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EU Conditionality after the Arab Spring

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CONTENTS

EU Conditionality after the Arab Spring

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1. INTRODUCTION	6
2. EU RESPONSES TO THE ARAB SPRING	10
3. POLITICAL CONDITIONALITY	14
4. “MORE FOR MORE”: REFINING POLITICAL CONDITIONALITY AFTER THE ARAB SPRING	20
5. PROBLEMS IN THE EU’S RENEWED APPROACH	24
6. CONCLUSIONS	28
REFERENCES	32

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1. Introduction

“Our response ... is built on the need to acknowledge past mistakes and listen without imposing. We are doing exactly that and it requires perseverance and sustained commitment. Success should translate into what I have called ‘deep democracy’.”

(Ashton, 2011)

The Arab Spring has provided a unique opportunity to revise the European Union’s languishing relations with North Africa and the Middle East.¹ Much emphasis has been placed, in speeches and in re-inventing the European diplomatic narrative towards the region, on the EU’s new “listening mode”, and on its “humility” and “modesty” in its dealings with reforming Arab leaders. According to the new rhetoric, EU institutions encourage the governments of those countries which have chosen to embark on a path of democratisation and modernisation to choose the level of engagement expected from the EU. At the same time, revisiting past engagements has led to redefining democratisation and modernisation: the EU is increasingly explicit about its definitions of standards to be achieved and the expectations to be met.

Time will tell if such revision will amount to a change of gear compared to the past. In principle, there are innovations (discussed in section 2 of this paper) which could usher in elements for new modes of engagement. Examining how political conditionality is being revised can provide a route into understanding how policies *and* politics may be changing. As we shall see, it is a mechanism through which to decide how to implement EU tools. But its political nature appears to be underestimated in the documents produced by the EU policy-makers who have been working on improving conditionality since the Arab Spring. This is partly due to the limited autonomy of EU institutions from the member states in addressing the consequences of an approach based on conditionality.

Conditionality refers to a complex set of issues including the ability to attach strings to demands, the linkages between political demands and economic incentives, the attraction and credibility of these incentives for them to be effective, the ability of the EU system, including its member states, to coordinate and deliver such incentives, and the relation between establishing general principles to govern conditionality and the need to devise tailor-made policies towards individual countries (section 3). Given the central role that conditionality plays in EU foreign policy and that relations with most countries around the world are predicated on this concept, the practicalities, mechanisms and principles through which conditionality will be applied will be revealing of the kind of posture the EU aims to adapt in the future (sections 4 and 5).

The main argument (sections 5 and 6) is that the focus on political conditionality raises more problems than it solves: the EU is trying to reshape its relations with North Africa and the Middle

1. Acronyms and definitions of this part of the world are confusing. In this paper, I consider as part of North Africa and the Middle East, the 9 countries which are also party to the EU’s institutionalised relations with the area, such as the Euro-Mediterranean Partnership and the European Neighbourhood Policy. These are, West to East: Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Palestine, Jordan, Lebanon and Syria.

East by twiddling with the tools rather than rethinking the nature of relations between the two shores, which would be a precondition for a new approach. Historically, relations have been constrained by the conflict in the Middle East, the persistence of authoritarianism and EU de facto support of it, the resilience of divergent objectives and priorities pursued by European member states, the limited role of the EU compared to other actors such as the US or even EU member states, and the complexities that each country in the region poses to international politics. Today, these challenges are compounded in a region which is changing and diversifying its relations with the non-“Western” world: the EU and the US are no longer the privileged interlocutors of the southern Mediterranean countries. Until these deeper and longstanding problems of engagement with the region are addressed, any changes introduced will be of limited scope.

Conditionality also calls for questioning broader assumptions regarding the leverage of the EU in any given country, its legitimacy in using conditionality in the first place, and the nature of relations between the EU and the North African and Middle Eastern countries. Responding to the emancipation of these countries requires more than listening before offering the usual recipes. Rethinking interdependence between the two shores and identifying some common interests could open up a new path towards a more equal relationship.

2. EU Responses to the Arab Spring

The challenge to authoritarianism that has swept throughout North Africa and the Middle East prompted, at a superficial level, unprecedented responses on the part of the EU. European reactions to events have entailed the mobilisation of a very broad range of foreign policy instruments coordinated by the recently-born European External Action Service (EEAS). The EU partially recovered from its cacophonous start and its leaders agreed to limit the damage of divergent public diplomacy. If it ran divided over the NATO military intervention in Libya, it managed to maintain a degree of cohesion over incrementally tightening sanctions and embargoes to be used in attempts to persuade Syrian President Bashar al-Assad first to go to a negotiating table with the opposition, then to contain his relentless and brutal repression of the uprising, and then, from August 2011 onwards, to ask him to leave.

