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**THE REFORM OF EU DEVELOPMENT POLICY**  
**IMPROVING STRATEGIES FOR CONFLICT PREVENTION,**  
**DEMOCRACY PROMOTION & GOVERNANCE CONDITIONALITY**

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CARLOS SANTISO\*

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### Abstract

Improving external relations and the management of development aid is a key component of the current reform of the European Union (EU). In the course of the 1990s, the promotion of democracy, the strengthening of good governance and enhancing the rule of law progressively became both an *objective* and a *condition* for the EU development assistance with developing countries. Achieving these sometimes-contradictory goals in practice is a permanent challenge. This paper reviews the EU's policies and strategies aimed at preventing conflict and responding to the crises of governance. It explores the difficult combination of democracy assistance and governance conditionality and its applicability to the prevention of democratic erosion in developing countries. While the EU mainly relies on a positive approach of support and inducement, it has also introduced, since 1995, provisions to suspend aid in the event of a sudden and persistent interruption of the democratisation process. The suspension mechanism enshrined in the cooperation agreement between the EU and ACP countries has made political dialogue the main strategic tool for achieving these varied purposes. Mainstreaming political dialogue into the cooperation forces the EC to focus more explicitly and more rigorously on issues of power, politics and democracy than it has done in the past.

Governance conditionality constitutes a critical juncture between democracy promotion and conflict prevention strategies. The article is organised in three substantive sections. It successively addresses the policy, strategy and implementation dilemmas of EC democracy and governance activities in third countries, reviewing the policy responses of the EC to the crises of governance in Niger, Haiti, Côte d'Ivoire and Fiji. It argues that conducting structured political dialogue puts further demands on the management of aid. While punitive forms of political conditionality have proved largely ineffective, an incentive-based approach to governance conditionality could yield, if well managed, greater results. The article concludes with a series of proposals for enhancing the European Commission's ability to manage political dialogue and governance conditionality to encourage democracy and prevent conflict.

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# **THE REFORM OF EU DEVELOPMENT POLICY**

## **IMPROVING STRATEGIES FOR CONFLICT PREVENTION, DEMOCRACY PROMOTION & GOVERNANCE CONDITIONALITY**

CARLOS SANTISO

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The gods had condemned Sisyphus to ceaselessly rolling a rock to the top of a mountain, whence the stone would fall back of its own weight. They had thought with some reason that there is no more dreadful punishment than futile and hopeless labour.

Albert Camus, *The Myth of Sisyphus*, 1942

### **1. Introduction: The Challenges of Reform**

The European Union (EU) stands at a crossroads, a defining juncture in its history as it launches the single currency and prepares for enlargement. At the same time, the EU faces multifaceted challenges to ‘reinvent’ itself. In recent years, great expectations have been raised on the reform of European governance. At the recent European Council held in Laeken, Belgium, in December 2001, European leaders renewed their commitment to re-energise the EU and decided to convene a Convention on the Future of Europe in March 2002, chaired by former French president Valéry Giscard d’Estaing.

Improving the management of external aid is a key component of the reform of the European Commission initiated in 1998 and made a priority in the wake of the 1999 crisis. At the global level, the reform of the foreign aid managed by the European Community (EC) provides a critical opportunity to re-equilibrate the global aid regime by strengthening the coherence of European international development cooperation. The main innovation of the current overhaul of EC development assistance resides in its ambition to articulate coherent aid policies, set consistent strategies and establish more efficient management structures. It is argued that the reforms engaged may signal a re-foundation of EC aid policy and in particular its efforts to promote democratic governance and the rule of law abroad. Nevertheless, the current revamping of external relations and foreign aid presents the EU with daunting challenges. The reform process is beset with both promises and dilemmas: can the Sisyphean tasks of promoting democratic governance and the rule of law in politically fragile countries and dysfunctional states be reconciled with the inner workings of a bureaucracy with a procedure-driven ethos?

The period from 2002 to 2004 is likely to be a time of sweeping reforms, which, if well designed and managed, could yield major results. This article sets out to assess the thrust, direction and scope of the current reform of EC aid policies, strategies and structures, as it pertains to the efforts of the EC to encourage democracy, strengthen good governance and prevent violent conflict in developing countries. It focuses on the controversial recourse to governance conditionality and aid selectivity to increase the effectiveness of aid.

In the course of the 1990s, the promotion of democracy, the strengthening of good governance and the enhancement of the rule of law have progressively become both an *objective* and a *condition* for the EU development assistance with developing countries (Burnell 1994, 2000; Whitehead 1996; Diamond 1997; Carothers 1999; Crawford 2001, 2000a and b; Santiso 1999 and 2001a; Youngs 2001; Schraeder 2002). As recent events in Zambia and Zimbabwe show, achieving these (sometimes contradictory) twin goals in practice is such a permanent challenge that it has often been described as the Sisyphean task of ‘ceaselessly rolling a rock to the top of a mountain.’ Furthermore, preventing conflict, impeding the corrosion of governance and responding to the erosion of democracy represent even more daunting tasks for aid policies. While the debate over the kinds of strategies best able to encourage democratisation in the developing world has made significant progress, the prevention of democratic regressions has become a pressing concern for the international community. The 1990s were marked by recurrent crises of democratic governance, which destabilised politically fragile countries. The question then becomes how to promote democratic governance and the rule of law in ‘poor performing’ countries, hollow democracies and semi-authoritarian regimes such as Zimbabwe.

The cooperation framework between the EU and 77 countries in Africa, the Caribbean and the Pacific (the so-called ACP group), which is often depicted as a model of development partnership, serves as the main reference framework for this study. Along with the thorny issues related to trade, the political dimensions of the EU-ACP cooperation were amongst the most contentious issues during the negotiations leading to the adoption of the Cotonou Convention in June 2000, which now regulates EU development cooperation with ACP countries. Political dialogue has become the main instrument for promoting democratic governance and preventing conflict in democratic-backsliders such as Haiti, Fiji, Kenya, Guinea-Bissau, Zambia or Zimbabwe. However, the current reform

proposals tend to focus more on improving the management of aid, than enhancing its ultimate effectiveness. More fundamentally, they only tangentially address the central ‘question of strategy’ (Carothers 1997a) and in particular *how* political dialogue should be conducted and structured in practice, including, *inter alia*, what are the procedures framing it and how the indicators of governance performance will be defined and monitored.

The current debate on mainstreaming of political dialogue into the cooperation is further hampered by the lack of comprehensive review of how political dialogue has been conducted in the past, especially since the adoption of the revised fourth Convention of Lomé in 1995. As the cases reviewed in this study show, the key challenges reside in the implementation phase. The working paper argues that the European Commission remains ill equipped to conduct structured political dialogue with its development partners in the context of the newly proclaimed development partnerships. It tends to follow the leadership of the international financial institutions (IFIs) in the context of the Poverty Reduction Strategy Papers (PRSP) process. This tendency is particularly problematic as far as the political aspects of the cooperation are concerned and could undermine the identity of EC development cooperation.

This working paper reviews the policies and strategies aimed at preventing conflict and responding to the crises of governance in the current context of the overhaul of EC development aid. It explores the difficult combination of democracy assistance and governance conditionality and its applicability to the prevention of democratic regression and governance erosion in developing countries. It scrutinises in particular EU cooperation with countries in Africa, the Caribbean and the Pacific (ACP), which has made political dialogue the main strategic tool for achieving the varied purposes of EC aid. While the EC mainly relies on a positive approach of support and inducement, it has also introduced, since 1995, provisions to suspend aid in the event of a sudden and persistent interruption of the democratisation process. However, mainstreaming political dialogue in development cooperation will force the EC to focus more explicitly and more rigorously on issues of power, politics and democracy than it has done in the past. Combining structured political dialogue, democracy assistance and governance conditionality presents the EC with multifaceted dilemmas.

The working paper is organised in three substantive sections. It successively addresses the policy, strategy and implementation dilemmas

of EC democracy promotion activities. The first section scrutinises the mainstreaming of democracy and governance assistance strategies in the context of the current reform of the EC aid apparatus. The second section focuses more narrowly on the difficult combination of democracy assistance and governance conditionality. The last section compares and contrasts the responses of the EU to crises of governance and regressions of democracy in four case studies: Niger, Haiti, Côte d'Ivoire and Fiji in the context of the cooperation between the EU and ACP countries.<sup>1</sup>

We argue that conducting political dialogue in a structured and consistent manner puts further demands on the political management of aid. However, current reforms tend to emphasise the technical dimensions of aid effectiveness, paying less attention to political and strategic considerations. More fundamentally, punitive political conditionality is an inadequate strategy to respond to democratic regressions and crises of governance. However, new forms of 'positive' conditionality, relying on incentive mechanisms and aid selectivity, offer greater promises, if appropriately managed. Democracy assistance and governance conditionality could prove mutually reinforcing strategies to strengthen democratisation and prevent conflict by modifying the incentive structure faced by partner countries. We conclude by articulating a series of proposals for improving the Commission's ability to manage political dialogue. We suggest ways in which the Commission could strengthen its strategic planning, policy research and evaluation capacities in the field of democracy and governance.

This working paper is rooted in the belief that external democracy promotion can and does have a decisive influence on the fragile processes of democratisation in developing countries. Promoting democracy, strengthening good governance and preventing violent conflict is a Sisyphean task, both for international donors collectively but even more for each one of them taken individually. However, it is not a 'futile and hopeless labour'.

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<sup>1</sup> We do not examine the cases where the outbreak of conflict has made aid impossible, thus de facto suspending it (such as Somalia, Sierra Leone, the Democratic Republic of Congo, Rwanda and Burundi), neither those 'rogue states' where sanctions and strategic isolation have been applied under the EU's foreign policy provisions (such as Libya, Iraq, the former Republic of Yugoslavia, and North Korea).

## 2. Encouraging Democracy and Strengthening Governance: Policy Dilemmas

### The Limits of the Technocratic Approach

The EU's efforts to promote democracy and strengthen good governance in developing countries have been criticised for their lack of coherence, consistency and effectiveness, most recently by the European Court of Auditors (Comité des Sages 1998; Court of Justice 1998; Court of Auditors 2000a and b; Olsen 2002). The technocratic consensus impregnating EC aid and the opacity of its bureaucratic procedures have obliged the EC to address political problems with technical solutions in the straightjacket of complex decision-making processes and intricate management procedures. An opaque administrative labyrinth, a technocratic approach to the management of aid and burdensome ex-ante financial controls compound the absence of an overarching democracy assistance strategy.

