operation is currently evolving, along with the new prospects for enlargement. Financial assistance for Turkey is thus presently split into two different systems. First, Turkey has been awarded 15 per cent of the MEDA II bilateral envelope, all funds being pre-accession oriented. Second, the Commission has adopted two special regulations to support the European Strategy for Turkey financially – the "Reinforcement of the customs union" and the "Economic and social development". The funds managed on the basis of the MEDA programme are to disappear progressively, and Euro-Turkish cooperation will be largely managed in accordance with the PHARE procedures from 2003 onwards. Conditionality within financial co-operation is thus bound to become more efficient in the future, as it now falls under the PHARE rules. The PHARE programmes are managed on a three-year basis, whereas the MEDA programmes operate on a six-year term. Outcomes are thus submitted to closer scrutiny within the PHARE system.

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<sup>91</sup> A member of the OECD and NATO, Turkey was also among the founders of the Council of Europe; it thus has a long-term experience with, broadly speaking, Western international organisations.

<sup>92</sup> See Jolanda Van Westering, art. cit.

<sup>93</sup> Peter Uvin and Isabelle Biagiotti, art. cit., p. 385.

Another special circumstance should also be mentioned, the funds allocated to Turkey in compensation for the implementation of the Customs Union in 1997 (Special Action for Turkey, €375 million) have been blocked for one year by the European Parliament, protesting against human rights abuses in Turkey. The operation of the co-operation programmes was subsequently slowed for various administrative reasons, at a time when Turkey had made a significant political move in the direction of Europe. This misfortune, which is frequently commented on, fed a lasting perception among Turks that European co-operation procedures are globally unfair and inefficient.

#### AN ENLARGED NOTION OF CONDITIONALITY

The Turkish case is particularly interesting from the point of view of conditionality for it brings together a range of conditionality types, which apply in different circumstances and are designed for different objectives, thus providing a clear direction for reform. The top level of this conditionality system are formed by the Copenhagen criteria, mentioned above. In order to join the European Union, Turkey has to comply with the Copenhagen requirements, which are threefold: economic (sticking to the rules of open and liberal economy), political (enforcing democratic principles and the rule-of-law), and legal (adopting the *acquis communautaire*). If it is assumed that the first and the last conditions are being fulfilled, the political requirement becomes the critical concern. Global conditionality for membership is thus perceived by Turks as being essentially political.

As in the case of Morocco, a whole range of technical conditionalities then exist within the current co-operation programmes. The direction of the reforms is set by the National Indicative Programme that indicates the major areas of change. It includes essentially technical conditionalities, aimed at improving the pace or the efficiency of the programme. European institutions usually balance funding against the adoption of new legislation. For small-scale projects, practical conditions can be imposed directly by the Delegation – they are sometimes very trivial, demanding, for instance, small organisational changes or the promise to associate specific civil society actors with implementation. The European Commission annually reviews Turkish efforts in the pre-accession context, through a “progress report”. The Europeans tend not to be indulgent and the release of the last progress report, which was considered in Turkey to have been too severe, actually triggered a sharp debate in the Turkish press<sup>94</sup>. This kind of distant and overtly critical dialogue is a constant theme of the Euro-Turkish relationship. The Turks consider themselves as accountable for their reforms and do not want to be portrayed as being forced to conform to European views<sup>95</sup>.

#### AN AUTONOMOUS EFFORT AT “POLITICAL CORRECTNESS”

The Turkish record on human rights has long been open to criticism from a European point of view. This explains European insistence on expressing particular concern and systematically scrutinising Turkey’s real willingness to improve its performance in this respect. Some events have symbolic significance and have encouraged European pressure to foster institutional changes in Turkey in recent years<sup>96</sup>. In June 1999, the Turkish State Security Court pronounced the death sentence against Kurdish leader Abdullah Ocalan. The sentence greatly displeased European

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<sup>94</sup> For an external and critical view by an NGO, see Amnesty International, EU Office, Reply to Mr. Günther Verheugen, Commissioner for Enlargement, / “Forthcoming assessment of Turkey’s progress towards fulfilling the Copenhagen Criteria”, 17 September 2002.

<sup>95</sup> One remarkable consequence of this national pride is Turkish decision-makers’ real difficulty in dealing with their external image: so far, they have shown very little marketing skill in “selling” their democratic performance to European bureaucracies and the public opinion. It seems at present obvious that the debate on the Turkish candidacy has not really opened yet in Europe; read Dimitrios Triantaphyllou, “L’UE et la Turquie : la voie à suivre”, *Bulletin of the Institute for Security Studies of the European Union*, n°5, January 2003, p. 4.

<sup>96</sup> The European Parliament has been especially attentive of all rights violations perpetrated in Turkey; the main files concern the treatment of political prisoners, police abuses in general and discrimination against minorities, especially the Kurds.

leaders, who made it clear that urgent reforms had to be taken in order to ameliorate the human rights situation in the country. Such a lesson in European ethics was not appreciated in Turkey but the message was apparently clear enough to unblock fundamental rigidities within the Turkish political and institutional system.

Three years on, for the close observer of the Turkish scene, the effects of the complex conditionality apparatus described above appear to have been directly related to changes that have occurred. Broadly speaking, and as might have been expected from the logic of the pre-accession process, the Turks now tend to anticipate most European demands in the political realm. Slowly adapting their bureaucracy in order to co-ordinate action, they started an autonomous effort to meet European requirements and have recently achieved quite impressive results<sup>97</sup>. A series of important laws were passed during the summer of 2002, abolishing death penalty and ensuring freedom of expression for minorities, thus paving the way for the teaching of the Kurdish language at school. A settlement also seems more likely than ever for the Cyprus issue, thanks to joint efforts made by the Greek and the Turkish governments over the last two years, slowly accepting that they must work together to develop a common solution.

The rationale of the reform process undertaken by the Turks clearly extends beyond ensuring mere economic efficiency. Political reform has become a permanent subject of public debate in Turkey. Since the creation of the modern Turkish state from the remains of the Ottoman Empire, the Turks have developed a peculiar democratic model, built on an original and very volatile balance-of-power. This democratic model has to be appreciated in dynamic terms, although perfecting the Turkish model of the nation-state along the lines of the classic European archetype, still appears to be the ideal for many politicians and for the elites of civil society.

It is one thing to appreciate the variety and comprehensive nature of the laws that have been passed recently, to improve the human rights situation in Turkey. It is, however, crucial to see if these new laws will be put into force in the near future. Assessing the practical credibility of reform is a major concern for many observers of the Turkish domestic scene<sup>98</sup>. The Turkish constitutional framework is flexible enough to allow for surprises and laws can be understood and implemented in different ways. It is therefore still an open question whether Turkish institutions will genuinely adapt to these newly adopted rules<sup>99</sup>.

#### TURKISH REFORMS: SELF-IMPOSED CONDITIONALITY?

Confronted with Europe, Turkey can only request attention, a situation which explains why Europeans have been in a position to impose relatively strong conditionalities. Yet the Turks have, for their part, organised themselves independently to cope with these conditions. The recent reform movement is inspired mainly by the Turkish government, assisted by the bureaucracy, and is strongly supported by the independent businessmen associations<sup>100</sup>. When questioned about the European input into the reform process, Turkish politicians and businessmen would always declare that Europe essentially only influence the pace of change, and that the reforms would have been made anyway, quite apart from European pressure. The European accession programme,

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<sup>97</sup> See "The Political Priorities Cited in the National Program for the Adoption of the *Acquis* fulfilled by Turkey", a sum of indicators regularly updated by the IKV Foundation

See *Towards European Union Membership: Political reforms in Turkey*, Tüsiad Publication n°T/2002-10/329, Istanbul, October 2002.

<sup>98</sup> Interview with the responsible for the Turkish file, Amnesty International, Paris, September 2002. This concern currently runs in parallel with the evolution of the regional strategic crisis; read also Amnesty International, *Concerns in Europe* January-June 2002, on Turkey: "Systematic and Widespread Use of Torture and Ill-Treatment Continues after Legal Change".

<sup>99</sup> For a discussion on the background, meaning and credibility of legal reforms undertaken in 2001-2002, see Ersin Örucü, "The Turkish Constitution Revamped?" *European Public Law*, Vol. 8, n°2, 2002, p. 201-218

<sup>100</sup> See *Towards European Union Membership: Political reforms in Turkey*, TÜSIAD Publication n°T/2002-10/329, Istanbul, October 2002.



therefore, was a catalyst. It only helped by defining the concepts and shaping the procedures that Turkey needed in order to update its economic and political standards<sup>101</sup>.

When sincerity of Turkish decision-makers about European membership is questioned, the outcome is ambiguous. European administrators in Ankara willingly admit that European membership does not seem to be a top priority on the agenda of the Turkish state. Very few ministries are really involved in the pre-accession effort – the Secretariat for European Affairs that was recently created to co-ordinate ministerial activities on European matters has no power of decision and seems to be politically marginalised within the bureaucratic network. The different components of civil society – the press, NGOs, academe, for example – certainly show more interest in the issue. Yet, remarkably enough, all the major steps that have been taken towards Europe have been followed by symbolic events important enough to question the viability of any national consensus on the matter<sup>102</sup>. The consensus over Europe, in short, can be seen as little more than an artificial construct, based on many different motives, thus rather fragile and very sensitive to external circumstance. The tensions on Turkey's eastern border only add to these fundamental uncertainties and do not encourage medium-term stability.

In this general context, the deeper significance of the Euro-Turkish undertaking and its future probably cannot be predicted. The Europeans show no haste in ushering Turkey into the club; and, in parallel, for their part, the Turks want to keep a strong hand on the process. For all these reasons, it was decided to label the Turkish variant of conditionality, "self-imposed conditionality". The idea here was to highlight the fact that Turkey is striving to master the process and remains relatively free to either comply with European rules or to choose an alternative. Self-imposed conditionality thus implies the reversibility of the reform process.