The other side of the coin was the use of positive instruments. Alongside persuasive and declaratory diplomacy, and many trips to the region by EU representatives (Commissioners, the High Representative for Foreign Affairs and Security Policy/Vice President of the European Commission [hereafter, HR/VP], and delegations of Members of the European Parliament) and national political and governmental representatives, the EU also demonstrated a commitment to multilateral institutions and international diplomacy, seen as the best means to address political developments on the ground. The HR/VP and the EU member states established relations with relevant political actors, such as the Arab League, the African Union, the Gulf Cooperation Council, and supported ad hoc international efforts to manage the crisis in Syria such as the Cairo Group and then the Contact Group headed by Kofi Annan, Joint UN-Arab League Special Envoy. On the ground, the EU has liaised with some new actors, such as the Libyan Transitional National Council, faith-based political parties and movements, and civil society organisations. New task forces have been set up to channel relations with individual countries and to improve coordination with international and national actors, such as the one with Tunisia, which first met in September 2011, and more recently with Jordan.

During 2011, the EEAS and the Commission also developed a number of initiatives and proposals, such as the Partnership for Democracy and Shared Prosperity (European Commission and the High Representative of the Union for Foreign Affairs and Security Policy, 2011a), the European Neighbourhood Policy (ENP) review (European Commission and the High Representative of the Union for Foreign Affairs and Security Policy, 2011b) and made some decisions about financial allocations towards the region, all examined in section 3. These provide material to investigate the extent to which the revised means for engagement and the tools proposed represent a step towards a process of reshaping EU policies in light of the epoch-making changes on the southern shore of the Mediterranean.

One important shift is towards a more vigorous support of civil society through the Civil Society Facility (CSF), a new support for the development and strengthening of political actors through

the European Endowment for Democracy (EED), and the branching out towards understanding forgotten, marginalised or new political actors in the region all represent a departure from paying lip service to the previous regimes' justification of its repression. For 2011 to 2013, the CFS has a budget of €22 million for the ENP countries, of which €11 million is for the southern neighbours. The CFS is made up of three components: strengthening capacity of civil society, through exchanges of good practice and training, to promote national reform and increase public accountability, to enable them to become stronger actors in driving reform at national level and stronger partners in the implementation of ENP objectives; strengthening non-state actors through support for regional and country projects, by supplementing the funding available through thematic programmes and instruments; promoting an inclusive approach to reform by increasing the involvement of non-state actors in national policy dialogue and in the implementation of bilateral programmes.

The jury is still out on assessing whether the EU's new commitments represent a "paradigm shift" which adequately responds to the scale of the challenges in the MENA region. Representatives of EU institutions have recognized the degree to which past policies were misguided (Füle, 2011), and national foreign ministers have heralded the beginning of a new era. The resort to the EU's broad range of tools could represent, in itself, a departure from the previous gap between the ambitions of the Euro-Mediterranean Partnership (EMP) and the European Neighbourhood Policy and their realisation in practice. But the EU foreign policy system goes beyond the EEAS or the ENP, to include the external dimension of internal policies, such as migration or energy, and the external policies of the EU member states. Thus, while policies such as the ENP can be fine-tuned and improved, the politics behind them require a deeper understanding of the dynamics which have shaped EU-Mediterranean relations (Balfour, 2012a).

3. Political Conditionality

Political conditionality was not an invention of the EU though it seems to have become one of its champions. It entails the linking of “perceived benefits for another state (such as aid, trade concessions, cooperation agreements, political contacts, or international organization membership), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles” (Smith, 1998). Attaching strings to macro-financial assistance and aid was first developed by international financial institutions in the 1980s with a focus on economic reform. By the 1990s, donors had established the practice of tying macro-financial assistance and aid not just to economic governance but also to political conditions, in the belief that an effective use of aid required the rule of law and the institutions ensuring it. Some EU member states (Britain, Germany, the Netherlands, Sweden, and Denmark) were conditioning external assistance to human rights, good governance and the rule of law, motivated both by ethical demands and by a need to make external assistance accountable to the taxpayer. During the Cold War the Commission had ring-fenced the independence of its development cooperation and aid programmes from the geo-strategic considerations of the other donors (Crawford, 1998), but by the 1990s it too converted to giving human rights a more prominent role in the guidelines for development cooperation policy (European Commission, 1991).