The Commission has often been criticised for its bureaucratic management of resources, as strategies have tended to be guided by instruments rather than by policy objectives. In its conclusions of May 1999, the Development Council noted that 'the organisational fragmentation of development cooperation within the Commission causes difficulties for coherent and integrated Community development cooperation'. The exasperation with the failure of the Commission to reform its development aid effectively was expressed in 2000 by the International Development Committee of Britain's House of Commons in its ninth report on the effectiveness of EC development assistance and bluntly voiced by Clare Short, Britain's Secretary of State for International Development, in June 2000: 'the Commission is the worst development agency in the world. The poor quality and reputation of its aid brings Europe into disrepute'.<sup>2</sup>

The geographically compartmentalised structure of aid management has led to a splintered policy framework. Thus, as many observers have argued, 'the organisational framework has appeared to influence policy, rather than the opposite' (OECD DAC 1998:12). The proliferation of budget lines and ad hoc regulations has hampered the definition of sector-wide strategies and adversely affected the coordination of EC democracy and governance promotion efforts. Beyond the broad guidelines provided by the four successive treaties, EC's aid policies applicable to any given sector or geographical area are made of a thicket of regulations,

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<sup>2</sup> 'Aid that Doesn't Help', *Financial Times*, 23 June 2000.

resolutions, declarations, and communications, often lacking an overarching policy purpose and strategic thrust.

By the end of 1999, bureaucratic inefficiencies had reached tremendous proportions. The backlog of outstanding commitments reached over €20 billion and the average delay in disbursement of committed funds had increased from 3 years in 1994 to 4.5 years in 1999. In some cases, delays between commitment and disbursement surpassed 8.5 years (MEDA 8.75 years, Asia 7 years and Latin America 6.5 years) (EC 2000d). Unclear and divided responsibilities, chronic staff shortages and complex administrative procedures were mainly responsible for these delays and the resulting deficient management of aid programmes. The credibility of EC foreign aid was thus at stake. By that time, however, the crisis had affected the legitimacy of the Commission itself. In March 1999, the Santer Commission resigned *en masse* over allegations of corruption and mismanagement and the reform of European governance became the priority of the successor Commission.

The new Commission headed by Romano Prodi came into office in September 1999 with a clear mandate to modernise the Commission and streamline the management of the institution. The 2000 White Paper on *Reforming the Commission* and the 2001 White Paper on *European Governance* provide critical assessments of the root causes of the EC crisis of legitimacy and credibility (EC 2000e and 2001c). They address, with unusual honesty and ingenuity, the key deficiencies of the Commission bureaucratic ethos and underline the urgency to reform the modes of governance within the Commission itself. The revamping of external relations and the management of aid occupies a critical place in the reform efforts (Bossuyt et al. 2000).

In many respects, the EC can be depicted using the metaphor of the Castle described by Franz Kafka in his 1922 novel, representing the archetype of bureaucratic opacity and technocratic strabismus. While its financial assistance is often sought by developing countries, its contribution to the debate on international development has remained abstruse. As a result, and although the EU is a major contributor to official development assistance, it has remained a political dwarf in the global aid regime. In particular, the aid directly managed by the Commission has often lacked identity and effectiveness, the EC being perceived more as a funding agency than a development partner with clearly demarcated aid strategies. Its political influence continues to be disproportionate in relation to its financial might.



This lack of coherence weakens the EC's leverage in the global aid regime. The EC could play a central role in global governance but fails to do so as it is consumed by internal matters linked to the management of the aid it provides. The development agenda continues to be set by the international financial institutions (IFIs) in which the EU's voice remains fragmented. In particular, the World Bank has significantly shaped development thinking in the course of the 1990s and has progressively 'acquired a quasi-monopoly on institutional knowledge in the field of economic development' (Hiboux 2000:3). The EC has largely remained a follower in these debates. Its member states share the blame for this state of affairs by not allowing the Commission to acquire the means of its ambitions. Indeed, the harmonisation or, at least, the consistency between EC and EU member states aid policies has been a permanent source of concern and friction.

### **Reforming Development Assistance**

Concerns about the quality and effectiveness of EC development assistance are not new and the EC has actively sought to address its management shortcomings. In June 1995, the Development Council requested the Commission to undertake a series of evaluations of its external aid programmes, covering aid policies towards Africa, the Caribbean and the Pacific (ACP countries), the Mediterranean (MEDA), Asia and Latin America (ALA) and humanitarian assistance.<sup>3</sup> In May 1999, in the context of the wider reform of the European Commission and on the basis of these evaluations, the Development Council called for an 'integrated and strategic up-to-date statement on development policy' and emphasised the importance of translating policy objectives into concrete operational strategies.

In November 2000, the Council and the Commission adopted a joint statement to clarify the strategic thrust of the EC development policy which stated that while poverty reduction is the main objective of EC development cooperation, it will only be sustained where there are functioning democracies and accountable government (CEU 2001). The promotion of democratic institutions, good governance and the rule of law are one of the six priority areas identified by the EC development policy. This policy statement, together with the reform of the management of external assistance currently underway, represents the new framework for EC democracy assistance. In a communication in May 2001, the

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<sup>3</sup> Global evaluations reports ACP(951338), ALA(951401), and MED(951495).

Commission made administrative reform a critical dimension of its efforts to enhance the effectiveness of aid, with the reunification of the project cycle management under an autonomous implementing agency, the *Europe Aid Cooperation Office* (replacing the *Common Service for External Relations*, SCR, established in 1998), the adoption of multi-annual programming, and the deconcentration of responsibilities toward the delegations in the field. The ultimate objective is to enhance the efficiency of the management of aid and speed up disbursements.<sup>4</sup>

Until recently, the EC lacked common country strategies guiding its interventions in any particular country (OECD DAC 1998; Court of Auditors 2000a and b). To remedy this shortcoming, the EC adopted a common *Community Cooperation Framework* in May 2000 providing a strategic basis for coordination and consistency.<sup>5</sup> This framework mandates the EC to establish consolidated Country Support Strategies (CSS) for ACP countries and Common Strategy Papers (CSP) for other partner countries. These country papers must include a systematic review of the governance environment. The ability and capacity of EC delegations will be critical to translate general policy objectives into concrete operational strategies. The key question is then whether EC delegations will be given the appropriate analytical tools to comprehend the political economy of democratisation and whether they will be endowed with the sufficient in-house expertise to articulate efficacious democracy assistance interventions.

In that respect, it has been suggested to establish a specialised institution linked to the Commission to advise it on how to implement political dialogue and design democracy assistance programmes. The European Councils in Vienna in December 1998 and Cologne in June 1999 suggested the establishment of an autonomous *European Agency for Human Rights and Democracy*. However, this option was discarded in 2001 by the Commission which believed that 'establishing a separate agency outside the Europe Aid Cooperation Office to support human rights

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<sup>4</sup> By September 2001, the level of budgetary commitments made prior to 1995 had been reduced by 52% compared to November 1999 (when this process began), a reduction of some €500 million. Moreover, by June 2001 the level of dormant commitments had been reduced to €86 million (compared to €1.3 billion by the end of December 1999 and €1350 million by the end of December 2000). EDF commitments made prior to 1995 were also reduced from €901 million in 1999 to €93 million by the middle of this year.

<sup>5</sup> SEC(2000)1049.

and democratisation in third countries would undermine the [European Initiative for Democracy and Human Rights'] essential purpose as a complement to the main EC assistance programmes and a support to the EU's specific CFSP objectives' (EC 2001a:20). However, the Commission has not proposed an alternative set-up. The *Europe Aid Cooperation Office* proposed in 1998 as part of the reform of EC foreign aid became operational in January 2001. However, its internal structure remains dominated by geographically compartmentalised units. As a result, there does not yet exist a Commission-wide institutional structure to act as a focal point for devising Commission-wide policies on democracy assistance and governance conditionality. At the policy level, this function remains splintered among various directorate-generals (external relations, enlargement, and development), although the current reforms appear to concede the central role to the external relations directorate.

### **Financing Democracy Assistance**

What has begun as a series of scattered initiatives in the late 1980s and early 1990s has gradually become a more systematic endeavour. In financial terms, the EU contribution to development assistance is significant. The EC and the EU member states combined are the largest providers of official development assistance (ODA), mainly in grant form, representing some 55% of total ODA. In 2000, the EC alone provided \$US 4.9 billion (8.5% of total ODA), representing a 13% increase from 1999, while the EU countries combined provided \$US 25.4 billion volume (44% of total ODA). The EC has become the fourth provider of ODA in volume in 2000. The EU (EC and Member States) is the second largest among multilateral donor, after the International Development Association (IDA) of the World Bank.

According to the recent review by the Development Assistance Committee (OECD DAC 1999), EC ODA has continued to grow over an extended period, both in relative and absolute terms, in a time when many other programmes have declined.<sup>6</sup> Over the past decade the EC aid has grown faster than other DAC member development cooperation programmes because EU member states have agreed to channel a growing share of their aid budgets through the EU. In 1970 EU member states were channelling 7

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<sup>6</sup> Over the last five years EC development cooperation grew at an average annual rate of 3.3% while the combined effort of DAC countries declined by 4.7% annually (OECD DAC 1998).

percent of their aid through the EU. By 1990 it was up to 13% and in 1997 it was over 17%.

EC foreign aid programme combines characteristics of a bilateral donor and of a multilateral institution, which makes it unique among development cooperation organisations. The EC has the financial responsibility for almost 10% of total ODA, an increased from 5 percent in 1985. It is also the largest donor of humanitarian aid. Total external aid commitments climbed from €3.3 billion in 1990 to €8.6 billion in 1999. The EC is directly responsible for five development cooperation programmes with countries in Africa, the Caribbean and the Pacific (ACP), Latin America and Asia (ALA), the Mediterranean (MEDA), East and Central Asia (Tacis), and the Western Balkans. Each regional cooperation framework is under the supervision of a specific committee of the European Council of Ministers (Development). The EC's external assistance programmes total some €5 billion per annum, in addition to the European Development Fund (EDF) resources for ACP countries (€13.5 billion under the 9<sup>th</sup> EDF covering the period between 2000 and 2007).

In financial terms, the EU contribution to the promotion of democracy and the strengthening of governance in developing countries and transitional economies is significant. Democracy assistance, defined narrowly as encompassing 'aid specifically designed to foster opening in a non-democratic country or to further a democratic transition in a country that has experienced a democratic opening' (Carothers 1999:6), takes mainly the form of 'positive measures' of support and inducement.

The two main sources of financing for democracy assistance are the chapter B7-70 of the EC budget and the EDF for ACP countries. As tables 1 and 2 show, direct support for governance and civil society rose from an annual average of €130 million a year for 1991-95 (less than 2 percent of total EC aid) to almost €550 million a year for 1996-98, representing over 7 percent of total EC aid (Cox and Chapman 1999). This increase is due, in particular, to the substantial increase of EC aid to Central and Eastern Europe. Between 1988 and 1998, EC democracy and governance assistance totalled almost €2.4 billion.