The concept must also be understood in the light of the low level of financial compensation offered to Turkey in exchange for its efforts. Membership is of course an important incentive in itself, yet it continues to be an uncertain prospect at present. Moreover, the delivery of this dominant incentive is not fully guaranteed until compliance with all the conditions set out by Europe is achieved.

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<sup>101</sup> Interviews with figures from the TÜSIAD, the IKV Foundation and the General Secretariat for European Affairs, Ankara.

<sup>102</sup> One of these incidents significantly disturbed relations between the Turkish media and bureaucracy on one side, and the EU Delegation in Ankara on the other, at the beginning of 2002. A daily newspaper published on its front-page for some time the contents of e-mails exchanged between the European Head of Delegation and Turkish bureaucrats, accusing the administrator in charge of being against the Turkish application for EU membership. No real public debate took place to clarify the affair, which caused permanent strains between Brussels and Ankara.

## Chapter IV: Conditionality: the Euro-Mediterranean experience

The discussion above can give rise to a variety of conclusions but the range of circumstances and of instruments used by the Commission in terms of conditionality makes it difficult to create a coherent picture or doctrine about the use of conditionality within the Euro-Mediterranean framework.

### ***The Barcelona patchwork: circumstance, political vision and tools***

However dissimilar the two case studies may be, there is at least one common issue that runs through all the observations. As Karen Smith rightly pointed out, analysing the effectiveness of the European Union's use of political conditionality implies examining two questions. Before trying to assess if pre-determined objectives are met, the question of to what extent the EU *really* applies conditionality should be raised<sup>103</sup>. The case studies suggest that the answer to this crucial preliminary question varies, depending on the country concerned and the mutual interests that are at stake within the bilateral relationship.

#### THE EURO-TURKISH COVENANT: OPEN CONTRACT, OPEN ENDS

The Turkish effort to comply with European requirements is undeniable. In the final analysis, Turkey might be considered to be the one Mediterranean country that is approaching the political ideal expressed within the Barcelona Declaration. Furthermore, developments in Turkish legislation, especially over the last five years, apparently demonstrate that linking co-operation to reform can be an efficient method to achieve change.

Yet this optimistic view is obviously too simple and must be qualified. As pointed out, Turkey has adopted and started to implement European disciplines independently. This element of autonomy highlights both the strength and the weakness of the Euro-Turkish relationship. Turkey has evolved rapidly because it has decided to, and is expecting the most important reward Europe can provide in return – membership of the European club. If the Europeans continue to express reluctance over Turkey's application and finally disappoint Turkish expectations, they will be effectively unable to monitor and secure the reform process.

The main interest of the Turkish case, therefore, from the Euro-Mediterranean standpoint, is that it indirectly reveals the fundamental ambivalence of the Barcelona project. Turkey has undoubtedly been led to reform by the prospect of admission, not by the promises of the Partnership. It is even more ironical to note that this attraction towards Europe effectively diverts Turkey away from the Mediterranean<sup>104</sup>. Turkey has never really taken the Euro-Mediterranean Partnership as such seriously nor admitted to being considered as a Mediterranean partner-country<sup>105</sup>. In short, Turkey could be considered to be the only real example of successful "liberal linkage", but this achievement does not really have anything to do with the Partnership. It certainly has to do with conditionality, but the evolution of the process is unpredictable.

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<sup>103</sup> Karen E. Smith, art. cit., p. 253.

<sup>104</sup> For historical and cultural reasons, Turkey chose to turn its back on the Arab World after the dismembering of the Ottoman Empire. Its distrust towards neighbouring Arab countries has been reinforced by the privileged strategic and political partnership it has built with Israel in the last ten years. Given its geographical position, Turkey would now rather assume a pivotal role between Europe and its potential Asian backyard.

<sup>105</sup> Turkish officials regularly express their disinterest in the Euro-Mediterranean process, even avoiding important Euro-Mediterranean ministerial meetings.

In the Moroccan case, advantages and disadvantages of self-congratulation over the relationship on both sides of the Mediterranean can be easily identified. The European Commission has for long considered Morocco as the example which demonstrates the theoretical link between economic and political liberalisation. In parallel, the Moroccans celebrate their own reform process, as it is praised by all partners in co-operation. Yet, if the values proclaimed in the Barcelona Declaration are a target, the way in which the reforms developed and their content need to be more closely examined to ensure that Morocco deserves being singled out for its "best practices".

Furthermore, even if the optimistic Barcelona vision is accepted, so there is agreement that an effective liberal dynamic is at work in Morocco – at least, when compared to neighbouring countries – any assessment of the actual European input into the process might be less comforting. The Moroccans insist that this dynamic has strictly indigenous roots, and that the European Union should be inspired by their performance, rather than proclaiming the virtues of unmodified Western patterns of changes. Europe is seen mainly as a donor; its part is basically to provide the financial resources with as little political conditionality as possible.

The outcome of the Moroccan experiment exemplifies the difficulties faced by the political context of Euro-Mediterranean Partnership in being relevant to the process itself. The rhetoric is there, but the European Commission's bureaucracy constantly has to make fragmented and piecemeal attempts to make it coincide with reality. This constant playing with words and concepts, does not improve or update standards nor efficiently ensure their effectiveness but also implies risk for it produces an assumption that proximate concordance with an ideal is the same as its realisation. However, this philosophy of "being almost there" is slowly eroding the Partnership's credibility as a shared regional construct. Brussels may well keep control over the administration of the Euro-Mediterranean Partnership but it is slowly losing command of the political direction of the Barcelona Process.

### ***Shaping norms and instruments for efficiency: technical constraints in MEDA***

In fact, European efforts to promote the Barcelona ideal are hindered by technical obstacles that should not be underestimated, especially if criticism of them is to achieve credible improvement.

#### THE LOGIC OF DISBURSEMENT

The most basic approach to the limits of conditionality within the Euro-Mediterranean framework is, first, to acknowledge the bureaucratic obstacles that typically block European initiatives in the external arena. One particular constraint directly affects the structure of financial co-operation and the implementation of detailed proposals through Euro-Mediterranean procedures. The Commission was criticised for its weak performance in the management of the MEDA I funds and is now under pressure to improve the procedure from programme approval to disbursement. Some bilateral donors now admit in private that the unofficial priority of the Union is to spend money, at any cost. This functional imperative would explain European indulgence of indulgencies of the Moroccan bureaucracy, for Morocco still embodies European hopes for the perfect cooperation relationship.

As mentioned above, it has been widely observed that multilateral donors rarely use their power to penalize countries that trespass mutually-agreed principles for the promotion of human rights and democracy. For instance, the World Bank, for structural reasons, almost never cancels its

programmes, even if non-compliance is proven<sup>106</sup>. Most of the time, sanctions only intervene as *de facto* measures, when cooperation becomes practically impossible in practice because of civil strife or political upheaval<sup>107</sup>. On average, the logic of disbursement is always stronger effectively dominates most of politically-inspired conditionality processes.

This general norm becomes even more relevant within the wider philosophy of European external cooperation. As stated before, the Union's tradition is one of positive conditionality, and legal and political constraints also render sanctions effectively impossible in practice within the Partnership context. In addition, there is no real evidence that the European Union systematically grants more assistance to the countries that show real concern for human rights and democracy, in the Mediterranean region or elsewhere<sup>108</sup>. As with other multilateral donors, this is partly due to internal bureaucratic constraints. The allocation of aid is decided in the medium term through structural economic criteria that do not necessarily reflect the domestic political behaviour of partners.

#### THE REFORM ENVIRONMENT AND ROOM FOR MANOEUVRE

The Turkish and the Moroccan examples also raise questions about the capacity of Mediterranean third countries' to react to European proposals. In addition to the precise drafting of strictly managerial regulation, European bureaucrats should always pay proper attention to the local environment in which reforms will take place.

Attention should, first, be paid to the operational aspects of the bilateral negotiation process. This would involve determining the interlocutors on the Mediterranean side, as well as the administrative entities – for example, ministries or special secretariats – or bureaucrats assigned to deal with the Commission for their cultural background and their procedures to achieve results are significant. Both case studies demonstrated that a good understanding of these administrative mechanisms is a crucial element in predicting the outcome of Euro-Mediterranean negotiations in general. This is also very useful information for anticipating local variations that might affect cooperation schema.

Yet the issue at stake here is not only the administrative or even the economic capacity of the country to absorb external grants. Once clarified the distribution circuit of European aid, once secured the equipments indispensable to make the right use of it, it is also necessary to watch carefully over the socio-political context of reforms. Political stability is generally admitted to be a chief environmental factor for donors. We observed that Morocco has an undeniable comparative advantage in this respect, and uses it as an argument to obtain more concessions from its European interlocutors. On the contrary, in the case of Turkey, the institutional system appears to be traversed by very contradictory dynamics that render it very unstable; this might be the reason why some representatives from European institutions felt free to manifest rather openly some worries<sup>109</sup>. In this context, one must not forget that the Barcelona logic implies some sacrifices on the part of the Mediterranean Partner Countries. They would certainly be justified to evoke more or less overtly with their European counterparts the supposedly destabilising potential of envisioned reforms. The credibility of such claims should definitely be assessed independently on the European side, and not be directly converted into an element of bargain with the Partner Country's government.

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<sup>106</sup> The World Bank finances its lending with money borrowed from capital markets and is therefore under more pressure to lend money when it is available. This suggests that closer observation at the European Investment Bank practice would be essential to complete discussions of the conditionality issue within the Euro-Mediterranean framework.

<sup>107</sup> See Gordon Crawford, art. cit., p. 82.

<sup>108</sup> Karen E. Smith, art. cit., p. 266.

<sup>109</sup> The Islamists recent arrival in power in Turkey obviously excited defensive reactions in Europe. Valéry Giscard d'Estaing's negative response to the Turkish candidacy was the first unfortunate institutional demonstration of distrust in this direction.