Conditionality acquired a new salience with the enlargement process of the 1990s-2000s, where Brussels anchored the political transformation of Central Europe to the prospect of joining the EU. Through this process, the EU also developed the principles and criteria against which to assess the political and economic standards of the countries wishing to join the EU (the Copenhagen criteria agreed in 1993), “screening” methods to evaluate their political and structural situation, annual reports on progress towards adopting the *aquis communautaire*, and guidelines, benchmarks and priorities to be addressed to meet the general conditions laid down by the EU. These tools were used to deal with the increasingly authoritarian signs of Slovakia’s President (a case treated first through diplomatic means and then by delaying the country’s opening of accession negotiations) and to put pressure on the Baltic States to establish citizenship laws in line with Council of Europe standards, especially with regard to the status of Russian minorities. The success of the EU in transforming Central Europe by integrating the region into its own structures led to a broad consensus that enlargement was the EU’s most successful foreign policy, and that conditionality was a part of such policy.

The EMP, launched in 1995, also contained some general UN-based principles mostly related to basic human rights to which all partners agreed, and some mechanisms for the EU to verify and put pressure on its partners in case such principles were violated. All the Association Agreements concluded within the framework of the EMP, for example, contained an “essential element” clause which would allow the EU to use a series of negative measures, from aid

suspension to cutting off relations altogether, in cases of breaches of the fundamental principles underpinned in the Partnership. However, throughout the years of the EMP, and despite the abundance of cases justifying applying some pressure, the EU never resorted to negative conditionality in the case of the countries on the southern shore of the Mediterranean, with the exception of endorsing international sanctions towards Libya in the 1990s.

As the 2004 EU enlargement approached, member states and the Commission began to address the consequences of such geographical expansion, especially towards Eastern Europe, an area which uneasily gravitated between Russia and the EU's orbit. In 2004, the Commission launched the European Neighbourhood Policy to address all the countries beyond the EU's borders, and not just Eastern Europe as initially intended. For the countries in North Africa and the Middle East, the ENP would complement rather than substitute the regional EMP, strengthening the bilateral relations between the EU and individual countries.

The ENP drew many of its tools directly from the experience of the enlargement process (Kelley, 2006) in an attempt, among other things, to strengthen conditionality towards the countries on the southern shore of the Mediterranean. Action Plans, negotiated with the governments of single countries, introduced long lists of short-, medium- and long-term priorities to be met by the "partner" governments and benchmarks to assess reform. In doing so, the Commission was also drawing on lessons learnt, addressing criticisms whereby the benchmarks were not clear, were changeable, and could be manipulated to suit political needs. As in the case of enlargement, yearly Progress Reports were compiled by the Commission, aided by the Country Strategy Papers which had been introduced in the early 2000s to reflect the EU's increasingly global outlook.

In other words, the ENP imported much of the logic of enlargement as far as conditionality is concerned without making a critical assessment of the crucial differences between Central Europe and the "neighbourhood" countries: the absence of the ultimate incentive of accession, of the strong consensus in Central Europe about "returning to Europe", and of the fundamentally different understanding of sovereignty and external interference in the internal affairs of the state.

The Commission addressed some of these problems by introducing the concept of "joint ownership", whereby "the EU does not seek to impose priorities or conditions on its partners. The Action Plans depended, for their success, on the clear recognition of mutual interests in addressing a set of priority issues" (European Commission, 2004). In other words, the reform objectives, the priorities to be addressed, and the timeframe for their realization were to be agreed upon together.

Notwithstanding this new methodology introduced by the ENP, conditionality was rarely exercised in the case of the southern Mediterranean countries and, if it was, the criteria (both positive and

negative) were by no means clear. While some countries (but not all) were occasionally criticised through diplomatic and Common Foreign and Security Policy (CFSP) tools,² negative measures were never contemplated. Progress in negotiating the Association Agreements and the Action Plans depended mostly on economic reform. Tunisia, for instance, was one of the first to sign an Association Agreement, and was in the first group of countries agreeing on the ENP Action Plan thanks to its advances in economic liberalisation, despite the fact that since the late 1990s Ben Ali's regime had been increasingly restricting freedoms. Tunisia was also one of the countries to be least criticized for its human rights record (Balfour, 2012b). The reasons for some countries making least progress in negotiating their Association Agreements, such as Syria or Algeria, were more due to their lack of interest in institutionalising relations with the EU than as a consequence of the EU holding back incentives because of the absence of progress on political reform.

One of the strong points of the ENP has always been the attempt to extend the EU's regulatory approach beyond its borders. In other words, by offering integration into parts of the EU Single Market the EU tried to conceptualise a geographical space broader than its borders governed by common rules: "Everything but the institutions" (Prodi, 2002). Implicit was an attempt to break down the barriers between internal and external policies, and focus on economic and regulatory integration between the two shores.