*Table 1. Regional Distribution of Democracy and Civil Society Assistance, 1988-98 (commitments, million €)*

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1988-1998
Africa Caribbean Pacific (ACP)	7	8	28	19	41	22	10	31	78	175	86	505
Mediterranean and Middle East			0		1	32	14	8	52	78	25	210
Asia and Latin America			5	10	10	15	14	21	32	27	16	150
Central and Eastern Europe			10	27	26	66	82	26	212	221	271	941
Newly Independent States				6	24	30	42	40	24	31	35	232
<b>Sub-total regional</b>			<b>43</b>	<b>62</b>	<b>102</b>	<b>165</b>	<b>162</b>	<b>126</b>	<b>398</b>	<b>532</b>	<b>433</b>	<b>2,023</b>
EIDHR *									106	80	92	367
<b>Total</b>	<b>17</b>	<b>12</b>	<b>53</b>	<b>58</b>	<b>120</b>	<b>165</b>	<b>207</b>	<b>117</b>	<b>504</b>	<b>612</b>	<b>525</b>	<b>2,390</b>

\* EIDHR expenditure between 1996 and 1998 is obtained by subtracting the sub-total regional expenditure from the total expenditure.

Source: Cox and Chapman 1999.

*Table 2. Regional Distribution of Democracy and Civil Society Assistance 1988-98 (commitments, as percent of total regional expenditure)*

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Africa Caribbean Pacific (ACP)	0.2	0.4	2	0.9	1.5	0.8	0.3	1.2	4	15.5	3
Mediterranean and Middle East					0.1	4.4	1.9	0.9	4.4	5	1.8
Asia and Latin America			2.3	3.5	3	3.8	3.5	4.3	6.3	5.3	3.2
Central and Eastern Europe			1.5	3.1	2.1	4.3	6.4	1.8	13.1	14.4	17
Newly Independent States					5.6	1.4	8.6	1.2	2.5	4.7	0.8
<b>Average</b>					<b>2.5</b>	<b>2.9</b>	<b>4.1</b>	<b>1.9</b>	<b>6.1</b>	<b>9.0</b>	<b>5.2</b>
<b>Of total EC aid expenditure</b>	<b>0.4</b>	<b>0.4</b>	<b>1.6</b>	<b>1</b>	<b>1.8</b>	<b>2.4</b>	<b>2.8</b>	<b>1.6</b>	<b>7</b>	<b>9.4</b>	<b>6.1</b>

Source: Cox and Chapman 1999.

In 1994, the European Parliament launched the European Initiative for Democracy and Human Rights (EIDHR) to bring a series of budget headings specifically designed to promote human rights and democratic governance together in a single budget line (chapter B7-70). The EIDHR was extended in 2000. Between 1996 and 1999, over €300 million were allocated to the initiative and, for financial year 2000, a further €100 million were committed. EIDHR resources are dispersed at the discretion of the Commission. Two recent reports (EC 2000a and 2001a) describe the wide variety of projects undertaken under this initiative, classifying them into four broad areas: democratisation and the rule of law; pluralist civil

society; confidence building to restore peace; and initiatives for target groups.

The sectoral distribution of EC aid reveals a preference for supporting civil society. As Table 3 and Figure 1 show, the bulk of EIDHR resources between 1996 and 2000 were concentrated on human rights and civil society assistance (38%, peaking to 52% in 1999), reflecting the EC's preference for a 'bottom-up' approach to the promotion of democratic governance. As Richard Youngs notes (2001:6), 'the most striking feature of EU political aid was a marked preference for funding NGOs. By the end of the decade [of the 1990s], in most areas over 90% of democracy and human rights expenditure went to advocacy NGOs'. If the initiatives to targeted groups such as women, national minorities indigenous peoples or refugees are added, the total resources dedicated to non-state actors surpass 60% of total commitments for 1996-2000.

While the share of electoral observation and assistance has declined from its peak in the early 1990s, assistance to the institutional dimensions of democratisation (20%) and conflict prevention (11%) represent about a third of EIDHR commitments during that period. While the rule of law and judicial reform are receiving increasing funding, support to parliamentary reform is practically non-existent and the resources invested in conflict prevention and peace-building remain insufficient. Strengthening parliaments and executive-legislative relations in the context of complex multiparty systems is a major challenge that has not yet received sufficient and sustained attention from the aid community. As ownership is increasingly emphasised as a main determinant of aid effectiveness, it is expected that national parliaments in democratic states should become more actively involved in the definition of poverty reduction strategies.

In order to enhance the effectiveness and impact of EIDHR programmes, the Commission recommended the adoption of a more strategic approach for the use of EIDHR resources (EC 2001a). It identifies several strategic objectives focusing on capacity-building, institutional strengthening and the rule of law, as well as a more coherent approach centring on critical thematic priorities, and 'focus countries', while allowing flexibility to respond to urgent and unforeseen needs. This appears to reflect a gradual, albeit tentative, shift in thinking about democracy promotion and governance reform, moving away from an exclusive focus on civil society to a more explicit attention to the reform of the state and the strengthening of the rule of law.

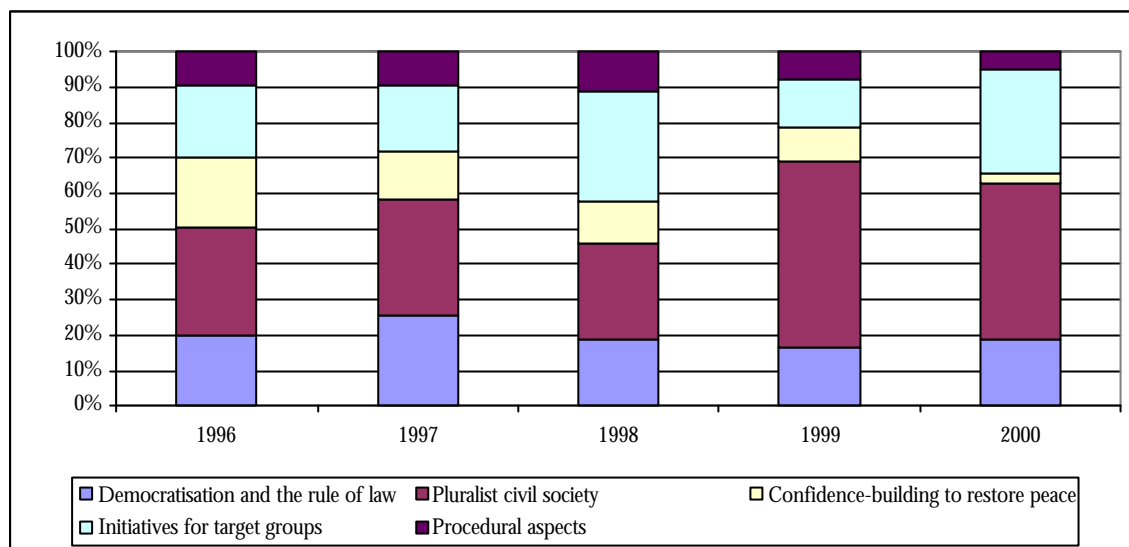
*Table 3. European Initiative for Democracy and Human Rights (EIDHR)  
Sectoral Distribution, 1996-2000 (commitments, in million €)*

	1996-2000	1996	1997	1998	1999	2000
<b>Democratisation and the rule of law</b>	<b>79.86</b>	<b>14.94</b>	<b>19.31</b>	<b>12.03</b>	<b>15.33</b>	<b>18.25</b>
<i>in percentage</i>	19.73%	19.65%	25.40%	18.84%	16.75%	18.76%
<i>of which:</i>						
legal assistance for civil and political rights	6.38	0.74	1.11	0.32	2.79	1.42
legal system, the judiciary and capital punishment	30.74	7.25	7.54	4.68	8.74	2.53
democratic transitions and elections	20.35	2.70	3.10	4.20	3.00	7.35
public bodies and the defence of human rights	9.00	1.04	3.05	0.50	-	4.41
Parliamentary support	6.74	0.97	1.92	1.40	0.22	2.23
transparency of public administration	6.65	2.24	2.59	0.93	0.58	0.31
<b>Pluralist civil society</b>	<b>156.00</b>	<b>23.55</b>	<b>24.97</b>	<b>17.28</b>	<b>47.64</b>	<b>42.56</b>
<i>in percentage</i>	38.55%	30.97%	32.83%	27.07%	52.06%	43.74%
<i>of which:</i>						
human rights education and public awareness	59.77	10.65	13.15	5.89	22.98	7.10
equal opportunity and non-discrimination	13.23	0.16	0.57	0.31	7.19	5.00
freedom of expression and the media	28.54	4.33	4.65	6.05	9.70	3.81
non-governmental organisations	54.46	8.41	6.60	5.03	7.77	26.65
<b>Confidence-building to restore peace</b>	<b>45.58</b>	<b>14.8</b>	<b>10.6</b>	<b>7.59</b>	<b>9.15</b>	<b>3.44</b>
<i>in percentage</i>	11.26%	19.47%	13.94%	11.89%	9.99%	2.51%
<i>of which</i>						
conflict prevention and resolution	16.34	2.85	3.52	3.76	5.09	1.12
human rights monitoring	12.45	7.72	3.27	0.31	0.85	0.30
international criminal justice	14.57	3.26	3.30	2.79	3.20	2.02
subordination of armed forces to civil authorities	2.21	0.97	0.51	0.73	-	-
<b>Initiatives for target groups</b>	<b>90.32</b>	<b>15.72</b>	<b>14.15</b>	<b>19.92</b>	<b>12.37</b>	<b>28.16</b>
<i>in percentage</i>	22.32%	20.68%	18.60%	31.20%	13.52%	28.94%
<b>Procedural aspects *</b>	<b>32.93</b>	<b>7.01</b>	<b>7.01</b>	<b>7.01</b>	<b>7.01</b>	<b>4.89</b>
<i>in percentage</i>	8.14%	9.23%	9.22%	10.99%	7.67%	5.03%
<b>TOTAL</b>	<b>404.69</b>	<b>76.02</b>	<b>76.04</b>	<b>63.83</b>	<b>91.50</b>	<b>97.30</b>

\* The yearly breakdown of procedural aspects and technical assistance is not available for 1996-99. The estimated annual procedural spending for that period has been computed as the average of the aggregate procedural spending over the four-year period. For 2000, the figure for technical assistance was used.

Sources: EC 2000a and 2001a.

*Figure 1. European Initiative for Democracy and Human Rights (EIDHR) Sectoral Distribution, 1996-2000 (commitments, in percentage)*



In regional terms, the bulk of EC democracy and governance assistance has been directed at Central and Eastern Europe and ACP countries (see Tables 1 and 2). In the ACP countries, democracy assistance programmes were almost non-existent at the end of the 1980s. Between 1990 and 1998, they amounted to €491 million. In 1997 they represented €175 million or 15.5% of total commitments (Cox and Chapman 1999:53). In Latin America, allocations to democracy and governance assistance rose steadily in the course of the 1990s, rising to 5% of total commitments in 1996-98. However, in the Mediterranean, the Middle East and Asia, allocations to democracy assistance programmes remain modest considering the challenges at hand (Youngs 2001, and forthcoming).