## DEFINING TARGETS AND SHAPING INSTRUMENTS

Both of our case studies also show that the definition of achievable and credible targets is important if ensure the coherence of the whole conditionality process is to be ensured. In the case of Morocco, the choice targets that were too optimistic overall affected the final trade-off. In the case of Turkey, the targets that were defined seem to have lost their assumed relationship to the promised reward. These failures ultimately weaken the credibility of mutual engagements for they blur the implicit message in the process and allow for intentional or accidental neglect. In addition to their credibility, the norms that are determined must not be too complex, for this has proved to be a major flaw in traditional IMF and World Bank conditionality apparatus as most recipient countries can then simply refuse to appreciate what is asked from them. The same tendencies can sometimes be seen in Euro-Mediterranean cooperation<sup>110</sup>.

Some World Bank analysis of past experience also suggests that concentrating only on targets implies a rigidity that systematically threatens the recipient country's efforts to comply. This is precisely why international financial institutional conditions were gradually extended to include specific instruments<sup>111</sup>. This lesson has now been integrated into the practice of all multilateral donors, including Europe. Detailed conditionalities negotiated with partner- countries now include institutional and methodological standards. Yet given the specific political horizon of the Barcelona Process, one particular question hangs over the adequacy of these instruments for the theoretical aim of promoting democracy and human rights. Conditionalities attached to the cooperation programmes, such as with Morocco, basically follow the "good governance" rubric. Their political content is thus limited and has no revolutionary implication.

## ASSESSING THE SOUNDNESS AND VIABILITY OF REFORMS

It should not be forgotten that conditionality can be exploited as a warrant of good behaviour by the partner-countries, hence proper evaluation of outcomes and follow-up are vital. The donor should always be careful that recipient countries do not proclaim their imagined good performance over conditionality, thus transforming the original bilateral arrangement into a political mechanism to legitimise their own strategic preferences. Far from encouraging or accompanying reforms, the conditionality paradigm would then appear to be no more than a means of confirming the *status quo* to the convenience of both sides of the Mediterranean!

Evaluating reforms engaged by Mediterranean partner-countries over time is a particularly problematic issue, for anchoring change in place is at least as important as starting the reform process off. Conditionality would be a useless initiative if it did not eventually condition recipient countries into long-term stability and assessing this long-term viability of reform programmes should be critical to the Euro-Mediterranean process.

The Commission still lacks the instruments to do this, for in quantitative terms, there is a critical need for reliable statistical data. Establishing macro-economic performance criteria is relevant only if the means exist to determine meaningfully outcomes in recipient countries. Yet most partner-countries cannot furnish reliable statistics to describe their economic outcomes, particularly not with respect to public sector performance.

Qualitative criteria could also be established to assess the relevance of institutional and political reforms and to determine if they might generate a permanent process. Such criteria, however,

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<sup>110</sup> Some micro-examples could be taken from both case studies. The EU Delegation in Rabat apparently had many difficulties convincing the Moroccan authorities that they could not finance some new programmes with additional taxes once they had engaged in a liberalisation process.

<sup>111</sup> Axel Dreher, art. cit., p. 9.

have yet to be invented, as the Euro-Mediterranean Human Rights Network (EMHRN) made clear in its latest report. The EMHRN report states that “no clear human rights objectives and benchmarks have yet been established in relation to the Community’s Mediterranean Partners nor has there been any systematic assessment of the Human rights implications of the objectives and priorities set out in the programmes regional and country strategies”<sup>112</sup>. Our case studies suggest other qualitative indicators that could be used to test the consistency of the reform process, such as “ownership of reforms” in the sense of taking responsibility for them.

Turkish experience suggests that ownership is a key concept for reforms to be viable. Yet evaluating ownership is in itself a problem. A very broad and explicit pro-European consensus has apparently consolidated within Turkish society over the last five years. All political parties agree on the objective of integration into Europe and accept the explicit linkage with political reforms. The latest general elections brought a coalition led by the country’s moderate Islamist party to power. Its first political objective was to convince European leaders that Turkey was still anxious to join the Union. Social entities have actively mobilized around the issue, demonstrating the determination of civil society to play its part in the national effort. For example, a private foundation, the IKV, created an association bringing together non-governmental organisations. This issued a formal declaration in June 2002, *The Common Declaration of the Turkish Civil Society*, supporting the objective of integration and calling for an acceleration of the reform process<sup>113</sup>. This initiative was heavily publicised and rallied decision-makers in Turkey around it, including business associations, the press, human rights activists and academics. This apparently widely-shared desire to join Europe should generate optimism over future enforcement of political reforms in Turkey. Yet the impact of such mobilization of opinion should be evaluated with caution. It can be seen to be too elitist, not guaranteeing universal popular support. In any case, ownership, even if supported by multilateral donors<sup>114</sup> is only one piece of a vast puzzle.

Evaluation of such technical constraints allows us to sketch out a credible conditionality strategy similar to standardised programmes to create democracy and open to precisely the same criticisms as directed against American democracy assistance programmes<sup>115</sup>. It is, in short, inadequate simply to explore the instrumental issues of whether aid sanctions work or not and Karen Smith’s question about the seriousness of conditionality implementation needs to be recalled. As another author suggests, “In a number of cases, the genuineness and seriousness with which donor governments have pursued their stated objectives of promoting democracy and human rights is subject to question”<sup>116</sup>.

In effect, a more macro-political approach is needed. This will involve establishing the significant political determinants that permanently influence the negotiation process between Europe and its partner-countries. The case studies have demonstrated that these two parties to the contractual process of conditionality do not have equal status within it but, surprisingly, the balance-of-power does not automatically favour Europe.

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<sup>112</sup> Euro-Mediterranean Human Rights Network, op. cit. p. 1.

<sup>113</sup> *Common Declaration of the Turkish Civil Society*, June 5, 2002, available on [www.ikv.org.tr](http://www.ikv.org.tr).

<sup>114</sup> Ownership became the vocabulary for the World Bank and the IMF in the 1980s and continues to be a major criterion to ensure efficient conditionality.

<sup>115</sup> Thomas Carothers, “Democracy Assistance: The Question of Strategy”, *Democratization*, Vol. 4, N°3, Autumn 1997, pp. 109-132.

<sup>116</sup> Gordon Crawford, art. cit. p. 70.

### ***Managing the balance-of-power: unilateralism to ownership***

Both the design and the enforcement of conditionalities are achieved through a negotiation involving many different actors. The relative balance-of-power between these stakeholders, who are also often in competition, basically determines the effectiveness of the conditionality mechanism.

#### MULTIPLE ACTORS IN A SINGLE GAME: CO-ORDINATION BETWEEN DONORS

A key concern is that the European Union is only one donor amongst others. In addition, most Mediterranean partner-countries are founding members of the World Trade Organisation and are engaged in structural adjustment programmes managed by the Bretton Woods institutions. It is therefore only realistic to accept that the main reform criteria generally derived from macro-economic conditionality are not always established by Europeans for the Mediterranean partner-countries have first-and-foremost to respect their commitments to the IMF and the World Bank – those global institutions which have long imposed their own rules to foster economic and institutional reform.

Usually European regulations have a lower level of priority for partner-countries than do the requirements of the international financial institutions, even below the constraints imposed by bilateral funders<sup>117</sup>. For a recipient country such as Morocco, external obligations have to be handled through a complex matrix of relationships where different donors occupy positions that can vary so that the attention of and effort expanded by the national bureaucracy varies correspondingly. Coordination between donors is thus an essential prerequisite for effective action. Uncoordinated punitive action by some donors and not by others would obviously undermine the whole rationale of conditionality. However, such a situation is much less likely than one of consensual tolerance, leading to collective non-action.

Conditionality can also be politically biased towards the interests of the donor and the freedom of action it enjoys with respect to other donors. The role of the United States is clearly highly significant in the Mediterranean regional context for it systematically impedes European attempts at independent action. Gordon Crawford has noted significantly that the impact of sanctions has been largely ineffective on some Mediterranean partner-countries whenever the two major powers, the United States and the European Union, have not acted in unison or opposed each other. This was the case with Turkey, where European sanctions were enforced but American sanctions were not, and to Syria, which faced American sanctions but was treated with more lenience by Europeans<sup>118</sup>. Similarly, the effects of such conflicts of interests can be observed with both Morocco and Turkey.

The Turkish case is very telling because it manifests the way in which a situation formerly in balance has now been disrupted. Turkey now finds it increasingly difficult to maintain some balance between, on the one hand, its privileged partnership with the United States, and on the other, its maturing relationship with the European Union, although it had long benefited from a degree of political immunity under the American protection. Being full member of NATO protected Turkey from aid restrictions, despite the extremely poor human rights record of successive Turkish governments. European Union measures depended solely on action by the European Parliament.

Given the fact that Turkey is in a region of growing military tension, strategic considerations are still crucial. At the same time, Turkey is slowly recovering from the most serious economic crisis it

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<sup>117</sup> The bilateral sources of external financing not only include Western donors; politically-loaded public aid in the region also largely originates from the Gulf states.

<sup>118</sup> GordonCrawford, art. cit. p. 87.

has experienced since the Second World War and, given the strict terms applied by the IMF for its aid, it is naturally very receptive to American demands. Again, its decision over whether it should participate in or abstain from military operations in Iraq in 2003 had to be considered in the context of the promise of American financial aid. Europe was well-aware that democratic reform was probably not one of the main objectives of the United States at a time when the military were likely to regain their influence on the Turkish domestic stage. The United States might well support Turkey's application for membership of the Union, but tends to overlook the contradiction between a re-militarisation of its political life at a time when Europe wishes to advocate increasing democracy there.

Morocco has cautiously tried to achieve a systematic equilibrium between European and American political and financial influences. It is sensitive to the offer of free trade arrangements with the United States and, in July 2002, was quite ready to accept American mediation in solving the Persil/Leïla crisis, thus revealing Europe's inability to perform as a single coherent actor. The dispute seemed serious enough to threaten bilateral European-Moroccan relations, but was temporarily resolved by the intervention of a major third power – the United States. Once again, Europe was implicitly told that it had not mastered the cooperative game in this context.