In practice, however, relations with North Africa and the Middle East have always been overwhelmingly dominated by strategic and security priorities ranging from conflict in the Middle East, migration control, the fight against terrorism, and access to energy. Not only were these aspects beyond the remit of the Commission's External Relations Directorate General dealing with the ENP, but member states maintained strong national control over such dossiers, and when acting collectively would do so under the umbrella of the CFSP, where the relevance of the EU's external relations and its tools were limited. One fallacy of the ENP was to assume that conditionality, developed in the context of the donor-beneficiary relations of development cooperation and of EU enlargement, could be exported to policies which fall into the more traditional foreign policy domain.

The focus on the mechanics of conditionality therefore obscures the political dynamics and dilemmas that derive from policies which fall more squarely under the category of "foreign policy", of which the ENP is just one part. The use of conditionality is indeed a means, but with aims which are exquisitely political. For this reason, its use faces a set of dilemmas that cannot be solved by introducing new benchmarks.³

The first of these dilemmas revolves around whether to engage with countries whose political standards are far from those desired by the EU (or agreed upon in the various documents and declarations that the EU agrees with third countries) or whether to condemn these governments

2. The EU could make public statements through its Presidency, send a "troika" to discuss political matters with other governments, issue public or informal "demarches" to raise concerns over human rights or other issues. For the use of these tools in the context of Euro-Mediterranean relations, see Rosa Balfour (2012b).

3. These dilemmas were first developed in Rosa Balfour (2007).

through the use of negative tools. This dilemma runs through the history of international diplomacy, but the Arab Spring and its consequences have brought the debate to the fore of EU policy, and foreign ministers have recently gathered to discuss engagement and isolation informally and behind closed doors (Ashton, 2012).

Generally, the EU has espoused a preference for engagement, using the argument that dialogue can also be used to press for human rights concerns. EU leaders repeatedly assure the press, NGOs and public opinion that issues relating to so-called EU "values" are raised at diplomatic meetings worldwide. At the same time, since 2010 the EU has been toughening and sharpening its sanctions toolbox especially towards Iran (Bassiri Tabrizi and Hanau Santini, 2012), but has also been more active in resorting to sanctions outside the UN framework, and in coordination with other international actors such as the US (Giumelli, 2011). There is little empirical evidence in favour of either approach, and this will remain a long-standing dilemma of foreign policy in general, which can hardly be addressed through a blueprint.

The preference for engagement, however, can have internal costs attached, as European public opinion outcry showed in its criticism of the early responses of European governments to the revolutions in Tunisia and Egypt, which led to the resignation of one French minister following her public support of Ben Ali. In many cases engagement has not produced the expected results. With the end of the international sanctions, EU member states and institutions progressively made efforts to develop relations with Libya, but with little impact in terms of increasing the EU's influence over the regime. But even condemnation and isolation can be of little consequence or detrimental to broader objectives. The interruption of relations with Hamas undermined the EU's influence in Palestine (Tocci, 2007). The policy of cooling relations with Syria after the assassination of Lebanon's Prime Minister Rafik Hariri in 2005 was reversed in 2008 with the famous handshake between French President Nicolas Sarkozy and Syrian President Bashar al-Assad at the Paris Summit launching the Union for the Mediterranean. But the benefits of neither approach have been apparent. Once the uprising broke out in Syria in 2011, Damascus was still undecided whether to sign an agreement painfully negotiated with the EU. With Iran too, the mixture of international sanctions and offers to talk with the Iranian government have not produced conclusive answers on the impact of engagement or isolation (Bassiri Tabrizi and Hanau Santini, 2012).

The second dilemma regards the tension between developing "one size fits all" approaches and the differential treatment of countries. In practice, the EU has always treated countries differently; indeed, differentiation was an explicit principle of the ENP and of its reinforced 2006 strategy (European Commission, 2004 and 2006), but this can lead to accusations of double standards, which in turn can undermine the credibility of the commitments and principles that the EU claims to promote. Striking a balance between the two is no easy task if conditionality is centred upon

universal principles while policies aim to address the concrete conditions of each country. As we shall see in the following sections, the increased diversity between the MENA countries since the Arab Spring has prompted the EU to emphasise differentiation. The trouble will be identifying the middle ground: which countries should be prized for their efforts and which should be held back in accessing the incentives that the EU puts on offer.

This leads to the third problem which regards the implementation of the package of incentives that the EU uses to modulate its conditionality. One of the weaknesses of the translation of conditionality from development cooperation and enlargement into the ENP rests on the absence of the final carrot. While developing countries are more dependent on EU aid and accession countries are prized for their efforts with final membership, the EU has much less to offer to the MENA countries. EU protectionism against the export of certain goods has limited access to the internal market, assistance packages are not always attractive compared to other international donors interested in the region, and complicated and protracted negotiations are often hostage to positions of single EU member states. These have weakened the positive side of conditionality. In addition, EU member states are often *demandeurs* from the region, for the control of irregular migratory flows or energy exports.