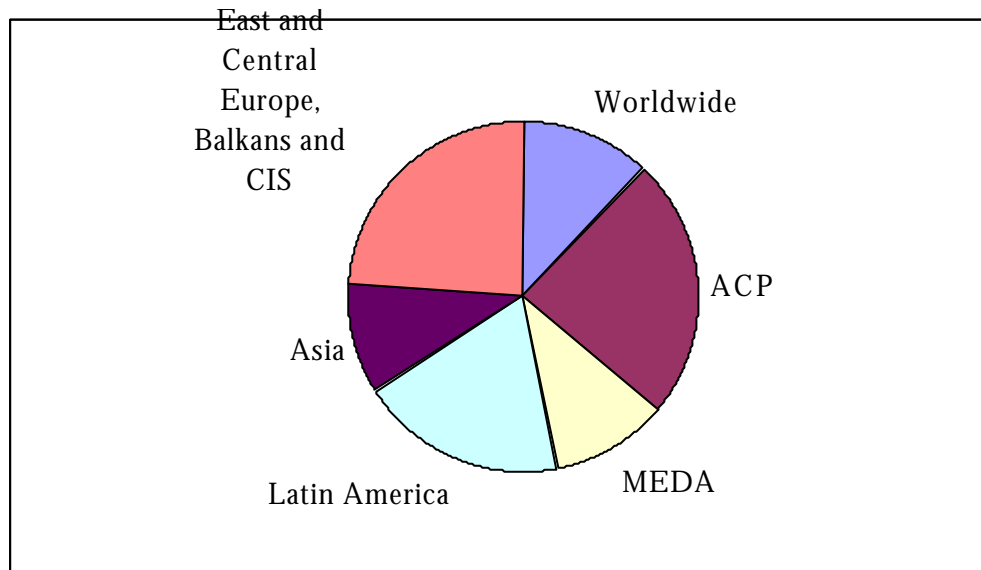
EIDHR resources appear evenly distributed, with a focus on ACP developing countries, the emerging economies of East and Central Europe, the Balkans and the CIS, and Latin American restored democracies (Table 4 and Figure 2).



*Table 4. European Initiative for Democracy and Human Rights (EIDHR) Regional Distribution 2000 (commitments)*

	in million €	in percentage
Worldwide	11.68	12%
ACP	23.35	24%
MEDA	10.70	11%
Latin America	18.49	19%
Asia	9.73	10%
East and Central Europe, Balkans, and CIS	23.35	24%
<b>TOTAL</b>	<b>97.30</b>	<b>100%</b>

*Figure 2. European Initiative for Democracy and Human Rights (EIDHR) Regional Distribution, 2000*



### Regulating Democracy Assistance

The legal basis for democracy assistance has progressively solidified, being introduced in primary (treaties) and secondary (regulations, directives and decisions) European law (Crawford 2000a and b). In 1991, a series of regulations elevated democracy promotion as an overarching objective of foreign aid, not only for the EC but also for EU member

states.<sup>7</sup> These different documents outline a ‘positive approach’ of support and inducement with the allocation of incentive financing to encourage democratisation. Yet they warned that appropriate measures will be taken ‘in the event of grave and persistent human rights violations or the serious interruption of democratic processes,’ which could lead to the partial or complete suspension of cooperation agreements. They also mandated the Commission to insert democracy clauses in all future cooperation agreements with third countries. Such clauses were introduced in 1992 and now apply to over 120 countries. They were articulated on the basis of ‘essential elements’ with an associated ‘suspension’ or ‘non-performance clause’ designed to redress the non-observance of the ‘essential elements’.<sup>8</sup> The Council approved a model clause in May 1995.<sup>9</sup> However, its application has been uneven (Crawford 1998).

The 1992 Maastricht Treaty for the first time codified development cooperation as an autonomous policy field with specific objectives (Title XVIII, articles 130 u through y), ‘constitutionalising’ development cooperation as a ‘community policy’ under the purview of the EC and the responsibility of the Commission (unlike the Common Foreign and Security Policy which remains an inter-governmental cooperation within the ‘second pillar’ of the EU). The 1997 Amsterdam Treaty reaffirms that EC policy is to contribute to the ‘general objective to developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms’ (Title XX article 177.2). The respect for democracy and human rights was thus made a general principle of EC law, hence informing all of its activities.

Similarly, accession to and continued membership in the EU became explicitly conditional upon the endorsement of and adherence to a democratic system of government. Article 6(1) of the Treaty on European Union (TEU) reaffirms that the EU ‘is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles that are common to the Member States’. Article 7

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<sup>7</sup> The Communication of the European Commission on *Human Rights, Democracy and Development Cooperation* of March 1991 and the subsequent Resolution of the Council of Ministers (Development) on *Human Rights, Democracy and Development* of November 1991.

<sup>8</sup> The notion of ‘essential element’ has a legal status as a binding commitment whose non-observance affects the validity of the agreement signed between the parties to it and ultimately leads to its suspension.

<sup>9</sup> COM(95)216 final.

further stipulates that the ‘existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1)’ may lead to the suspension of certain membership rights.<sup>10</sup> The requests for membership from the transitional democracies of East and Central Europe had called for a codification of the democratic foundations of the EU. In June 1993, the Copenhagen Summit of the European Council adopted economic and political criteria for membership. These include the ‘stability of institutions guaranteeing democracy, the rule of law, human rights and respect and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union’.<sup>11</sup> A suspension clause was added by the 1997 Amsterdam Treaty (article 7), according to which membership rights could be suspended, restricted or revoked in the event of a violation of one of the Copenhagen principles. However, the treaty does not (yet) provide for the expulsion of a member state receding into authoritarianism. Such a provision may become necessary in the context of the enlargement of the EU to fragile democracies, not only to prevent democratic regressions but also to avoid double standards being applied to candidate countries and current members.

The promotion and consolidation of democratic governance and the rule of law also became a central plank of EU external relations, guiding the Common Foreign and Security Policy (CFSP). Title V of the TEU, which spells out the main objectives of CFSP, stipulates in its article 11.1 that ‘The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be: [...] to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.’ CFSP

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<sup>10</sup> Furthermore, the Nice Summit in December 2000 officially proclaimed the EU Charter of Fundamental Rights.

<sup>11</sup> According to article 7(iii) of the Conclusions of the Presidency of the European Council in Copenhagen of 21-22 June 1993. The pre-accession agreements are also based on the principle of the ‘*acquis communautaire*’, that is the adoption of the body of law and policies previously adopted by the EU by the potential member. These rules and regulations shape and restrict behaviour of candidate countries. It could be argued that the possibility of EU membership provided a further impetus and strong incentive for prospective member states, especially in East and Central Europe, to consolidate democratic governance. Pre-accession cooperation agreements provide assistance to those countries to meet the requirements of membership. Membership to the Council of Europe is also conditional to the adherence and promotion of parliamentary democracy.

remains, however, in the realm of traditional inter-governmental relations and policy, thus defined by the European Council and according to the unanimity rule.

In 1999, three major and intertwined events affected the management of EC aid: the adoption of a firmer legal basis for democracy assistance, the change of the Commission in March 1999, and the launching of a major overhaul of the Commission' external relations and foreign aid, with the subsequent restructuring of its services.

In a complex turn of events, the Court of Justice contested the legal basis for EC democracy aid in its ruling of 12 May 1998 (Case C-106/96) on an injunction from the European Parliament concerning the lack of a proper legal basis for certain EC programmes. This ruling led to the *de facto* suspension of most democracy assistance programmes and the review of all democracy assistance portfolios managed by the Commission. The ruling criticised the Commission's 'internal administrative fragmentation', with unduly divided responsibility for democracy and human rights matters across regional directorate generals, and a general lack of transparency and accountability.

In response to this legal challenge, on 29 April 1999, the Council adopted two regulations (975/1999 and 976/1999) that laid down the principles and procedures for the implementation of development cooperation programmes which aim at advancing democracy, enhancing the rule of law, strengthening good governance and promoting human rights.<sup>12</sup> These resolutions, known as the 'human rights regulations', provide the current legal basis for all democratisation activities under the EIDHR. They allocate €260 million for the period 1999-2004 for the ACP states and €150 million for non-ACP states and establish the broad guidelines for democracy assistance, concentrating on both the institutions of government and the modes of governance. The activities covered include a wide range of programmes and a broad template of instruments focusing on electoral observation and assistance, good governance, the rule of law and the fight against corruption, administrative accountability, the effective separation of power, political participation in decision-making and political pluralism. The resolutions also identify the promotion of democratic governance as a mechanism for conflict prevention and post-conflict peace building (articles 2.2 and 2.3. of Council Regulation 975/1999). They became

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<sup>12</sup> Council Regulation (EC) No.975/1999 and Council Regulation (EC) No.976/1999 of 29 April 1999.

effective on 11 May 1999 when the crisis of the European Commission had already erupted.

### **Electoral Observation and Assistance**

Electoral assistance constitutes the most visible form of EC democracy assistance. Support to the monitoring of elections was the first area of intervention by the EC. Over the course of the 1990s the EC undertook and funded a great variety of electoral observation missions (EC 2000b). However, the EC only gradually adopted strategic orientations to guide its interventions in the electoral field. Only in 1998 did the EC start to equip itself with the necessary operational guidelines. The Council decision on EU policy on electoral observation of 1998 established criteria for assessing the fairness and regularity of elections observed by the EU.<sup>13</sup> In June of the same year, the Council adopted guidelines for electoral observation and in June 1999 it adopted common criteria for the selection of electoral observers.

Too often, the holding of elections has been approached as an ‘exit strategy’ in crisis situations and post-conflict reconstruction. The holding of elections has been the main focus of international pressure, overlooking wider dimensions of democracy. However, elections, although necessary, do not suffice to install and consolidate democratic governance. As Zacharia (1997:40) notes, ‘while it is easy to impose elections on a country, it is more difficult to push constitutional liberalism on a society’. More difficult yet is how to respond to democratic erosion and decay.

Accordingly, the types of interventions are progressively expanding, moving from an exclusive focus on international observation to support to domestic monitoring and more refined forms of assistance, such as, in particular, assistance to the design of new electoral systems, constitutional engineering, institutional reform and support to the administration of elections by independent electoral commissions. Support to political parties and the reform of party systems remains tentative, however, given concerns over issues of national sovereignty.

In April 2000, the EC adopted a communication on electoral assistance and observation (EC 2000b) which constituted the first thorough and systematic review of its experience in this field. It recognises that ‘an ad hoc approach no longer seems appropriate nor the best use of resources’ (3) and that there has been no consistency in the choice of budgetary

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<sup>13</sup> 9262/98 PESC 157 COHOM 6.

instruments and legal frameworks. It recommends the adoption of a more coherent and consistently applied policy and better coordination between the Council, the Commission and the Parliament (which has been sending its own observation missions). It suggests the establishment of a permanent EU Electoral Unit within the Commission, responsible for the coordination of electoral assistance and observation in third countries (in particular with the authority to decide on the requests for EU participation in electoral observation, which has often been used to legitimise dubious elections). More fundamentally, it argues that support for electoral processes be undertaken exclusively under the ‘first pillar’ of the EU, as a community policy funded mainly by aid budgets and Chapter B7-70. It also underlines that, while elections can be assessed in light of the 1998 guidelines, post-conflict and first-generation elections may require a more flexible approach.