#### EVOLVING INFORMAL CONTRACTUAL TERMS: THE TRUE EURO-MEDITERRANEAN BALANCE-OF-POWER

The classical vision of conditionality is one of an unequal relationship where the donor is in a position to impose its will on the recipient country. Peter Uvin and Isabelle Biagiotti suggest, in unvarnished terms that "Political conditionality consists of outside forces defining what is desirable for Third World countries and using their resources to force the latter into accepting these demands"<sup>119</sup>. In that context, conditionality is a rather sophisticated mechanism of domination, because it structures complex and varied principles and procedures that interfere in many different areas of cooperation.

Nonetheless, it is useful to consider the real balance-of-power between the two contracting parties, initially in terms of traditional sources of power<sup>120</sup>. Ole Elgström, for instance, studied the bargaining process in the Lomé cooperative framework, and tried to assess the power relationship between the two protagonists – Europe and the ACP countries. The author rightly starts from the premise that, "According to traditional realist-inclined bargaining theory, asymmetric dependence implies asymmetric outcomes, reflecting 'the power of the purse'." He observed an evolution from a relative balance-of-power between the parties to a situation of complete asymmetry. In the end, in the Lomé process, the so-called "norm-based power of the weak" was replaced by a total asymmetry of power, leaving very little room for European concessions<sup>121</sup>.

In the Euro-Mediterranean Partnership, it is critically important to assess the real balance-of-power, for it may explain the discrepancies between European intentions and the policies actually enforced, as well as other longer term inconsistencies. The fundamental principle that the efficiency of conditionality depends on the degree of dependence of the recipient state on aid ("the power of the purse"), in fact needs much qualification, as a comparison between Morocco and Turkey makes clear. Turkey in fact appears to be more tightly tied than Morocco by European conditionality, even if it retains the ultimate decision about retaining membership or abandoning it.

As pointed out above, Turkey is managing its adjustment process on an autonomous basis, being essentially motivated by the size of the final reward – European Union membership. At the same time, the country is still in a weak position, mainly for economic reasons. The decline in Turkey's economy over the last four years was one of the key motives for its turn towards Europe. The

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<sup>119</sup> Peter Uvin and Isabelle Biagiotti, art.cit., p.397.

<sup>120</sup> Ole Elgström, art. cit. See also P. Mosley, "Conditionality as bargaining process: structural-adjustment lending, 1980-86", *Essays in International Finance*, no. 168 (October 1987), Princeton University International Finance Section, quoted by Alfred Tovas and Mehmet Ugur, art. cit.

<sup>121</sup> Ole Elgström, art. cit., p. 195.



World Bank and the IMF, after all, imposed strict terms for saving Turkey from imminent bankruptcy, whilst the perilous situation that developed along its eastern borders seriously threatened its internal political stability. Its weakness, assessed both in economic and political terms, thus placed Turkey in a situation of multi-dependency *vis-à-vis* Europe. It is at present a "beggar state" compelled to deal strategic advantages against financial aid, and desperately searching for new security arrangements. Yet, if the Europeans were to clearly reject the Turkish candidacy, or if the Turks were to abandon their request to join the Union, they might paradoxically recover some bargaining power in negotiations with Europe, which would, paradoxically, have helped Turkey to become a challenger.

Conversely, for over a decade Morocco seems to have taken advantage of its unique position with Europe as a major political ally in the Mediterranean region. It has implicitly been awarded the symbolic status of being a "special partner", although the details of this status are never officially voiced by Europeans. These ambiguities have occasionally encouraged the country to play a game of deterrence towards Europe, making heavy demands and taking advantage of European institutional weaknesses to achieve its strategic objectives.

#### OWNERSHIP: A MAJOR PREOCCUPATION FOR THE PARTNERSHIP

As a general rule, when there is no explicit mandate for conditions on recipient countries, the applicability of such principles really depends on their legitimacy and on the contracting parties' motivation towards compliance, for there is no efficient means of coercion within the Barcelona framework. At the end of the day, the partner-countries retain significant autonomy over their endorsement of the theoretical principles with the Barcelona Process. European aid is often seen by partner-countries as an automatic incentive that has no counterpart<sup>122</sup>. The mutual benefit that should result from such a relationship is hardly ever evoked by the Mediterranean officials in charge of it, a situation that appears to pervert the initial intentions of the Partnership.

Even if it achieved more convincing results, European intervention in the internal affairs of the partner-countries would always be seen as suspect, precisely because it is an external factor. It might indeed only trigger superficial change, reflecting principles that satisfy the European Commission, but not reflecting a sense of local ownership by the governments or civil societies of Third Mediterranean countries. Compliance with conditionality might then undermine the legitimacy of these governments, as well as their capability to carry out further autonomous reforms.

These criticisms have been often raised in the past in the context of the conditionalities imposed by international financial institutions. As a result, there is now a widespread perception that recipient ownership must become a priority objective. Evoking ownership would also be a way of making partner-countries aware of their responsibility to maintain the quality of the Euro-Mediterranean relationship. It is thus an important element in re-equilibrating the vacillating balance-of-power between the two shores of the Mediterranean.

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<sup>122</sup> On the specific features of European financial aid, see Dorothee Schmid, "Les politiques sectorielles de l'Union européenne : vers une coopération libérale?", *Afrique contemporaine* n°193, December 1999.

### ***Conclusion: classical conditionality in the Mediterranean context***

It is worthwhile reviewing academically validated criteria of effectiveness, against the practical evidence already cited above. The criteria used here were developed in the 1990s by Olav Stokke in a study now considered a classic<sup>123</sup>. His hypotheses confirm and complement the observations made above, defining a broader perspective for reflection upon the development of practical mechanisms in future. He suggests six factors that may impact on the effectiveness of political conditionality:

- (1) The first element relates to the domestic position of the recipient government and its basis of power. This should be measured in terms of the economic strength of the regime, its control over the means of coercion and the situation of the opposition. It is also essential to determine whether the government has military backing or not. All of these characteristics are relevant here and help to account for Morocco's relatively strong resistance to European demands.
- (2) The second determinant factor is the recipient government's ability to use external intervention to strengthen its domestic position. This criterion suggests that the donor's conditionality might have opposite effects from those intended – the recipient government's protests against infringements on its sovereignty may appeal to national sentiment and arouse domestic reactions against external interference. At a time of rising political tension, it is true that Europeans would be well-advised to adopt cautious attitudes designed to avoid any eruption of anti-western feelings in the Mediterranean region.
- (3) The degree of aid-dependency is the third relevant factor, although Olav Stokke acknowledges that it is not a sufficient condition in itself for achieving effective leverage, as the observations above confirm.
- (4) The fourth criterion highlights the magnitude and significance of the bilateral relations between donor and recipient. It assumes that the greater the degree to which the relationship is close and broad-based involving economic and strategic interests, the less is the likelihood of restrictive measures being applied. The existence of historic ties is particularly significant, especially in the form of past colonial links. This configuration corresponds to the Euro-Moroccan relationship. On the basis of such an analysis, Turkey would probably be expected to experience relatively more severe response from Europe because it has fewer shared strategic interests.
- (5) The fifth important component is the probability that unilateral action may have a snowball effect. It has been empirically established that unilateral sanctions undertaken by small or middle-ranking powers have less impact than co-ordinated action by donors. Unilateral action is usually ineffective, especially if it is counter-balanced by action from an important bilateral donor. This is illustrated by the difficulty European member-states have in uniting over taking punitive action. In the case of cooperation with the Maghribi countries, the counterbalancing role played by France is remarkably clear. Co-ordinating member-state cooperation policies with European Union choices is thus becoming a significant priority.
- (6) The sixth recommendation, is internationally co-ordinated action by donors stands a better chance of success than unilateral action to achieve policy reforms – a proposition very similar to the preceding definition. In this context, the potentially weakening effect of

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<sup>123</sup> Olav Stokke, "Aid and political Conditionality: Core Issues and State of the Art", in Olav Stokke (ed.), *Aid and Political Conditionality*, London, Franck Cass, 1995, pp. 42-45.

American intervention in competition with, and possibly in contradiction with European efforts in the region should be borne in mind.

Gordon Crawford finally added four propositions to complete Olav Stokke's sketch<sup>124</sup>.

- (1) The precision of the definition of the reform required: The donor's demands have to be relatively precise. If so, they can provide backing for a subsequent evaluation system. This recalls the continual accommodation process observed with Morocco, entailing the systematic down-grading of the initial conditions.
- (2) The degree of the donor's countervailing economic and strategic interests. Human rights and democracy concerns can be easily subordinated to other competing foreign policy objectives. This highlights the permanent bias of some member states in favour of stability within Mediterranean partner-country regimes. It sometimes seems that the Commission is equally keen on such a *status quo*, or simply accepts political direction as set externally by member-states.
- (3) The donor's degree of political will - a crucial concern. In the case of past sanctions against Syria and Turkey, repeated attempts were made to have European Parliament prohibition of new financial packages removed, thus casting doubt on the fundamental motivations of other European institutions.
- (4) The degree of consistency of any action that is undertaken. A lack of consistency in the way in which aid to recipient countries is handled would have an adverse impact on donor credibility and legitimacy. Yet consistency also has to be assessed in a slightly different sense: Europeans should be able to prove their own compliance with the principles they are advocating. Gordon Crawford resumes this philosophical dilemma as follows: "Donors *themselves* have introduced a normative dimension to aid policy. Yet if their own commitment to the principles of Human rights and democracy is at best partial, they can hardly require development partners to abide by them in a manner that commands respect."<sup>125</sup>

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<sup>124</sup> Gordon Crawford, art. cit., p 72 and sqq.

<sup>125</sup> Gordon Crawford, art. cit. p. 69.