Indeed, in the case of the MENA countries, the degree to which conditionality has been commensurate with the concrete aims and priorities has been questionable, leading to the problem of balancing transformative aims and stability aims, the contradictions of which became evident with the outbreak of the Arab Spring.

4. “More for More”: Refining Political Conditionality after the Arab Spring

The post-Arab Spring policy proposals focus strongly on redefining conditionality. The slogans of the new packages include “deep democracy”⁴ as the new goal following the demands of those who have changed the prospects of North Africa and the Middle East. The means to achieve this is to offer a more attractive package of incentives in terms of assistance, trade and mobility to those who embark on a reform path – “more for more”. Another pillar of the revised ENP includes a Civil Society Facility which will be available regardless of government to government relations, and thus will not be subject to the conditional method.

Additional incentives (known as the “3 Ms” – more money, market access and mobility) are on offer only to those countries which are moving on a concrete path of reform. The European Neighbourhood Policy Instrument (ENPI) has increased its resources to €6.9 billion thanks to an additional €1.2 billion for 2011 and 2012 found in response to the changes brought about by the Arab Spring. The SPRING programme (Support for Partnership, Reforms and Inclusive Growth) complements this with additional funds of €65 million in 2011 and €285 million in 2012. Support will be tailored to the needs of each country, based on an assessment of the country's progress in building democracy and applying the “more for more” principle. Tunisia and Egypt, for example, are to receive additional financial resources (€160 million and €449 million for 2011-2013, respectively). These figures, however, are far from the expectations of the new governments in these countries. The G8, through the Deauville Partnership committed \$38 billion to support change in Tunisia, Egypt, Morocco and Jordan, and the IMF has pledged another \$35 billion.

The US put together roughly similar amounts to support change with around \$800 million in 2011 and a request for \$770 million presented to the US Congress in 2012, establishing the Middle East and North Africa Incentive Fund, a new tool to advance democratic, institutional, and economic reform, based on incentives and conditions.⁵ These funds are additional to the ordinary budget for the region, which in 2012 exceeds \$1 billion in economic aid and \$1.7 billion in military aid (Goodenough, 2012).

A Deep and Comprehensive Free Trade Agreement (DCFTA) is the long-term incentive on offer by the EU, an upgrade compared to the Free Trade Areas which were the ultimate aim of the Association Agreements set in motion with the Euro-Mediterranean Partnership. DCTFAs will be offered only to those countries which are moving towards “deep democracy”, while the Association Agreements will remain in place for those countries which remain unwilling to reform. In December 2011, the EU foreign ministers agreed to start negotiations for a DCFTA with Tunisia, Egypt, Morocco and Jordan. Given that half of the exports of these countries go to Europe, DCFTAs can indeed be considered an appetising incentive. But the EU also needs to work on trade integration and on promoting European investments in the region to counter the trade asymmetry between the two shores. Only 5% of total

4. “Deep democracy” includes: “Free and fair elections; freedom of association, expression and assembly and a free press and media; the rule of law administered by an independent judiciary and right to a fair trial; fighting against corruption; security and law enforcement sector reform (including the police) and the establishment of democratic control over armed and security forces.” European Commission and High Representative of the European Union for Foreign Affairs and Security Policy (2011b). The letter of the HR and Commissioner for Neighbourhood sent to the twenty-seven foreign ministers also mentions basic human rights (the abolition of capital punishment, freedom of religion, non-discrimination on the basis of gender or sexual orientation, non-discrimination of minorities, rights of the child, abolition of torture and degrading punishments).

5. Department of State (USA), Executive Budget Summary, Function 150 & Other International Programs, Washington, no date or document number available, <http://www.usaid.gov/performance/cbj/183755.pdf>.

EU imports and exports are with the nine countries on the southern shore of the Mediterranean (European Commission, 2012).

The issue was eventually overtaken by events. DCFTAs are thus long-term objectives, even if Morocco and Tunisia's advancement in bilateral economic relations with the EU might make the prospect more tangible for them. The Commission has committed itself to work on lifting the protectionist barriers that have so far limited market access for the countries in North Africa and the Middle East; indeed, an agreement for a partial liberalisation of trade in agriculture and fisheries with Morocco was approved last February.

"Mobility partnerships" are the final leg of this "more for more" package to make population movement easier for some citizens from the region. Given the emigration pressures that exist in these countries, augmented by the economic downturns that were a consequence of the Arab Spring, and the demands on the part of Europe to cooperate in preventing irregular migration, incentives in the field of mobility and migration management are clearly an important area. Tunisia, Jordan, and Morocco have been indicated as the first countries to benefit from these advantages.