### **Crisis Mitigation and Conflict Prevention**

The 1990s have been marked by recurrent crises of democratic governance, which have destabilised politically fragile countries. However, preventing conflict, impeding the corrosion of governance and responding to the erosion of democracy represent daunting challenges for aid policies. The standard strategies for promoting democracy and governance, including governance conditionality, tend to become ineffectual in crisis situations and can sometimes compound the problems.

Based on the human rights regulations, the EC approach to democratisation and conflict management is further made explicit in the Commission’s communication on conflict prevention of 11 April 2001 (EC 2001b), prolonging a series of other documents adopted since 1995 on the role of development cooperation in conflict prevention and post-conflict peace-building (EU 1995 and 1998; EC 1996b). This communication is the Commission’s contribution to the *European Programme for Conflict Prevention* adopted at the European Council at Gothenburg in June 2001. The Commission’s approach to democratisation and conflict prevention is informed by the Council’s common positions of June 1997 on conflict prevention and resolution (CEU 1997) and May 1998 on human rights, democratic principles, the rule of law and good governance (CEU 1998), both taken in the context of the CFSP.

Echoing the *DAC Guidelines on Conflict, Peace and Development Cooperation* (OECD DAC 1997) the Commission considers that the main contribution of development cooperation to conflict prevention and

management is to promote and strengthen ‘democratic structural stability.’ The DAC *Guidelines* define an environment of structural stability as one in which there are ‘dynamic and representative social and political structures capable of managing and resolving disputes without resort to violence’ (9). For the Commission, ‘structural stability’ refers to a situation involving sustainable economic development, a democratic political regime, viable political structures and effective democratic institutions, stable social conditions, with a capacity to manage change without resorting to violent conflict. Societal reconciliation, democratisation and economic reconstruction are seen as three mutually reinforcing dimensions of sustainable peace, development and democracy.

The EC approach recognises the multifaceted links between post-conflict peace-making and conflict prevention, as well as between relief, rehabilitation and development (EC 1996a and b, 1998, and 2001b). The 1998 declaration of the Council on the *Role of Development Cooperation in Strengthening Peace-Building, Conflict Prevention and Resolution* confirmed the initial approach adopted by the Commission (EU 1998). The 2001 communication on conflict prevention proposes a two-pronged strategy, distinguishing between long-term conflict prevention (‘projecting stability’) and short-term conflict management (quick reaction). In particular, it recognises that preventing the occurrence or recurrence of conflict in ‘dysfunctional states’ (EC 1997:16) and ‘politically fragile countries’ (ECDPM 1999) entails rebuilding ‘failed states’, strengthening democratic institutions and improving governance systems. By providing institutionalised mechanisms to resolve disputes and channel discontent democratic institutions prevent crises of governance from escalating into violent conflict. The promotion of democratic governance thus becomes an important tool for preventing, managing and resolving political crisis and, in extreme cases of political instability and uncertainty, violent conflict. The Cairo Declaration and Plan of Action adopted at the first Africa-Europe Summit in Egypt in April 2000 further linked the strengthening of democratic governance and the rule of law to effective conflict prevention and management in Sub-Saharan Africa. At their first ministerial meeting in October 2001 in Brussels, Belgium, European and African ministers agreed to establish an ‘early warning system’ to prevent conflict in Africa based on indicators to measure tensions.

However, while it acknowledges the destabilising effects of the disintegration of the state in conflict-ridden and war-prone countries, the Commission’s approach fails to recognise that democratisation itself can

generate sources of conflict. In particular, hasty transitions towards democracy and premature elections can destabilise fragile peace processes. While democracy and modernisation generate political stability, the process of democratising and modernising often breeds instability (Mansfield and Snyder 1995; ICG 2001). In some extreme cases, it is increasingly believed that benign authoritarianism may be preferable to hollow and corrupt façade democracies.

It is increasingly recognised that democratisation processes are highly volatile and political transitions unpredictable. Democratisation does not follow a natural, orderly and linear sequence of positive and progressive political transformation. More often than not, it is an irregular, erratic and sometimes reversible process, taking place in highly fluid and volatile environments. It can go backwards and sideways as much as forward. It follows different paths and adopts varied paces. As Peter Burnell and Peter Calvert (1999:7) stress, 'Political liberalisation in the context of an authoritarian regime does not necessarily issue in transition to democracy, and transition does not invariably lead to democratic consolidation'.

Moreover, the resurgence of democracy since the late 1980s has not produced a clear-cut division between democratic and non-democratic countries, but rather a wide spectrum of semi-democratic or semi-authoritarian regimes with an extensive 'grey area' in between (Olcott and Ottaway 1999; Carothers 2000). Increasingly, democracy is used with adjectives to capture the reality of 'hybrid regimes' struggling to consolidate (Collier and Levitwky, 1997). New and restored democracies can adopt many shapes and shades, between the two extremes illiberal and liberal democracies (O'Donnell, 1994; Zakaria 1997), between *democraduras* and *dictablandas* (O'Donnell et al 1986). Larry Diamond (1999) has aptly described this grey area as a 'twilight zone' in what Thomas Carothers (1997b) refers to an era of 'democracy without illusions'. There is indeed a pressing need to devise new categories for capturing the many realities and the great variety of hybrid democracies that have emerged since the late 1980s.

Ultimately, these considerations question the intellectually elegant assumption of a linear 'democratisation continuum,' from authoritarianism to liberal democracy. Some scholars have questioned the usefulness of the very paradigm of democratic transition and consolidation to comprehend the dynamics of democratisation and guide policy (Schedler 1998 and 2001; Carothers 1997, 2000 and 2002; Santiso 2001a). Rather than evaluating particular situations along a democratisation continuum, policy-



makers might want to focus instead on the wide template of democratising regimes. Detecting when a country slips from crisis to conflict is particularly tricky, as democratic erosion is often an accumulation of insidious changes. In this ‘grey area’ between crisis and conflict traditional development cooperation instruments are likely to become ineffectual to prevent further erosion. Often, democratic regressions and crises of governance lead to the suspension of EC development assistance, thus neutralising its ability to ‘project stability.’

### **Strengthening Governance and Preventing Democratic Erosion**

In terms of the quality of democratic governance, the nature of the political regime of many democratising states is often ambiguous, lying somewhere in between genuine democracy and overt autocracy. The rise of low intensity and uncertain democracies represents significant analytical and policy challenges for both policymakers and scholars (Carothers 1997, 1999 and 2000). Many new and restored democracies have ended up in an uneasy stage of democratisation: while possessing the formal attributes of democracy, the modes of governance tend to exhibit resilient autocratic features.

At the conceptual level, these considerations question the international community’s ability to assess the nature of democracy as well as the trajectory of democratisation in specific countries. Assessing whether semi-authoritarianism is a stable condition resulting from a blocked transition, a temporary stage in gradual process, or a different trajectory to democracy represents tremendous challenges. Evaluating the nature of political dynamics is of critical importance for devising appropriate assistance strategies. The concept of ‘politically fragile countries’ (ECDPM 1997 and 1999) encompasses a wide variety of situations, with varying degrees of willingness and capacities to democratise.<sup>14</sup>

The policy challenges are equally great. Dealing with ‘dysfunctional states’ (EC 1997a:16) requires a subtle dosage of both positive incentives and negative measures. It entails assessing the extent to which leaders have the political will to democratise and are genuinely committed to democratisation. Promoting democratic governance in faltering

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<sup>14</sup> These situations include: authoritarian governments neither committed to nor willing to engage in democratisation; conflict-ridden states; post-conflict countries where the government authority and state institutions have been destroyed (‘failed’ states); democratising states facing political instability (‘politically-fragile’ states); and democratising states endowed with weak government institutions (‘weak’ states).

democracies such as Zambia, Zimbabwe or Haiti often involves a difficult choice between a confrontational approach and an accommodating strategy, both unsatisfactory responses to crises of governance. The challenge for the international donor community is then to devise assistance strategies with the right mix of positive incentives and negative measures built in long-term, coherent and consistent strategies.

The human rights regulations and the electoral assistance communication do provide a template of instruments for promoting democratic governance (answering the ‘what’ question). They do not, however, articulate an operational strategy (answering the ‘how’ question). Nor do they provide guidance on how to respond to democratic erosion and governance regression. Recognising these shortcomings, the Council, in its conclusions on the EU’s role in promoting human rights and democratisation in third countries of 25 June 2001, requested the Commission to articulate an EU Common Strategy in the area of human rights and democratisation.<sup>15</sup>

### **3. Democracy Assistance and Governance Conditionality: Strategy Dilemmas**

There exist intricate tensions between positive and negative measures to promote democratic governance. The overarching EC democracy assistance strategy remains one of ‘constructive engagement’. Its overall objective is encouraging political change and policy reform in a constructive manner based on dialogue and partnership with governments. However, while the principle of ownership of reform proposals for sustaining reform and increasing the effectiveness of aid is now well established (Santiso 2001b), the EC recognises that, in some cases, such a genuine commitment to democratic governance and the rule of law may be weak or lacking. Negative measures based on conditional approaches may therefore be appropriate (EC 2001a).

Hence, while the principle of conditionality remains mainly unquestioned, the ways in which it has been applied has spanned intense controversies. The question thus becomes how conditionality can be best designed to further democratisation. While punitive forms of political conditionality have proved largely ineffective, new types of governance conditionality based on incentive and selectivity could yield greater results.

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<sup>15</sup> General Affairs Council, 25.06.01.

## **Punitive Political Conditionality**

A particular type of democracy promotion strategy is conditioning aid on the political objectives underpinning the aid relationship. However, the notion and practice of political conditionality have spawned intense controversy (Stokke 1995; Nelson and Eglington 1992, 1993; Burnell 1994). Defined as ‘a mutual arrangement by which a government takes, or promises to take, certain policy actions, in support of which an international financial institution or other agency will provide specified amounts of financial assistance’ (Killick 1998:6), aid conditionality represents an attempt to use aid as an incentive for reforming the policies and institutions of developing countries. Two important features of political conditionality are its *ex ante* nature and punitive character: predetermined conditions are set in advance to access development financing and failure to meet these precludes the disbursement of aid.