## Chapter V: Steps towards a shared approach to conditionality

We must now design solutions to solve the dissatisfaction over the use of conditionality within the Euro-Mediterranean Partnership. It will not be easy, given the fact that the defects described above are common to most systems based on cooperation and are generally recognised as being difficult to correct. Adjustment to realities is, in practice after all, very difficult to counter. Yet the specificities of the Barcelona system might offer innovative ways of improving mutual understanding and thus contribute towards the achieving of shared political objectives.

### *The "new" debate about conditionality and the Partnership*

Political conditionality within the Euro-Mediterranean framework has recently moved from being part of academic controversies to become a topic for open public debate. For the first time, the events in the European Parliament in 2002 involving Israel publicly demonstrated that a bilateral agreement could be suspended. Even if there were major obstacles to a definitive solution along these lines, the political controversy about the possibility of such sanctions has not ended. It is of course to be regretted that the debate in itself limits the possibility of sanctions to a resolution of the Arab-Israeli conflict.

Yet the use of conditionality in such a context might be salutary because it would plainly demonstrate that the human rights clause in the association agreements could be activated. The problem is, however; that it is still unclear if the objective of such an initiative would be strictly in line with the spirit of the preamble to the Barcelona Declaration. Now it could even be the case that the argument about the human rights clause paradoxically risks being instrumentalised within a South-South war between different Mediterranean partner-countries!<sup>126</sup> These human rights clauses were certainly not intended to be used as implicit instruments of war, although many blatant cases of human rights abuses that could be evoked within the Partnership are habitually ignored.

In terms of macro-economic conditionality, the modest results obtained in terms of institutional and political amendment justify the frustration shown by analysts towards the Partnership. The technical details of regular bilateral cooperation are, of course, rarely subjected to public scrutiny so that most observers are not aware of all the subtle adjustments negotiated between the Commission and its administrative counterparts in the Mediterranean in order to achieve accountable results within the MEDA II framework. Yet, in the absence of reliable and detailed explanations of the obstacles to reforms, the global picture available to the public is a very static one. The current state of disappointment is well summed up authors writing on the democratic outcomes of the Barcelona Process, who judiciously noted that, "The EU policy towards the Mediterranean, while setting ambitiously short-term targets for trade liberalization efforts, has an infinite temporal horizon when it comes to democracy promotion"<sup>127</sup>.

In such a context, it is understandable that political disillusion about the Partnership is growing. What is at risk here, however, is the danger that the credibility of the whole enterprise might be threatened as a result. Some commentators rightly warn of the danger of negligence that in the end would "seriously undermine the strength, universality, and legitimacy of 'the human rights' regime"<sup>128</sup>. The credibility and legitimacy of the norms of the Barcelona Process are probably

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<sup>126</sup> The theme of possible sanctions against Israel has been regularly discussed by different Arab actors in recent months.

<sup>127</sup> Richard Gillespie and Richard Youngs, art. cit., p. 13.

<sup>128</sup> Peter Uvin and Isabelle Biagiotti, art. cit., p 383.

gradually being eroded away because consistent political will and appropriate procedures are lacking.

The debate about conditionality is thus innately linked to the future priorities of the Euro-Mediterranean Partnership and raises once again long-known issues of the shortcomings of the Barcelona Process. For example, should the objectives of the Partnership be redefined so that they reflect the absence of a political vision shared by both North and South? Is this defect itself the result of the lack of institutionalisation within the Partnership? Should decision-makers concentrate on bilateral relationships instead, in order to achieve a new kind of equilibrium there, or should they try to revitalise the regional initiative, on the assumption that European values would be automatically diffused throughout the region as a result? Unfortunately, the inertia that now characterises the Process means that there can be no definite answers to such fundamental questions about the Partnership at present. Instead, all that can be realistically done is to focus on existing mechanisms and possible improvements to them, even if they are no more than marginal in nature.

### ***The existing structure and the optimisation of conditionality***

The most obvious option, therefore, is first to reassess existing ways of influencing conditionality within the Euro-Mediterranean Partnership, drawing as much as possible on the lessons learnt from observed past experience. The main objective would be to make the application of the standard tools currently used more consistent.

#### THE ADVANTAGES OF EXISTING APPROACHES

If the classic, bilateral, mainly macro-economic, approach to conditionality were to be adopted, this would generally fit into the existing institutional features of the Partnership. Reinforcing European power to impose its vision of reforms would, of course, only reflect the Partnership's asymmetry, even if it would achieve the desired normative results. Europeans are still considering how and how rapidly such programmes should be applied, whilst, in contrast, most Mediterranean partner-countries exhibit an observable lack of interest in the day-to-day implementation of the Partnership, whether for technical or political reasons. If European power to impose reforms were strengthened, the Union would have the means to apply more effective pressure on its partners. Furthermore, since some of the disappointment discussed above over bilateral cooperation is as much the result of neglect as of intentional indulgence, improving basic macro-economic conditionality would be a valuable objective in itself, fitting within the Commission's constant efforts to ameliorate MEDA procedures, for example.

Working within the limits of the bilateral cooperation framework is certainly a convenient way of tackling touchy domestic issues in the partner-countries. Given the structural obstacles to European external action, the advantages of a bilateral strategy should not be under-estimated. It is, first, easier to handle from a diplomatic point of view than a multilateral initiative would be. At the same time, framing bilateral contractual obligations is less arbitrary in appearance than unilateral instruments inherent in a multilateral approach, such as, for instance, financial regulations<sup>129</sup>. It is imperative to promote this kind of contractual vision of conditionality, as it is vital to create a feeling of shared commitment on both sides of the Mediterranean. In this context, when commenting on the human rights clauses, Elena Fierro suggests that "their' being enshrined in the bilateral agreements may imply a sentiment of joint cooperation – and even of shared responsibility"<sup>130</sup>. Yet, even if the human rights clause is not to be the core mechanism of a future system of conditionality, ownership continues to be a fundamental principle that fleshes out the

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<sup>129</sup> Elena Fierro, art. cit., p. 66.

<sup>130</sup> Ibid., p. 66.

concept of Partnership so that attention must now be given to ways in which the conditionality process can be subjected to further contractualisation.

#### VARIATIONS UPON A WELL-KNOWN THEME

Even if classical conditionality is adopted, standardisation of the procedures involved might not be the right solution. The bilateral approach allows for more flexibility and makes it possible to allow for specific features relative to the economies or social regimes of the partner-countries. Indeed, current management practice is already partly inspired by this ideal of an adaptive approach. Yet when the National Indicative Programmes (NIP) developed for each of the partner-countries are compared, it is striking that the profiles are similar, suggesting that the potential inherent in the adaptive approach has not been exploited. More fine tuning could probably be achieved through annual programmes, and reality often modifies the terms applied after the programme has been drawn up. A reasonable degree of flexibility can thus be fruitful if the goals of the contract between the two parties in the NIP are clearly stated at the beginning. Otherwise, conditions be constantly eased, as has occurred in some cases, and this is clearly not ideal.

There are certain prerequisites if a satisfying contractual relationship which is not detrimental to either party is to be established, primarily in terms of regulating European supervision. For example, Europe should improve its current knowledge of the situation on the ground. The recent reform of the Commission's management structures is certainly an important step in that direction. Establishing contractual conditions could then concentrate on the priorities of the partner-country and on concrete rewards that would encourage improvement. Some incentives might not involve just financial encouragement but could also include other deals, for example over specific regulations, or institutional improvements.

Positive conditionality implies giving the recipient an opportunity to express his needs and desires and taking them into account in order to initiate an interactive dynamic. Once the conditions have been negotiated, there should be a constant dialogue about their content and the means devised to ensure that they are fulfilled. Such a dialogue helps to establish a fair assessment of whether the conditionalities themselves will be met, thus diminishing the danger that the whole process might eventually be eased. Helping the recipient country to attain the agreed conditions is of course essential if the process is to be efficient. As a result a warning mechanism might be built into the agreement, in order to systematically tackle unexpected obstacles met during the implementation phase. The procedures and the timing for negative measures should also be determined in advance and legally defined<sup>131</sup>. The use of negative measures should not be banned, effectively by definition, but they must be consistently applied.

One interesting variation on the use of bilateral conditionality was proposed by Elena Fierro who outlined some stimulating propositions designed to exploit the positive potential of the bilateral human rights clauses<sup>132</sup>. Although she emphasised that the suspension of any bilateral agreement must be envisaged only as a last resort, she went on to point out that these clauses were also "an illustration of the responsibility incumbent upon the EU to protect and to promote human rights worldwide". In other words, a human rights policy should be proactive, and not just reactive. Such a proactive approach to human rights and democracy promotion should be comprehensive and encompass positive measures, including systematic dialogue, as well as the possibility of suspension of aid or other negative measures. In terms of such positive approaches, the author noted that human rights have been made a specific field of cooperation on the basis of the clause with at least two different countries: Mexico (in 1997) and Georgia (in 1999). Some more recent agreements also explicitly include direct cooperation on human rights matters. This approach might merit further development within the Euro-Mediterranean context as well.

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<sup>131</sup> Gordon Crawford remarks that sanctions are more effective if they are imposed in immediate response to critical events; art. cit. p. 81.

<sup>132</sup> Elena Fierro, art. cit.

In conclusion, the limits to the traditional approach to conditionality are well-known. Contractualising policies for human rights and democracy promotion – and even for economic liberalisation – only allows for partial solutions or blackmailing by recipients. It is also clear that, for unexpected reasons, the bilateral balance-of-power does not invariably advantage the European Union. In this respect, the ability of some partner-country bureaucracies to deal with the Commission to their own advantage is striking. Transparency, that does not seem to be currently considered a priority, might prove to be a very important context for ensuring the success of conditionality. Last but not least, the choice of a more punitive approach towards conditionality might also threaten the laborious development of a sense of community between Europe and its Mediterranean colleagues. There is then the ultimate danger that the partner-countries might unite in a coalition to openly contest the use of coercion, thus brutally reminding Europe that the Partnership is a multilateral structure that it does not necessarily dominate.