Even in this field many points remain to be clarified. First of all, compared to the visa facilitation and liberalization prospects offered to the countries of Eastern Europe, mobility partnerships are a far weaker offer. Secondly, only some member states will use them, as there is no general obligation to adopt this tool, and will do so bilaterally, presumably with countries with which the EU member state enjoys special relations, contacts and proximity. Also, it is unclear how wide the EU and its member states will cast the net: how many citizens will be eligible, and which categories? Usually, mobility partnerships are limited to rather small groups, such as academics, and cultural representatives, etc. Finally, there are indications that strings will be attached. Third countries' citizens will be offered legal channels to the EU member states if their governments cooperate in preventing and reducing irregular migration. The question will be how to identify the benchmarks for an incentive-specific type of conditionality. In light of the tensions that 20,000 Tunisians fleeing turmoil caused in the Schengen system, and in the current tensions in the European public debate over migration issues, it cannot be excluded that the requirements put on the countries in North Africa and the Middle East will be demanding (Pascouau, 2012a). In fact, one of the unintended consequences of the Arab Spring in the field of European migration governance has been an increased pressure on the Schengen system by some member states. The April 2012 Franco-German letter to the Danish Presidency asking for the possibility of extending internal border checks in certain circumstances is one example (Pascouau, 2012b).

The two Communications on a Partnership for Democracy and Shared Prosperity and the ENP Review focus mostly on the positive side of conditionality, while negative tools are explained only by reference

to the sanctioning regime that has been progressively put in place in an attempt to curb the repression of the uprising in Syria and to persuade the regime first to negotiate with the opposition, and then, as violence against civilians spiralled, to step down. The unpublished letter sent to the national foreign ministers in February 2012 and forwarded to the European Parliament is more comprehensive, and answers many of the questions raised above regarding the “middle ground” – in other words, the departing point for the “more for more” principle to be applied and the other side of the coin: the “less for less”. This also reflects the ways in which the EU intends to strengthen its differentiated relations with the countries in the region.

As things stand today, the countries that remain stable and choose not to embark on reforms will remain at pre-Arab Spring levels of relations with the EU. In other words, the EU does not want them to be negatively affected by the changing relations with the other countries.

The preference for engagement is also spelt out, arguing that even if the commitment towards political reform is absent, the EU should use engagement “at some level” through existing tools, such as the ENP Action Plans, and should try to draw countries into more institutionalized relations with the EU. Libya is one country which has no formal agreements with the EU, as a Framework Agreement was in the process of being discussed when the Arab Spring events changed the situation. Algeria too is not yet party to the ENP. Negative measures, from suspending talks or cooperation, suspending assistance or agreements, and the full range of sanctions would thus be limited to the event of grave and persistent cases of violations of basic rights, following the Syrian example.

This greater differentiation is supposed to be accompanied by a search for policies that are more capable than in the past of addressing local situations. The EU-Tunisia Task Force, which met for the first time in September 2011, was the first example of an EU attempt to put political dialogue on a different footing, to bring together different stakeholders relevant to EU-Tunisia relations, including other international donors, and to take into account the requirements and needs of Tunisia rather than follow the EU's tools-based approach. Another task force between the EU and Jordan has also been created, following the announcement in Amman of a set of constitutional reforms. A second generation of ENP Action Plans which is due to be developed, the creation of the EEAS in Brussels, the strengthened EU Delegations in the region, the recent introduction of Human Rights Strategy Papers, could all be useful tools to enhance the EU's understanding of local conditions and tailor its policies accordingly. Aid too will be guided by greater differentiation between countries with the aim of developing more tailor-made approaches to assistance (European Commission, 2011a). Furthermore, conditionality will be monitored more strongly with regard to direct budget support, which makes up about half of the EU's assistance to North African and Middle Eastern governments, by strengthening the evaluation and monitoring system, including through dialogue with partners (European Commission, 2011b).

5. Problems in the EU's Renewed Approach

The initiatives developed over the past year show that the EU has been engaged in a general process of sharpening both ends of the conditionality spectrum, taking existing policies and types of relations as the starting point. In itself, the exercise of addressing some of the pitfalls of past practices and developing new methods was needed and is producing results which can have the potential to modify the EU's forms of engagement with the rest of the Arab world.

However, the approach of the EU is based on the instruments available, rather than on the nature of existing challenges (Morillas and Soler, 2012). This instrument-led approach does not necessarily address the key problems nor is it always understandable to partners that are new to the language of the EU (such as "benchmarks", "differentiation", and "tailor-made", etc).