The failure of conditionality to attain its desired objectives and bring about sustained economic and political development has been widely recognised. Craig Burnside and David Dollar (1997) have found that there is no direct relationship between aid flows and policy reform and Paul Collier (1997:57) asserts that ‘aid has simply not brought reform’. This finding is substantiated by a recent study on Sub Saharan African countries which shows that aid cannot buy reform and that the conditionality attached to adjustment loans did not successfully induce policy change (Devarajan, et al. 2001). Catherine Gwin and Joan Nelson (1997:10) argue that ‘aid is only effective in promoting growth in a good policy environment, and on the whole, it has not succeeded in leveraging good policies’.

Conditionality cannot substitute or circumvent domestic ownership of and commitment to reform. Furthermore, it can have perverse effects, as it tends to undermine the domestic democratic processes by supplanting public policy-making. Collier warns against the abuse of conditionality: ‘The extension of the practice of conditionality from the occasional circumstances of crisis management to the continuous process of general economic policy-making has implied a transfer of sovereignty which is not only unprecedented but is often dysfunctional’ (Collier 1999:319).

Furthermore, the fungibility argument questions the extent to which aid can contribute to its intended objectives. Aid is said to be fungible when the marginal increase in public expenditure in response to an inflow of aid is not always realised in the targeted area of public expenditure. Aid tends to free up budget resources, which can then be allocated to alternative purposes. As a result, it becomes critical to assess and influence the quality

overall government spending, rather than focus on sectoral spending. In countries engaging in inter-state conflict such as Ethiopia and Eritrea in the late 1990s, the issue of aid fungibility becomes particularly important.

### **Incentive Conditionality and Selectivity**

Another type of indirect democracy assistance strategy is a 'positive' form of political conditionality: aid selectivity, or what Nelson and Eglington (1993) term 'allocative conditionality'. This strategy aims to establish an incentive mechanism which bases aid rewards on the direction of change, rather than the perceived level of democracy (Nielson 1999:3). It encompasses the selection of aid recipients according to the quality of democratic governance. The objective of this system is to increase the effectiveness of aid by concentrating it in those countries showing genuine commitment to improving governance. Aid selectivity is a particular form of *ex post* conditionality, which establishes a positive link between aid allocations and country performance.

It is now believed that the effect of aid on growth tends to increase with the quality of policy. As a consequence, it is increasingly argued that aid would be more effective if it were either more systematically targeted to poor countries with sound economic reform programs or used to promote good policies. The influential research by World Bank economists Craig Burnside and David Dollar (1997, 1998) on the impact of aid, policy and growth shows that aid has been highly successful in reducing poverty and promoting growth in countries with sound economic management and robust government institutions. These research findings, generated from within the World Bank itself, have had a significant influence on development cooperation policies. The World Bank's influential report of 1998 *Assessing Aid: What Works, What Doesn't and Why* recommended a more systematic targeting of aid to poor countries with sound policies and effective institutions.

However, the practice has often contradicted the evidence, suggesting that political considerations remain important in determining aid flows, especially for large donors and multilateral institutions. Research on aid policy has found that there is no direct relationship between aid flows and the quality of policy (Burnside and Dollar 1997) and that, in general, donors have not effectively tailored their assistance to the specific country and phase of the reform process (Devarajan *et al.* 2001). More, better policies and improving performance too often lead to decreasing levels of development aid (Collier and Dollar, 1998), sending the wrong

signal. Indeed, a recent study of EU aid towards ACP countries found that the performance of a country in terms of political rights and civil liberties plays only a minor role in the allocation of EC aid and factors such as the degree of openness and human development play no significant role (Wolf and Spoden 2000).

Notwithstanding these shortcomings, radical strategies of aid selectivity are largely unavailable to the EC. As long as the reach of its development aid remains global, the Commission cannot discriminate among aid recipients. The principle of selectivity can only be applied to the scope and amount of aid, not to its direction. Nevertheless, the ‘tranching’ of aid into several components and the introduction of phased programming provide alternative incentive mechanisms, but it remains unclear how the quality of democratic governance will affect country aid allocations.

Aid selectivity and incentive conditionality are extremely difficult to implement in practice, however. Selectivity-based approaches to political conditionality, which Richard Youngs (2001) describes as ‘incentives conditionality’, require establishing rigorous monitoring mechanisms to assess the dynamics of democratisation and the direction of governance reform. It is a permanent challenge to devise and apply consistent and even-handed criteria to measure country performance in terms of governance. In reality, there exist few countries that can be classified as either good or bad performers. Most of them lie somewhere in between. Individual country circumstances make judgmental approaches inescapable. Despite recurrent efforts, especially since 1998, the Commission has not yet established such an incentives-based mechanism of governance conditionality.

The International Development Association (IDA) of the World Bank may provide a useful model, albeit with limited applicability to EC aid. IDA, which provides grant aid and subsidised lending to low-income countries, amended its guidelines to better assess governance reform in recipient countries and allocate its aid (Santiso 2000 and 2001b). In 1998, the 12<sup>th</sup> replenishment of the resources has introduced a performance-based allocation system (IDA 1988 and 2001). Aid allocations now take into account the efforts made to improve governance. The *Country Policy and Institutional Assessment* (CIPA) framework was expanded to take into consideration (i) accountable and competent public institutions; (ii) transparent economic and social policies and practices; (iii) a predictable and stable legal framework; and (iv) participation by affected groups and

civil society. Furthermore, since 1999, the World Bank has started to conduct *Governance and Institutional Reviews* (GIR).

More fundamentally, governance conditionality and selectivity strategies beg the original concern that spurred the current shift in policies: how can external agencies *promote* good governance, especially in poor performing countries? After all, unsatisfactory performance is often associated with unsound policies and weak institutions.

#### **4. Preventing Conflict and Responding to Crisis: Implementation Dilemmas**

The EC is increasingly relying on incentive conditionality to complement positive measures of direct support. The cooperation between the EU and the ACP group of countries is often cited as a model of partnership for development (von Meinjenfeldt et al. 1999; ECDPM 2001b). Since its establishment in 1975, the model has been adapted and improved to respond to new demands and changing environments. It is based on a legally binding international agreement outlining the objectives, purpose and mutual obligations of the cooperation. It is anchored in the principles of dialogue, contractuality, stability and predictability, which form the basis of the so-called ‘culture of Lomé’, after the name of the city where the first four conventions were signed. The contractual commitments and long-term goals enshrined in the successive five-year financial protocols to the European Development Fund (EDF) have nevertheless been criticised for creating an ‘entitlement mentality’ among aid recipients. Unlike EIDHR resources, EDF resources are co-managed by the Commission and ACP countries.

A central thrust of the successive EU-ACP agreements has been to strengthen the political foundations of the development partnership (Santiso 1999). The fourth Convention of Lomé signed for ten years in 1989 was revised in 1995 to incorporate in its article 5 democratic principles, human rights, and the rule of law as ‘essential elements’ of the partnership. Good governance was cited as an ‘objective’ of the cooperation (article 5). Incentive financing of €80 million was earmarked by the financial protocol to the 8<sup>th</sup> EDF covering the period (1995-2000).

In tandem with the standard positive approach, the amended fourth Convention of Lomé introduced elements of governance conditionality. Article 366a, in line with the Council’s decision of May 1995, provided for appropriate steps to be taken in the event of serious and persistent human rights violations or interruptions in the democratic process. Non-

compliance with the ‘essential elements’ of article 5 could lead to a suspension of the cooperation, considered as ‘a measure of last resort.’ The revised convention also allowed for *de facto* suspension owing to ‘special circumstances’. It failed, however, to clearly define such circumstances, thus giving a certain leeway to the EC in its use, in particular to ‘transpose’ foreign policy decisions under the ‘second pillar’ of the EU into development aid policies.

The case of Cuba illustrates an important tension, if not contradiction, of the EU-ACP framework, paralleling some of the controversies surrounding the enlargement of the EU itself: while its members may flagrantly and persistently violate democracy and human rights without risking expulsion from the cooperation agreement, potential applicant states are to satisfy strict entry requirements. In a complex turn of events, Cuba asked for admission into the EU-ACP agreement in February 2000. When granting Cuba observer status in June 1998, EU foreign ministers made clear that Cuba would have to satisfy strict political conditions and respect the values and principles underpinning EU-ACP cooperation adopted in 1992 and made explicit in 1993 with the Copenhagen criteria. The ACP group endorsed Cuba’s candidacy but the EU had strong reservations of EU (except some countries such as Spain). Cuba and its supporters argued that it was unfair the political conditions be applied to new members when current members entered the agreement without being imposed political conditions and that their track-record at upholding the political foundations of the agreement has been, at best, frail. La Havana ultimately declined to go ahead with its application, refusing any EU efforts to interfere in its domestic affairs. In April 2000 it withdrew its candidacy to become part of the EU-ACP agreement but became the 78<sup>th</sup> member of the ACP group in December.<sup>16</sup> Meanwhile, an additional six pacific states acceded to the Cotonou Convention.

### **Bringing the State Back in**

Based on its experience in sub-Saharan Africa, the EC has increasingly focused its attention to the strengthening of good governance and the rule of law, especially in conflict-ridden countries. Progressively, a link is being forged between conflict prevention and democratic governance. The 1997 EC *Green Paper* on the relations between the EU and the ACP countries (EC 1997a) and the subsequent 1998 policy statements by the

<sup>16</sup> *El País*, ‘Cuba frena su apertura al cancelar sus negociaciones con UE’, 29 April 2000, p. 7.

Commission and the Council (EC 1998 CEU 1998) stressed the urgent need to address state failure, strengthen governance institutions and implement administrative reforms.

These new directions constitute a significant shift in policy with respect to the traditional and quasi-exclusive focus on civil society. Commissioner Poul Nielson was among those expressing concern that the disproportionate focus on civil society might actually be undermining state institutions in many fledging democracies. During the 1990s, the EC has tended to avoid the state, circumventing it by strengthening non-state actors and promoting decentralisation. However, the initial enthusiasm towards civil society organisations appears to be receding: not all organisations of society are as civil as they appear and not all ‘non governmental organisations’ are as non-governmental as they claim. Their representativeness, accountability and sustainability are often weak and in many instances NGOs are highly politicised, as they have often replaced opposition political parties as channels of dissent and discontent. It is increasingly being recognised that for good governance to be enhanced, the state must be not only reformed but also recast and strengthened (DFID 2000).

### **Structured Political Dialogue**

Regular and structured political dialogue is intended to play a ‘pivotal role’ in the renewed partnership between the EU and the ACP countries (ECDPM 2001a, b and c). The new ACP-EU agreement was adopted on 23 June 2000 in Cotonou, Benin, after 18 months of intense and arduous negotiations starting in September 1998. Its duration has been extended to 20 years (2000-20), comparing for 10 years for the fourth Lomé Convention and five years for the three previous Lomé Conventions.