### ***Innovation in the Partnership: a shared approach to conditionality***

“Continuity and impartiality are essential prerequisites for sound and efficient human rights policy”<sup>133</sup>. This uncompromising statement by Karen Smith naturally stimulates speculation about the ethics of the conditionality system. The ethical content of political conditionality can be identified in two different ways: as objectives – promoting values as a final goal – and as methods – shaping fair procedures, recognising the idealist goals which they are designed to enforce.

In the particular context of the Partnership, fairness is not only a self-imposed constraint on Europe for the sake of image or self-respect. Given the institutional specificities of the Barcelona system, together with its social and diplomatic obligations, sharing is also a functional condition for efficiency, and equity is essential to optimise collective negotiation. These particular political constraints suggest that it is not possible to ignore the multilateral approach in conditionality. Although it is certainly a heavy burden to organise collective approaches of this kind and to shape dedicated regional institutions to implement a common conception of conditionality, it is probably an appropriate way of ensuring full participation and ownership by partner-countries.

#### THE NEED FOR A COMMON APPROACH TO CONDITIONALITY

The meaning of “Partnership” is still rather vague in the widespread context of Europe’s conventional external relations,<sup>134</sup> but it certainly involves principles of dialogue, definition of common perspectives and, to a certain extent, shared decision-making. After all, the relationship between the Union and the Mediterranean partner-countries is not colonial in nature. Indeed, it should be as far removed as possible from an imposed process of domination, not least because Europe does not really have the means to exert control and, in any case, such means as might exist are not mobilised in practice. Paradoxically enough, however, the reality of the Partnership is still one of asymmetry, with Europe still setting the goals and defining instruments to achieve them, whilst not being able to implement its strategies towards these ends effectively. The result is overt frustration for both parties to the process.

Yet any attempt to strengthen the conditionality imposed upon partner-countries risks being violently denounced as neo-imperialist – a reminder of the traditional debate about the legitimacy of conditionality. Conditionality has been constantly blamed by some commentators as illegitimate interference in the domestic affairs of recipient states. Indeed, it is true that the new norms for conditionality that have been developed over the past fifteen years patently clash with the traditional norm of non-intervention, no doubt because the new ethics of globalisation are confronted by the resilience of realist-oriented international law.

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<sup>133</sup> Karen E. Smith, art. cit., p. 254.

<sup>134</sup> René Leray, “Le rôle des grands partenariats dans une PESC / PESD cohérente et efficace, premiers éléments de réflexion”, contribution to a workshop at ISS-EU, September 2001.

In the end, this basic contradiction allows recipient countries to question the internalised legitimacy of the values conveyed through conditionality, a challenge that is stimulated by the fact that the Union's own institutions do not fully embody the democratic model they wish to export. Europe still lacks its own bill of rights, even if it has recently made important progress towards institutionalising its essential political values<sup>135</sup>; the European political model is still to be defined and rendered explicit. These ambiguities, of course, seriously weaken the legitimacy of the political structure of the Barcelona Process. Europe is still unclear about its own internal perspectives, yet it is already prepared to universalise philosophical principles and legal procedures – a contradictory approach which, understandably, might arouse negative responses amongst its Mediterranean partners! The comments on Turkey made above would suggest that there is a fundamental hesitancy about the virtual limits of European influence. Europe also launched the Euro-Mediterranean Partnership without defining very clearly how it conceived what the institutional future of the Mediterranean would be, simply projecting its own value-system on the region and, even today, still using the approaches inherent to the Union itself to integrate norms there<sup>136</sup>. From the other side of the Mediterranean, however, this seems to demonstrate a European failure to respond to regional realities.

Yet, on the other hand, partner-countries also seem to manifest a real demand for positive conditionality, understood as a balanced contract correctly setting off demands and incentives against each other. This demand is probably linked to the implicit competition for funds provided within the MEDA framework<sup>137</sup>. Most Mediterranean partner-countries now assume that they must consolidate their positions through competition, where reward will be proportional to performance achieved. Their ambitions to achieve positive outcomes are thus essentially manifested through the bilateral channel that characterised the Turkish and Moroccan experiences described above. This would suggest that this competitive element should now be subsumed into a principle of collective responsibility.

#### A COMMON "EURO-MEDITERRANEAN REGIME"?

For liberal internationalists, the political success of the Barcelona Process – ensuring lasting regional peace – depends on the underlying diffusion of shared political norms and values. Such shared values can, in fact, be considered as the beginning and the end of the Euro-Mediterranean Partnership, for they are proclaimed in the preamble of the Barcelona Declaration and are still, in reality, the objective to be achieved. It is an ambition drawn from the academic literature concerning international regimes. An international regime is defined as a set of common principles and behaviours shared by a community of international actors. The advantages of such a construction in terms of peace-building are obvious and the Euro-Mediterranean Partnership has been described by some authors as an attempt to establish a common regional regime through gradual definition of "a broader social space"<sup>138</sup>. It is an attempt that, so far, has apparently failed because the Partnership was insufficiently institutionalised and because no genuine culture of cooperation has emerged.

The conditionality system could easily form part of this broader ambition for regime-building. Indeed, conditionality can be regarded as a regime in itself, as it incorporates "internationally dominant principles and norms around which expectations converge and that define acceptable

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<sup>135</sup> The Amsterdam Treaty contains provisions concerning the respect of fundamental rights in the European Union, and provides for a member-state to be suspended from the Union if it violates them. This issue has already been raised with some member states under particular circumstances as, for example, Austria.

<sup>136</sup> Federica Bicchì, "From Security to Economy and Back? Euro-Mediterranean relations in Perspective", Draft presented at the symposium organised by the Institute for European Studies of Berkeley University, Lisbon, June 2002, available on <http://ies.berkeley.edu/enews/articles/medconf.html>.

<sup>137</sup> Discussions in the EuroMeSCo workshop from which this report originated demonstrated the interest of partner-countries in the concept of positive conditionality.

<sup>138</sup> Dimitris X. Xenakis and Dimitris N. Cryssoschoou, art. cit., p. 13.



state behaviour for both recipient and donor country"<sup>139</sup>. In simpler terms, conditionality can be considered a concrete method mutual discussion of the values of Self and Other, to allow for effective cooperation. Yet, as a bilateral process, it is still only a partial regime and a way must be found to extend its benefits to all countries participating in the Partnership.

### **"Consensual conditionality"**

It follows from what has been said above that a crucial development for the success of the Partnership would be to articulate bilateral agreements within the context of the collective perspectives of the Barcelona Process. The underlying purpose of such strategy would be to initiate and broaden the debate about conditionality, starting with the redefinition of norms and the shaping of common procedures, that should mobilise collective energy to achieve reform through a process of "consensual conditionality". The general elements that would form the basis of such a common conditionality system adapted to the institutional and cultural realities specificities of the Euro-Mediterranean Partnership, are discussed below.

The term "consensual conditionality" should not be understood simply as a diplomatic process. The objective is not to dissolve concrete concepts through a hazy bargaining process into soft, meaningless consensus but rather to maintain multilateral dialogue, whilst isolating and sequencing operations so as to design a rigorous path for progress towards shared objectives and organising a common warning system if this goes wrong. All the micro-issues previously identified in the study of bilateral cooperation must now be reviewed in order to ensure that the system is coherent and operational. Given the overall complexity of the mechanisms associated with the Barcelona Process, there are many questions and alternatives to be discussed.

#### SHARED OBJECTIVES AND NORMS

The first of these involves the norms underlying the conditions that should appear in any agreement for reform. It is generally admitted that conditionality is inspired by implicitly shared norms and, in terms of international law, these norms either form part of international custom, or are linked to international treaties<sup>140</sup>. New customs and norms emerge through practical cooperation, as Richard Gillespie and Richard Youngs have pointed out in their concept of " *de facto* norms of co-operation".<sup>141</sup> The assumption has been that all conditionalities arising from the Euro-Mediterranean context were ultimately related to the political principles enshrined in the Barcelona Declaration. Yet this is an *ex ante* assumption, as no sanction based on the principles enshrined in the Barcelona Declaration has ever been enforced. Different legal justifications could have been used to legitimise punitive action, depending on the type of action and offence involved, for the values inherent to the Barcelona Declaration are both extensive and ill-defined.

Most analysts specializing in the issue of conditionality would rather recommend a clear hierarchy of norms if convincing results are to be obtained: "The philosophy should be one, with its nuances and exceptions. This is not only for the sake of coherence, but also for efficiency"<sup>142</sup>. Such a requirement is even more important in a multilateral context, where commonly agreed rules cannot be subject to face-to-face bargaining. Working on a common definition of norms and of procedures to ensure their effective application must be the starting point of any attempt to re-launch the liberal dynamic behind the Barcelona Process. Such an approach could also provide a unique opportunity to revive regional dialogue – initially in economic terms but there is no reason why this, eventually, should not be extended into the political sphere as well. One important objective

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<sup>139</sup> Peter Uvin and Isabelle Biagiotti, art. cit., p 377.

<sup>140</sup> Ibid.

<sup>141</sup> Richard Gillespie and Richard Youngs, art. cit., p. 7.

<sup>142</sup> Elena Fierro, p. 66.

of such a common initiative could be determine how the theoretical principles guiding political regional dialogue could be integrated with the values informing bilateral macro-economic conditionality.

Once it is assumed that shared principles about conditionality have to be established through dialogue, it becomes more difficult to forecast precisely which norms the dialogue partners would agree were relevant. There is, after all, always the possibility that a meaningless diplomatic consensus might be achieved, establishing principles that would not subsequently be respected. A balance has to be found that allows for general principles to be transformed into concrete conditions, yet the detailed terms for bilateral conditionalities should not be established too rigidly, as this, almost by definition, would impair their utility – the European Union is, after all, always suspected of excessive zeal when dealing with democracy and human rights. Nonetheless, there are important questions to be discussed, such as what are the founding principles of democracy, and which human rights must be respected as a matter of priority? Furthermore, do human rights embrace all civil, political, economic and social rights? Such a comprehensive vision is certainly formally the one adopted within the Union, although Maghribi officials would undoubtedly prioritise economic rights and emphasise the controversial notion of human security<sup>143</sup>. There is, in fact, a common order of priorities still to be established over such issues.