Leaving aside the lack of a strategy towards North Africa and the Middle East, there are doubts regarding conditionality that need to be raised. There is something paradoxical in the fact that these new forms of positive conditionality are to be applied to the countries that have been undergoing radical change, such as Tunisia, or have been making the greatest efforts at reform from above, for example Morocco. In contrast with the EU's past dealings with authoritarian rulers or with the relations with the "status quo" countries such as Algeria, the EU is now making some demands for reform. This means that the policies developed are relevant only insofar as the third country is willing and committed to carry out reform processes and is interested in the incentives on offer. In North Africa, Tunisia has been more forthcoming than Egypt in accepting EU involvement. For example, the EU sent an Election Monitoring Observation Mission to monitor the elections in October 2011, an initiative which had only one precedent in the region (the Palestinian elections in 2006). As a possible success story for the whole region, the EU appears to be investing much attention in Tunisia, while it struggles to be relevant in the context of Egyptian dynamics, where the US continues to play a greater role, or to have a significant voice in Syria. In some ways, EU demands for reform in Egypt are weaker than in the past: whereas Mubarak had been under some pressure to end the emergency law, the EU is not making the same demands to the Supreme Council of the Armed Forces.

Secondly, to be of interest, the incentives need to be delivered. The EU's track record has not been spotless, all the more when the member states are needed to lift protectionist barriers, to spend more resources on the Arab countries, or to expand the quotas of immigrants allowed to enter Europe from the region. The irony of the "more for more" approach is that neither the High Representative (HR) nor the Commission is responsible for delivering these incentives: all three fields are ones in which the member states are the decision-makers. The new positive tools of the EU's renewed conditionality suffer from a credibility problem before they are even implemented. It comes as no surprise that the HR and the Commission have been explaining to the member states, in an unpublished letter of February 2012, how the new conditionality regime would work. Without

the endorsement of the member states, the whole “new” response to the Arab Spring would crumble.

Even if the incentives were delivered, not all countries will find them of interest. Energy exporting countries, such as Algeria and Libya, have had limited engagement with the EU also because of the unattractiveness of what is on offer. Trade relations are tilted in favour of these countries, which are the only net exporters of the region towards the EU. Indeed, the entire review of the ENP does not address the question of how to engage with or have an impact on countries which are reluctant about or uninterested in stronger relations with the EU. This applies to Syria and to other countries in the Levant where European influence is weaker and internal politics complex.

With the aim of putting the relationship on a somehow more equal footing, the new policies introduce the notion of “mutual accountability”, whereby the EU too can be made to keep its promises. But, whereas the EU has tools and procedures to use negative conditionality should it want to (regardless of the fact that in practice it rarely does so), there are no mechanisms for the EU's partners to hold it accountable for delivering on its promises.

It is also questionable whether the focus on conditionality is relevant in itself. Sovereignty has always been an important principle in the post-colonial Arab world, seen as part of national identity, and the notion of “dignity” – personal and national – has been a recurring theme of revolutionary North Africa and the Middle East. Tunisia's ratification of the Rome Statute of the International Criminal Court (ICC), which implies accepting the principle of external judicial interference in internal affairs, is an exception rather than the rule: unlike Europe, South America, Africa and increasingly Asia, the Arab world is hardly represented in the ICC.

The more democratic the new governments, the more assertive they are likely to be about their identity, their relations with Europe and their position in the world – with positions that might not be to the liking of European capitals. This has been evident in relations with Egypt, where the EU and the US are preoccupied that Cairo maintains constructive relations with Israel and continues its role in the Israeli-Arab conflict, while Egypt has been increasingly suspicious of the role of external actors, which it accuses of interference. The recent jailing of US NGO employees working in Egypt and the deterioration of relations with Washington is a clear example.

Indeed, much of the post-Arab Spring EU rhetoric has emphasized the modesty of the EU's positioning and its “listening mode” towards the new actors emerging, as the quotation from the HR/VP's speech at the beginning of this paper illustrates. This partly reflects the mea culpa the EU institutions are undergoing for failing to grasp the dynamics in the Arab world and for the complicity of European governments in supporting the regimes in the region. So far this modesty

of ambition has translated into reactive political positioning following developments and requests coming from the countries. While Tunisia has been forthcoming in accepting EU policies and international advice (for example, through consultations with the Council of Europe on drafting the new constitutions), other countries have been more suspicious about EU involvement.

How this humility will be squared with the redefinition of political conditionality that has been carried out during 2011 remains to be seen and only practice will bring out the new dilemmas of engagement with the region.

6. Conclusions

Laudable efforts have been made to fine-tune the mechanisms through which conditionality can be applied, to clarify the principles upon which it is based, the expectations from processes of political reform, the recognition that democracy cannot come about overnight, and the offer of a mix of incentives. The EU is also directly addressing some of the dilemmas that have been evident from past practices by highlighting the need for differentiated policies and explaining how and in what cases such differentiation will be applied. It has made explicit its preference for engagement even with countries which do not subscribe to the principles upheld by the EU (and adhered to in UN treaties and conventions and in the Euro-Mediterranean Partnership), except in cases where human rights violations are grave and persistent.