Although the new convention outlines the general objectives of political dialogue, it remains vague on its modalities and structure (Title II, articles 8 through 13). Title II states that ‘the Parties shall regularly engage in comprehensive, balanced and deep political dialogue leading to commitments on both sides’ (article 8.1) regarding ‘all questions of common, general, regional or sub-regional interest’ (article 8.3). It shall contribute to ‘peace, security and stability and promote a stable democratic political environment’ and ‘encompass cooperation strategies as well as global and sectoral policies’ (article 8.3). In particular, ‘the dialogue shall encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good



governance’ (article 8.4). In terms of the modalities of political dialogue, article 8.6 indicates that the dialogue ‘shall be conducted in a flexible manner’, be ‘formal or informal’ and ‘conducted within and outside the institutional framework, in the appropriate format and at the appropriate level’.

### **Essential Elements, Consultation Procedure and Suspension Clause**

The Cotonou Convention, building on the legacy of the fourth Lomé Convention, adds elements of governance conditionality and aid selectivity to the previous provisions on political conditionality. The inclusion of good governance as an ‘essential element’ of the cooperation proved to be the most contentious issue in the negotiations leading to the new agreement, which now regulates the cooperation between the EU and 77 ACP countries (compared to the previously 71). The agreement covers a twenty-year period (2000-20) and contains a clause allowing it to be revised every five years. Covering each five-year period, a financial protocol indicates the total resources that are available for the ACP through the EDF. The 9<sup>th</sup> EDF covers the 2000-2005 period and represents €15.2 billion (to which approximately €10 billion from previous EDF must be added).

The new agreement provides a stronger political foundation. Articles 9 and 96 replicate the provisions on the ‘essential elements’ and the ‘suspension clause’ contained in the previous agreement (article 5 and 366a, respectively). A major innovation lies in a mutual commitment to good governance defined as ‘the transparent and accountable management of human, natural, economic and financial resources for the purpose of equitable and sustainable development’ (article 9.3). The inclusion of good governance into the agreement proved to be a contentious and controversial issue. Disagreements over democracy and good governance also marked the first EU-Africa summit, which was held in April 2000 in Cairo, Egypt.

As a compromise solution, the EU and the ACP agreed to include good governance as a ‘fundamental element’ of the partnership, subject to regular monitoring. The commitment to good governance does not possess the legally binding nature of the essential elements and failure to uphold it would not lead automatically to the initiation of the suspension mechanism enshrined in the convention. Nevertheless serious cases of corruption, including bribery, are now grounds for suspending the cooperation. Article 97 sets a specific consultation procedure to deal with such cases. The

pervasive corruption in the health sector in Côte d'Ivoire in 1998, heavily financed by the EC, obliged the EC to partially suspend its aid to the country anyway. These events played an important role in the discussions over the new 'anti-corruption clause'.

Peace-building policies and conflict prevention and resolution are also dealt with in the convention. The principles of article 11 and the provisions of article 8 provide for political dialogue as a means to prevent conflict and its recurrence in ACP countries. The stated objective of structured political dialogue is to provide for a mechanism to prevent crisis of governance from escalating into armed conflict and the breakdown of the democratisation process. When article 96 is nevertheless applied, the consultation process enables the EU to influence the course of events. Articles 9 and 33 also include positive measures for promoting human rights, strengthening democratic governance and consolidating the rule of law, including support for political, institutional, and legal reforms, the fight against corruption, assisting the reform of the state and the modernisation of the public sector, promoting political, administrative and financial decentralisation; and building capacity of non-state actors.

The new convention provides for a consultation mechanism in the event of a serious breach of the terms of the agreement (articles 96 and 97). The consultation procedure constitutes an important 'signalling instrument' through which the EC can respond to regressions or interruptions of the democratisation process, persistent violations of human rights, and endemic corruption. The party accused of violating the founding principles of the convention is invited to hold consultation with the Commission 'at the level and in the form considered most appropriate for finding a solution' (article 96.2.a) and 'the consultations shall begin no later than 15 days after the invitation and shall continue for a period established by mutual agreement', but shall not last longer than 60 days. The article states that:

if the consultation do not lead to a solution acceptable to both Parties, if consultation is refused, or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them have disappeared (article 96.2.a).

Article 96.2 (a and b) also allows for the 'special urgency' procedure of the previous convention.

However, the consultation procedure remains largely unregulated and the ‘appropriate measures’ to the discretion of the EC. While this uncertainty provides for flexibility, it can and does also generate misunderstandings and frictions, between the EC and the development partners, and within the EU itself, as illustrated by the disagreement between France and the Commission during the Fall of 2001 over the resumption of aid to the Democratic Republic of Congo (DRC). More fundamentally, the process by which a country qualifies, disqualifies and re-qualifies for EC support remains to be specified. Once a country has been sanctioned, there must be greater clarity on how it will re-qualify and how the rehabilitation process will unfold.

### **Country Strategies and Performance Reviews**

Another innovation of the Cotonou Convention is the reform of aid programming, with the introduction of performance-based management, the simplification of instruments, and rolling programming. Cooperation instruments have been reduced from ten to two, a grant facility and an investment facility. The agreement also marks the end of ‘aid entitlements’ according to which countries were allocated fixed and locked amounts of aid regardless of their performance. It thus allows more flexibility in the use of EDF resources by introducing a performance-based allocation system within a broader country strategy. An assessment mechanism, the contours of which have yet to be defined, shall regularly adjust aid flows in light of performance through a system of rolling programming (EC 2001d).

The EC is also improving its strategic planning: rolling programming and performance reviews will allow to modify the volume of resources allocated in response to evolving needs and performance. A single Country Support Strategy (CSS) is to guide the programming process for each ACP country, based on the country’s own development strategy. A flexible strategic performance review mechanism has been established, allowing to reviewing progress and regularly up-dating the CSS (every two years and a half). In the context of the 9<sup>th</sup> EDF, performance reviews are to be undertaken in 2003 and 2005. Furthermore, the introduction of a system of rolling programming entails conducting an annual operation review which will assess performance and may modify allocations accordingly, although this will not affect the core, ‘base case’ element of aid allocations (previously know as ‘programmable aid’ or ‘structural adjustment assistance’). Provisions for a ‘high case’ element in aid allocations are to

be used to reward particularly well performing countries in anticipation of the regular performance reviews (EC 2000f).

As noted above, the introduction of country strategies constitutes a positive, yet ambitious, development in the management of EC aid. If well conducted, it will significantly enhance the coherence and consistency of aid strategies. However, 'the devil is in the details' and the main challenge resides in implementing these demanding provisions, in particular in how considerations over the quality of democratic governance will be integrated and monitored. As of December 2001, CSS have been formulated for 50 ACP countries, representing 80% of the programmable resources, 37 of which have been processed by the Commission's Quality Support Group (ECDPM 2001c).

There is now greater convergence in the approaches of the EC and the IFIs in terms of performance-based aid management. The Commission's endorsement of country strategic frameworks echoes the World Bank's approach, including in terms of contents. This alignment is reflected for instance in the EC strategy for poverty reduction, which has become the overarching objective of EC development policy (CEU 2001). It is stated that the PRSPs and, where applicable, the Comprehensive Development Framework (CDF) are to progressively become the main foundations of Commission country strategies, especially for countries eligible for debt relief under the Highly Indebted Poor Countries (HIPC) initiative. In a working paper to operationalise the poverty reduction objective, the Commission stated that 'from the beginning of the development of the PRSP concept, the European Commission has committed itself to this process and will link aid programming to the PRSPs in the concerned countries' (EC 2001d:6). The guidelines for the 9<sup>th</sup> EDF programming process stress that, in the case of countries eligible for concessional lending by the International Development Association (IDA), 'the CDF/PRSP will normally be the automatic point of departure for all programming activities' (EC 2000f:7).<sup>17</sup> In recent years, the World Bank has amended its operational guidelines to give good governance greater importance in adjustment and investment lending operations (Kapur and Webb 2000; Santiso 2000a, b and c, and 2001b). The Bank's Country Assistance Strategies (CAS) and the World Bank/IMF Poverty Reduction

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<sup>17</sup> In November 2001, the EC and the World Bank signed an agreement to strengthen their cooperation in the area of public expenditure and financial accountability reviews in 8-15 ACP countries through the establishment of a common Trust Fund and Cofinancing Framework Agreement (TFCFA).

Strategy Papers (PRSP) now integrate considerations over the quality of governance and, since 1999, the Bank has been conducting *Institutional and Governance Reviews* (IGR).

However, the increasing alignment of the EC with the approach of the international financial institutions (IFIs) introduces tensions between the political thrust of EC aid and the apolitical approach of the IFIs. The apolitical mandate of the IFIs may not be compatible with the explicitly political objectives of EC aid and the centrality accorded to political dialogue. The objectives of EC aid in any particular country are broader than those of the IFIs and one of its defining characteristics are precisely its political dimensions. These tensions surfaced in the recent review of the poverty reduction strategies organised by the IMF and the World Bank in January 2002 (IMF 2002). As the World Bank and the IMF are to embark on debt relief for conflict-affected HIPC-eligible countries, this tension is likely to gain greater prominence. For instance, the Commission emphasises that debt relief should be conditional on governance performance and enhanced commitment to strengthen democratic governance and that it could be suspended in cases of democratic regressions or breakdowns (Nielson 2000). However, conditions for debt relief are limited to economic reform and a relatively narrow range of good governance issues.

The EC has mainly been a ‘follower’ in the process of the redefinition of aid strategies and governance conditionality since the late 1990s. In 2000, it contributed €1 billion of unspent funds to HIPC Trust Fund and increasingly adopts PRSP but is hardly involved in the articulation of policy guidelines and the design of their strategy, leaving the EC ‘trailing in the wake of the Fund and the Bank’ (Nielson 2000). The stated objectives of EC aid thus run the risk of being diluted, especially those concerning the political dimensions of EC aid. The specific character and identity of EC aid lies precisely in its political approach to development cooperation.

### **Democracy and Governance Indicators**

A further challenge for the EC has been how to operationalise governance conditionality in a consistent manner. In a communication in 1998, the Commission made an attempt at clarifying the main components of the ‘essential elements’ of the Convention of Lomé (EC 1998). This communication was subsequently complemented by an analytical

framework suggesting an assessment method and a series of performance indicators.

A particularly thorny issue has been the definition of performance indicators of democracy and governance. To uphold the common objectives of the development partnership, the EC is increasingly relying on indicators of country's performance, although it warns against their mechanistic use and to avoid double standards (EC 2001a). The question of the appropriate indicators of democracy and governance constituted stumbling blocks in the recent negotiations between the EU and the ACP group (1998-2000) on a successor agreement to the Lomé Convention (Santiso 1999).

Substantial research and unreasonable resources are being devoted to the issue. A worrying phenomenon has been the tendency towards using and even abusing quantitative indicators and abstract to evaluate the performance of external assistance to democracy and good governance. Democracy and good governance do not easily lend themselves to quantifiable indicators (Schmitter and Brouwer. 1999). Qualitative ones must therefore complement quantitative indicators.