The easier part of such a debate would concern more technical aspects of macro-economic conditionalities. The political standards of macro-economic conditionality are currently based on a cluster of institutional norms known as “good governance” – to be distinguished from the same term when applied to purely political situations. The essence of the good governance regime is, essentially, to guarantee effective and accountable public administration and the norms associated with this have now been accepted worldwide, largely through the persistence of the international financial institutions. Most Mediterranean partner-countries thus tend to be fairly receptive of good governance principles and also quite prepared to implement them. This spontaneity is certainly linked to the weak political content of the norms and values concerned, for good governance does not require democratisation as an absolute goal; its function is more to improve “inter-systemic convergence, without (...) subsuming the participating collectivities into an absolutist ideology of good or better democratic practice”<sup>144</sup>.

In the end, these kinds of good governance norms are neutral enough to be easily accepted but, since they support no clear political project, they cannot satisfy the liberal criteria enshrined in the Barcelona Process. Yet the debate about whether economic conditionality should concentrate on general goals or precise targets and the choice of instruments to achieve them has a hidden significance because the side-effects, in political terms, of specific instruments designed to implement economic policy can be important. At the same time, it is vital to consider the role of alternative, often traditional objectives for strictly political conditionality, such as the organisation of multi-party elections or securing minority rights. In this respect, the Union’s Copenhagen criteria have proved to be effective in restructuring the institutional profiles of the Accession countries. It is worth considering the utility of a multilateral debate upon comparable and precise political goals in the Mediterranean.

#### ENLARGING THE STAKEHOLDERS

Of course, discussing and implementing conditionality within a bilateral or a multilateral framework could also cause dissension within the Euro-Mediterranean Partnership, as has been discussed in the EuroMeSCo workshops that have been run in parallel to this research<sup>145</sup>. Nonetheless, we do feel that the multilateral track has to be explored, at least as far as defining norms and values, so that the issues can be clarified and the framing of bilateral contracts can be facilitated. This does

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<sup>143</sup> Interviews with Moroccan diplomats and academics, July 2002.

<sup>144</sup> Dimitris X. Xenakis and Dimitris N. Cryssoschoou, art. cit., p. 17.

<sup>145</sup> Roughly speaking, most researchers from the Mediterranean partner-countries dealing with the policy process expressed their preference for the bilateral option.

not necessarily mean that every partner-country should be involved in the monitoring of conditionality applied to others, or that this should become an automatic right for all participants in the Partnership. Indeed, as part of the debate, the involvement of other actors in the conditionality process should be examined.

The choice of positive conditionality advocated here is usually conceptually linked to reflections on how development cooperation should be structured. On the one hand, positive conditionality can involve the design of programmes to encourage proposed reforms and can target particular audiences. On the other, one significant innovation of the new developmental approach inherent in the concept of partnership is that it actually refers to the actors involved in cooperation, for enlarging the circle of participants collectively supporting the impetus for reform is a crucial aspect of improving ownership.

The Barcelona Declaration itself clearly states that economic growth and the promotion of democracy are common objectives which should be pursued by a large variety of actors. These actors include – aside from states – business communities, local authorities and non-governmental organisations. A dynamic link between political conditionality and the participation of civil society, notably via decentralised cooperation, can thus be induced from the wording of the Barcelona Declaration. Some authors accordingly underline the importance of broadly defined “socio-economic networks”<sup>146</sup> in diffusing common values and practices. These networks of course have to be associated in the framing of the conditionality contract and might be fruitfully associated with the final evaluation process.

In institutional terms, the role played by the European Parliament has been important for it has always been proactive in the external promotion of human rights and democracy. Given the particular political status of the Parliament in the interaction between European institutions – it is marginal to the decision-making process but has, as a result, greater freedom of action – its contribution to such debate will be essential in the future. This is why parliamentary cooperation over the topics discussed here should be encouraged around the Mediterranean. Such cooperation is all the more important as most parliaments in the region do not play a prominent political role and much could be learned by cooperation between these institutions which appear to be similar but in fact differ significantly from each other.

#### SHARED DECISION-MAKING OR SHARED ASSESSMENT

The final issue is the institutional environment and the necessary procedures required to organise collective action and to monitor the conditionality process. As suggested before, questions still arise as to whether the management of conditionalities should still be handled on strictly bilateral terms, according to a standard pattern of implementation. It is clear that it would be difficult to design an effective collective conditionality system comparable to collective security schemes, which have, in any case, been inoperative in the Mediterranean context. Furthermore, institutional paralysis always threatens any attempt to organise shared decision-making. As a result, discussion over the specific terms of conditionality contracts should be restricted to bilateral relationships, although the resulting bilateral contracts must also be managed with equity and enhanced transparency. Consistent treatment is also important for, as already noted, lack of consistent treatment of recipient countries would have an adverse impact on the credibility and legitimacy of the Partnership. As a result, the outcomes of this cooperative conditionality process must be properly and openly reviewed and assessed, so as to ensure eventual progress.

No doubt, such requirements would not be contentious but there is still no common system in operation, nor have the parameters of such a system been established. Thus, should a special bureaucracy be required to compile and evaluate bilateral data according to pre-established criteria? Should cross-evaluation be organised through an alternative procedure, providing for both

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<sup>146</sup> Richard Gillespie and Richard Youngs, art. cit.

Europe and the partner-country to express visions of current reforms that might contradict each other? Should the Commission also make use of external benchmarking, through international instruments designed by independent non-government organisations<sup>147</sup>? At the end of the contracts, should the information generated by the review process be published as a comparative report, so that new initiatives to improve the conditionality contracts could be regularly proposed?

Transparency is in fact important here but it remains a question as to whether the results of assessments should be widely publicised. The international financial institutions, for example, were never very enthusiastic about exposing their internal procedures to public curiosity<sup>148</sup>. Furthermore, conditionality can be seen as a kind of taboo issue, especially since it is subject to powerful criticism by economists and militant elements of civil society who disagree with it in principle. Similarly, most of the compromises achieved through day-to-day Euro-Mediterranean cooperation continue to be concealed, probably to avoid being publicly contested. Yet transparency does not have to be punitive, being also a method to encourage good practice instead and highlighting success, rather than mobilising shame could be the ultimate critical component of a shared positive conditionality system.

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<sup>147</sup> Such as the Freedom House ranking, quoted by Gordon Crawford, *art. cit.*, p. 73.

<sup>148</sup> Conditionalities embedded in World Bank adjustment programmes were, for instance, not officially disclosed until the end of the 1990s. Very little data is available even today and there exists no systematic description of the terms applied by international financial institutions' to programmes at different times. There is, therefore, no consistent vision of the evolution of bilateral contracts over a long period of time.

## Chapter VI: The implications of Accession

The Enlargement of the European Union has forced Europe to reflect upon existing cooperation with neighbouring countries and the objectives and mechanisms through which such cooperation takes place have been recently reviewed and renovated by the European Commission. This new design for European external relations has been summed up in a communication to the Council of Ministers and the European Parliament which lays out the basic features of a new "proximity policy"<sup>149</sup>. This new vision is designed for Russia, the Western Newly Independent States and the Mediterranean and its global philosophy – peaceful cooperation with these neighbour countries, based on a shared model of economic and social development derived from the European experience – is clearly expressed. Yet the ultimate implications of this proximity policy are still difficult to determine, not least because the framework for the policy must be developed and translated into meaningful political, institutional and budgetary choices.

It is obvious that this new "neighbourhood" scheme is likely to have significant consequences for the Mediterranean policy of the Union. The new policy discourse places the Mediterranean partner-countries on an equal footing with European non-member or Accession countries, yet advocates a differentiated approach, encouraging closer relationships with partners who show stronger motivation for cooperation with the European Union. The practical reorganisation that will follow from these general principles is still unclear – not least because, at the same time, the Commission also issued a communication dedicated to human rights and democratisation within the Euro-Mediterranean framework<sup>150</sup>. Raising these questions in public is quite unusual for the Union and the communication has triggered worried reactions from the partner-countries. Indeed, the Commission's latest moves, whether they have been inspired by other European institutions or not, have raised doubts about European intentions in Mediterranean minds, not least because the Euro-Mediterranean institutional structure, usually considered as inert, might be showing signs of forthcoming evolution although it is not yet clear whether there will be major change.

### ***A "neighbourhood" in the making***

As mentioned above, the "Wider Europe and Neighbourhood" communication provides for a restricted definition of whom Europe's neighbours are and the choice of these entities reflects fundamental strategic priorities for the Union which must now design viable provisional solutions for relations with countries that cannot yet, if ever, join the European club. Yet putting together Europe's eastern and southern neighbours in a single policy framework does not seem to contain any obvious rationale for future institutional relationships with partners of such widely differing characteristics. Indeed, the Mediterranean countries were added to the list because they could not be left out! Yet their inclusion poses many problems, as they have already developed a long-term and quite specific framework of cooperation with the European Union – the Euro-Mediterranean Partnership.

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<sup>149</sup> Commission of the European Communities, Communication from the Commission to the Council and the European Parliament, "Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours", Brussels, 11.03.2003, COM (2003) 104 final.

<sup>150</sup> Commission of the European Communities, Communication from the Commission to the Council and the European Parliament, "Reinvigorating European Union Actions on Human Rights and Democratisation with Mediterranean Partners", Brussels, 21.05.2003, COM (2003) 294 final.

## INCLUSION OR EXCLUSION?

The Commission apparently wants to strengthen the existing yet not very visible distinction between membership external association – be it through “partnership” or “neighbourhood”. One clear objective of the Communication is thus to address the difference between “membership” and “proximity”. Under this rubric, Mediterranean partner-countries would be completely excluded from membership of the Union, whereas other European “neighbour countries” were in a more ambiguous situation. Europe wants to encourage neighbour countries to come as close as possible to Union standards, and to slowly integrate into the internal European market, for: “If a country has reached this level, it has come as close to the Union as it can be without being a member”. Yet the prospect of becoming a member is still the best argument to “sell” the European model to neighbouring countries, a paradox that remains unsolved.