Yet many questions remain as to how this new system will find its application in political practice. At the EU level, one key problem relates to the EU's foreign policy making system, which relies on the member states delivering the incentives and tailoring their national policies towards the region with ENP and EU diplomacy. So long as the member states continue pursuing national objectives, often at the expense of EU positions, collective policies will be unable to produce the intended results. North Africa and the Middle East have always been areas of great divisions between the member states, not just in relation to the Israel-Palestine conflict, but also in the perceptions of the priorities to be pursued, from contrasting irregular migration to fighting terrorism (Balfour, 2012b). This logic of diversity has continued to be evident since the start of the Arab Spring; the split over intervention in Libya and in the vote for the recognition of Palestine as a member of UNESCO were manifest episodes.

Furthermore, the new guidelines on the use of political conditionality do not reflect a deeper analysis of whether the EU enjoys the conditions of leverage, influence, incentives and relevance to be able to exercise it. Translating a concept developed in different contexts (development cooperation and enlargement) into foreign policy leads us to question whether conditionality is the "right" approach for North Africa and the Middle East. Two arguments need to be examined.

On the one hand, political conditionality has few and limited chances of bringing about change because of its problems of delivery and implementation. Conditionality requires an asymmetry of leverage and influence tilted in favour of the EU. However, EU influence in the region is by no means comparable to that of a traditional relationship between donor and beneficiary, nor to the case of the accession process. Assuming the EU could agree on a few common political goals, it continues to be reluctant to throw its economic weight around in order to achieve them. Moreover, the EU's attraction and influence in the region vary enormously between countries. Against a backdrop of Europe's global decline, changing power dynamics in the region with other actors trying to acquire a more important role, such as Turkey, Saudi Arabia, Qatar, and other global powers, such as China and Japan securing economic ties, the EU does not seem likely to

strengthen its influence in the years to come. Furthermore, even if the new governments have reassured the EU and the US of their foreign policy continuity, especially with regard to Israel, Islamist-influenced governments are likely to broaden their views on international relations looking for partnership and cooperation beyond the traditional allies in the North and West (Kausch, 2012), and will need to be accountable to their electorates. Beyond the conditionality issue, the EU and the US will need to find ways to manage the likelihood that the more democratic the countries in the region become, the less pro-Western they may also be.

On the other hand, few countries can live in isolation: internal developments do have an impact on third countries, making it legitimate for the EU to be concerned with political dynamics especially within neighbouring countries with which human, cultural and economic ties are closer than is generally assumed. Furthermore, in democracies external assistance does require accountability to national parliaments and auditing bodies. Indeed, all international actors put some conditions on their external policies and expect certain results from them. The EU would be chastised by European public opinion should it repeat policies resembling those which supported Ben Ali and Mubarak. In many ways, the revision of conditionality seems to reflect an internal demand for a redefinition of “ethical” standards for engagement, following the exposure of EU contradictions in its relations with dictators.

There is no clear-cut answer to these dilemmas. But they do suggest that one priority should be to rethink the type of relations between the two shores, and not just the forms, methods and tools to exercise political conditionality. A more equal relationship could be a first step, moving away from the enduring “unacknowledged cultural legacy of colonialism” (Halliday, 2005), and understanding the national “dignity” that moved so many in North Africa and the Middle East to get rid of their perennial leaders. Interdependence, rather than conditionality based on asymmetry of power, and the reference to universal principles rather than to standards of democracy, makes it legitimate to support them abroad, notwithstanding the accusations of double standards that the EU often encounters. And identifying common interests and concerns which respond to the demands of the people in this common Mediterranean space may be a way to establish a new dialogue with a changing Arab world.

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IEMed.

The European Institute of the Mediterranean (IEMed), founded in 1989, is a consortium comprising the Government of Catalonia, the Spanish Ministry of Foreign Affairs and Cooperation and Barcelona City Council. It incorporates civil society through its Board of Trustees and its Advisory Council formed by Mediterranean universities, companies, organisations and personalities of renowned prestige.

In accordance with the principles of the Euro-Mediterranean Partnership's Barcelona Process, and today with the objectives of the Union for the Mediterranean the aim of the IEMed is to foster actions and projects which contribute to mutual understanding, exchange and cooperation between the different Mediterranean countries, societies and cultures as well as to promote the progressive construction of a space of peace and stability, shared prosperity and dialogue between cultures and civilisations in the Mediterranean.

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Comprising 87 institutes from 33 European and Mediterranean countries, the EuroMeSCo (Euro-Mediterranean Study Commission) network was created in 1996 for the joint and coordinated strengthening of research and debate on politics and security in the Mediterranean. These were considered essential aspects for the achievement of the objectives of the Euro-Mediterranean Partnership.

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