## THE RETURN TO EUROPEAN PRIORITIES

The logic underpinning the new neighbourhood initiative is essentially European, in the sense that it essentially reflects internal European preoccupations. The Union still has to concentrate on the reform of its own institutions and it can only engage in very basic external relations, involving geographical balance, budgetary realism and political prudence. The external architecture proposed in the new initiative seems to be inspired by classic communitarian preoccupations and concerns, not concerned over responding to the needs of the countries concerned. The development patterns and instruments developed to bolster this new neighbourhood vision generally reflect specific and historically tested European internal instruments, such as the internal market, the European Economic Area and even European funding lines, such as INTERREG.

In view of this, it is doubtful that Europe will mobilize sufficient means to develop new and revolutionary solutions for its good neighbourhood initiative. For instance, confusion remains as whether new legal instruments, such as new types of agreements, would be created, in short whether a new overall cooperation framework would supersede the previous cooperation system, or whether it only be added to the existing various cooperation frameworks, nor have the financial implications of this geographically ambitious vision been properly assessed.

### ***Being a “good neighbour”***

In Spring 2003, the Commission issued a communication directly aimed at the issues of human rights and democracy in the Mediterranean region. This communication sets out working guidelines to organise cooperation with Mediterranean partners over human rights and fundamental freedoms. In line with previous initiatives, it also affirms that the promotion of democracy, the rule of law and the respect of human rights and fundamental freedoms are core objectives of the Union’s external policies. New practical measures are proposed to improve mutual understanding and common activities on these issues. The communication was prepared some time ago and responds to preoccupations regularly expressed by the European Parliament on aspects of the political and social baskets of the Barcelona Process.

## A DIFFICULT CONTEXT FOR HUMAN RIGHTS

The current international situation provides a paradoxical context for work on democracy and human rights issues. Since the beginning of the American “war on terrorism”, the meaning and significance of “essential freedoms” have been subject to implicit re-evaluation in many parts of the world. Political repression and military intervention are currently often presented as the most efficient ways to prevent terrorism and restore international order.

This obviously does not provide a very favourable background for highlighting human rights, especially in the Mediterranean region, which is one of the places in which Islamic fundamentalism is likely to develop in the years to come. At the same time, American claims that the presence of the United States in Iraq is part of a global plan to extend democracy, have inspired new reflections on universal political values. The central concern now is to establish whether the best method to extend the democratic zone of peace is the priority, or whether it is to organise a *status quo* between political regimes that differ in nature – a concern that is especially acute in the Mediterranean region.

#### THE IMPLICIT RANGE OF EUROPEAN PRIORITIES

In other words, this choice manifests the classic alternative between reform and stability that constitutes the core dilemma of the Euro-Mediterranean Partnership. At present, when the Commission states that, "The EU must act to promote the regional and subregional cooperation that are preconditions for political stability, economic development and the reduction of poverty and social divisions in our shared environment", it seems as if economics is once again the top priority on the Euro-Mediterranean agenda. The propositions contained in the new initiative for democracy and human rights in the Mediterranean do not highlight any dramatic break with past principles and methods. The Commission insists on a global approach to human rights, supported by the statistical implications of the recent UNDP regional development report. The new neighbourhood initiative is quite consistent in placing, economic development and regional integration as crucial incentives to influence the political and social pact within each Mediterranean partner-country.

#### ***Budgetary constraints and conditionality***

The budgetary implications of the new neighbourhood initiative are still uncertain. Enlargement itself will be a costly exercise for the Union and the financial background for external action has not yet been settled, but it is inevitably going to be restrictive. In short, it will be materially very difficult to satisfy partner demands and to meet every ambition that has been expressed. Europe will have to focus on targeted objectives, whether in geographical or political terms.

#### RE-ALLOCATING LIMITED RESOURCES

Within the Euro-Mediterranean context, financial constraint usually emphasizes political limitations inherent in the consensual institutional framework of the Barcelona Process. Encouraging competition for resources among Mediterranean partners has been the usual solution to ensure that funds are spent in an efficient way. One notable side-result of this scarcity of resources is that the Commission now proposes an individual approach to human rights matters, in which partners can demonstrate their interest in and motivation for reforms. The Commission will support National Action Plans and regional actions for the promotion of human rights and democracy with those MEDA partners who are willing to engage in the exercise – a logic of differentiation. The aim is not to force reforms, but to provide financial support for those willing to reform.

#### DEVELOPING POSITIVE CONDITIONALITY

Commenting on the Commission's proposals, Chris Patten, the Commissioner for External Affairs, confirmed that, "Progress towards full respect of human rights and democratisation has to come from within"<sup>151</sup>. This statement, which relates to anticipated political outcomes of the Barcelona Process, cannot also apply to the field of economic reform. To date, the European Union has never

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<sup>151</sup> Chris Patten, Commissioner for External Relations, Opening discourse, Euro-Mediterranean Mid-Term Meeting of Foreign Ministers, Crete, 26-05-2003.

imposed change on its Mediterranean partners and here, once again, the Commission has chosen to support positive change through increased financial motivation. Positive conditionality is favoured over sanctions.

Yet, if the global financial aid envelope remains unchanged, rewarding the best players automatically means penalising the less advanced. Even worse, as far as the Mediterranean is concerned, any amalgamation of the MEDA budget into a general neighbourhood budget will mean that commitments for differentiated and targeted actions in the Mediterranean will almost inevitably be reduced. Furthermore, official concerns about threat to national sovereignty combined with the inertia of Mediterranean bureaucracies is very likely to block all positive initiatives from the Mediterranean on human rights matters. It will then be up to the Mediterranean partners to demonstrate their maturity over these issues and to respond in order not to be marginalized.



## Chapter VII: Conclusion

All the recommendations mentioned above could suffer the fate facing all such recommendations of being considered banal or unrealistic, criticisms that mirror comments about the Euro-Mediterranean Partnership itself. One response could be that small incremental measures have proven in the past to have improved the global picture and that the idealistic concept of intervention fits in with the spirit of the Barcelona project.

### AUTOMATICITY VERSUS INTERVENTION

The hypothesis that the three baskets of the Barcelona Process are interlinked, which lies behind this research project, requires further empirical exploration. The most obvious difficulty is to construct relevant qualitative indicators. It is very difficult to assess, on the one hand, the progression of reforms in each field of interest to the Partnership – economics, politics and cultural – yet, on the other, it is also crucial to identify the connections between each aspect of the long-anticipated reform process. One factor that would contribute to the efficacy of conditionality within the overall scheme of liberalisation would be to determine the relative weights to be given to different components of a reform, given their predictable spill-over effects. Investigation of such technical issues must be encouraged if decision-makers wish to sustain the credibility of the Barcelona vision.

In the absence of such investigation, the alternative will be the academic debate about the relevance of liberal teleology. The automatic liberal outcomes that Europeans expected to observe cannot be expected to have developed as quickly as anticipated and may not even be observable before the initial developmental deadline in the Process, which is set for 2010. This might lead to the prospect of imminent regional stabilisation being abandoned in favour of long-term equilibrium, in the hope that there would not have been outbursts of political violence in the meantime.

### FIGHTING DISILLUSION ABOUT CONDITIONALITY

Debates on political conditionality have always moved initial enthusiasm to growing feelings of disappointment. In short, conditionality never seems to be effectively enforced or really efficient. Many observers therefore take a different position, counting on collaboration to spread norms and values. Thus strengthening economic and political links with one country, relying on the automatic diffusion of good practice, might be considered more expedient. It is very difficult to resolve such debates, although the conceptual elements discussed here are quite recent additions to the field of political sciences. Conditionality, as such, might not be so revolutionary in practice yet data about it have long not been publicly available, thus hindering proper reflection. Its practice now requires more practical experience and theoretical development if it is to prove to be reliable.

The global disillusion about conditionality is of course paralleled within the Euro-Mediterranean debate. Our own field observations have confirmed the difficulty faced by donors in devising realistic targets and implementing consistent procedures within bilateral cooperation frameworks. The political objectives of the Barcelona Process seemed original enough to encourage special dedicated mechanisms to shape the contours of desired political reform, particularly the famed human rights clauses which were “a child of the 90ies”<sup>152</sup>. This phrase suggests that the concept of human rights was still in its infancy and needed positive measures to develop into an “adult”

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<sup>152</sup> Elena Fierro, quoting Barbara Brandtner and Allan Rosas, “Trade Preferences and Human Rights” in *The EU and Human Rights*, Alston (ed.), Oxford University Press, p. 702.

mechanism. Such clauses might indeed become powerful instruments in the future for the promotion of political values if they were to be matched by sufficiently strong political will. On the other hand, background macro-economic conditionality, even if only partially enforced, is not bad in itself, as long as the donor does not invoke exceptional reasons to justify abandoning it permanently before its objectives have been achieved.

#### NEGLIGENCE OR CONFUSED INTENTIONS?

The objective of this investigation has been to establish a vision of shared conditionality, based on a more contractual and positive approach through bilateral relationships linked to a common review system. This consensual approach, however, can only be realistic if partners from both sides of the Mediterranean can agree on collective political objectives for the region. Yet this assumption has always been open to challenge, for "The political content of Barcelona would have been an obstacle to the launch of the process had it not been regarded as essentially declaratory"<sup>153</sup>. However, even in the face of such pessimism, it is essential to revive the Barcelona covenant as soon as possible. To achieve this, Europeans must constantly clarify the content of those values to be conveyed through cooperation and highlight the benefits of regionalisation and the Mediterranean partner-countries must constantly demand that they do so.

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<sup>153</sup> Richard Gillespie and Laurence Whitehead, "European Democracy Promotion in North Africa : Limits and Prospects" *Democratization*, Spring 2002, vol . 9, n°1, p. 193

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