A number of donors, and in particular the World Bank Institute (WBI) and the United Kingdom's Department for International Development (DFID), have also elaborated their own conceptual frameworks to assess democracy and governance, guidelines for the identification of appropriate indicators and more recently extensive handbooks containing indicators to assist managers in the selection of indicators.<sup>18</sup> This has led to a multitude of sometimes-conflicting indicators of progress and performance. The Development Assistance Committee (DAC) has been investigating the feasibility of monitoring and evaluating programmes promoting participatory development and good governance but has failed, so far, to reach a consensus on the issue.

Less attention has been given, however, to the manner in which performance indicators are identified, specified and monitored. The

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<sup>18</sup> These include, for example, the conceptual framework developed by the Center for Democracy and Governance of the US Agency for International Development in 1998, the Good Government Assessment Framework developed by the Department for International Development (DFID) of the United Kingdom developed in 1995 or the Dialogue and Analysis Grid of the European Commission developed in 1999. The leading new method of programme management and evaluation has been USAID's 'managing for results' system - a set of mechanisms for 'performance management and monitoring' (results-based management).

process by which quantitative and qualitative indicators are defined greatly influences their legitimacy and thus their operationality (Santiso 1999; ECDPM 2000). The method is as important as the indicators themselves. This implies establishing a clear and agreed-upon framework to assess democratic governance (assessment criteria), measure progress in democratisation and good governance (performance indicators), and evaluate the impact of the interventions by the international community on these processes of change (evaluation criteria and impact indicators).

## Case Studies

The political dimensions of EC development cooperation are most visible in the way political dialogue is conducted and the instance in which aid is suspended for political reasons. However, the mechanisms for political dialogue, consultation and aid suspension still need to be tested to ascertain their impact. There exist only few systematic studies on the application of the suspension mechanism (Crawford 1998; da Câmara and Sherrif 2001). Suspension of aid for non-respect of democratic principles and interruption of the democratic occurred in 11 cases, including Niger, Sierra Leone, Togo, Cameroon, Haiti, Comoros, Côte d'Ivoire, Fiji, Liberia and more recently Zimbabwe. Aid was also *de facto* suspended in countries in conflict such as Rwanda, Burundi and the DRC.

The cases hereafter under review are Niger, Haiti, Côte d'Ivoire, and Fiji. They exclusively focus on instances where the consultation and suspension mechanisms of the last two EU-ACP agreements have been resorted to. They reflect common shortcomings in the management of political dialogue and the suspension mechanism in the three stages of the suspension process: at its inception (consultation procedure), implementation (suspension of aid) and conclusion (resumption of aid). They also reveal a learning curve, in particular in the way in which the consultations are conducted, as the EC has gradually incorporated the lessons from experience, albeit mainly in an *ad hoc* manner.

**Niger.** These first recourses to the new mechanisms of the convention reflected a certain improvisation as a consequence of the imprecision of the legal bases and the vagueness of the procedures. In January 1996, a military coup led by Colonel Ibrahim Baré Maïnassara overthrew the first democratically elected government in Niger. The coup happened in a context of a profound crisis of governance resulting from the stand-off between the President and the Parliament over the nomination of the Prime Minister. The Council decided, by unanimity, to suspend its development

cooperation under the basis of article 366a of the fourth Convention of Lomé (Koulaïmah-Gabriel 1998). Humanitarian aid and aid benefiting the poor were excluded from the decision. This is the first time article 366a had been used but the EC resorted to the ‘special urgency’ clause to immediately suspend Niger on the grounds of a sudden and abrupt interruption of the democratisation process.

During the decision-making process leading to the suspension there was a lack of clarity as to the majority required to suspend cooperation (qualified majority or unanimity). Given that the decision had been adopted by unanimity, the veto of a single EU member state could thus oppose the continuation of the suspension. Furthermore, the period of suspension was established at 6 months, after which a new decision must be taken to prolong the suspension. In the absence of such a decision, cooperation could resume. That is precisely what happened as France vetoed the re-conduction of the suspension in July 1996.

Baré won the highly contested presidential elections of July 1996 and the opposition boycotted the subsequent legislative elections of November. However, the political crisis continued and democracy further eroded. Following a gentlemen’s agreement in July 1998, highly contested local elections were held in February 1999 and subsequently annulled by the Supreme Court in early April. On 9 April, President Baré was murdered by his own presidential guard in a bloody military coup lead by General Wanké. The Parliament was suspended and replaced by a National Reconciliation Council, which promised to hold elections in the following 9 months, by 31 December 1999.

The EC suspended, once again, its cooperation on the basis of ‘special urgency’ and invited the *de facto* authorities to initiate consultations. These were conducted in May and June 1999 and concluded on 29 July. A transition calendar was agreed upon, leading to the adoption of a new constitution by referendum in July and the holding of presidential and legislative elections in October and November under the supervision of an independent electoral commission. Tandja Mamadou was elected President. The EC resumed its cooperation gradually as progress in the transitional process was observed.

**Haiti.** Cooperation with Haiti has also been particularly difficult since the restoration of democracy in 1994. The Haitian case constitutes a dramatic illustration of the difficulties of cooperating with dysfunctional democracies and failed states. Since June 1997, Haiti has been in a state of



institutional paralysis, experiencing democratic decay and recurrent crises of governance.

Following several postponements, the first round of the general election was held in May 2000. However, in June, the Organisation of American States (OAS), which had been observing the elections, declared the results of the senatorial elections flawed and called on the Provisional Electoral Council (CEP) to address these shortcomings and adhere strictly to the provisions of the electoral law in the second round. The Haitian authorities interpreted this injunction as ‘interference’ and pressured the CEP to proclaim the results as they stood. On 18 June, under intense pressures, two of the CEP’s nine members resigned and its chairman fled to the United States. The remaining six members officially announced the results, unchanged, provoking an outcry within the international donor community. On 7 July, the OAS Electoral Observation Mission announced that it would not be observing the second round because the results adopted by the CEP were ‘incorrect’. The second round was nevertheless conducted on 9 July.

On 25 July, the Commission asked the Council to initiate consultation with Haiti under article 366a.<sup>19</sup> Nevertheless, presidential and senatorial elections were held on 26 November, resulting in the re-election of former president Jean Bertrand Aristide. These elections were preceded by a wave of violence and intimidation of the opposition. The EU deplored the unwillingness of Haitian authorities to establish a genuinely independent electoral commission and resolve the disputes arising from the May elections. Ultimately on 31 January 2001, the EC, exasperated, suspended its much-needed cooperation (including the second ‘tranche’ of the National Indicative Programme of the 8<sup>th</sup> FED, amounting to €4.4 million and direct budgetary aid). The country further slipped into crisis, with a series of failed attempted coups d’état in July and December 2001. Relations between the EC and the government of Haiti are now marked by acrimony and mutual distrust and dislike.

**Côte d’Ivoire.** The way the consultation process was conducted in the case of Côte d’Ivoire in 2000 was more rigorous and was able to influence the political situation to a certain extent. Ultimately, however, EC pressure was not enough. On 22-23 December 1999, long-time President Kona Bedié was deposed by a military coup led by General Robert Guéi. Since its independence, Côte d’Ivoire had been one of the most stable nascent democracies of the continent. The constitution was suspended and

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<sup>19</sup> COM(2000)486 final.

democratic institutions dissolved (including the National Assembly, the Constitutional Court and the Supreme Court). A National Committee of Public Safety was established to restore the authority of the state and to ‘create the conditions necessary for the restoration of democracy and the organization of free, fair and transparent elections’. The coup was unanimously condemned (including, in particular, by France, the United Kingdom and the United States).

Following a communication by the Commission on 7 January 2000,<sup>20</sup> the Council opened consultations with Côte d’Ivoire on 14 January on the basis of articles 5 and 366a of the Convention of Lomé. These consultations took place on 7 February. The *de facto* authorities in Côte d’Ivoire pledged to restore democracy and agreed to an electoral timetable leading to the holding of presidential, legislative and local elections by 31 October 2000 at the latest. The Council, in its decision concluding the consultations of 2 May 2000 decided not to suspend cooperation but to adopt ‘appropriate steps’ including ‘the pursuit of cooperation on a gradual and conditional basis, focusing during the transition period on measures in support of the rapid and full restoration of constitutional democracy, the rule of law, good governance and civil society, and, should the need arise, humanitarian aid’ (3).<sup>21</sup> The Commission would monitor compliance with the electoral timetable and the adoption of measures to guarantee the impartiality and credibility of the elections in October.

The October elections were supposed to bring a relatively smooth restoration of democracy, but things went terribly wrong. In July, a new constitution was adopted and approved by referendum but controversies regarding electoral and citizenship laws tainted the electoral process. The Supreme Court told the two most popular opposition parties that they could not present candidates and Alassane Ouattara, a former Prime Minister, was excluded from the race on the grounds of its contested nationality. It progressively became clear that General Guéi would not allow free and fair elections and wanted to retain power. The EC consequently suspended its electoral assistance. Ultimately General Guei was forced out of office by protests in October following his refusal to step down despite losing the elections to Laurent Gbagbo, leader of the oldest opposition party, the *Front Populaire Ivoirien* (FPI).

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<sup>20</sup> COM(1999)899 final.

<sup>21</sup> COM(2000)258 final.

On 22 January 2001 the EC invited Côte d'Ivoire for another round of consultations, which took place on 15 February. Open and transparent local elections were held in 25 March. On 29 May, the Commission proposed to conclude the consultation procedure and resume aid on a 'gradual and phased' basis, focusing in particular on institutional support. On 25 June the Council decided to gradually restore cooperation with Côte d'Ivoire to accompany the positive developments. However, the EC called on the launching of a national and multiparty dialogue, national reconciliation and the opening of legal proceedings concerning human rights abuses. The resumption of full cooperation will depend on the progress achieved, pending a further review in January 2002.

**Fiji.** The case of Fiji constitutes a dramatic irony of history. Originally, the EU and the ACP group had planned to sign the successor agreement to the fourth Lomé Convention in Suva, the capital of Fiji, on 31 May 2000. The objective was to give a new start to the EU-ACP cooperation by distancing it from Lomé, the capital of Togo, a country with which the cooperation had been suspended on political grounds on-and-off since 1996. However, just two weeks prior to the signing conference, a coup, which ultimately failed, was attempted, interrupting the democratisation process in the ethnically-divided island state of the Pacific.

On 19 May 2000, a group of armed men stormed the Parliament, taking hostage its members, the Prime Minister and 40 members of the government. The group led by George Speight demanded a decisive governmental role for ethnic Fijians, who make up 51% of Fiji's population. The President, Ratu Sir Kamisese Mara, was obliged to remove the democratically elected government of the ethnic-Indian Prime Minister Mahendra Chaudhry, as it was no longer in the position to perform its functions. On 29 May, the head of the army, Commodore Frank Bainiramarara, with the consent of the President who stepped aside, assumed executive power and repealed the 1997 multi-ethnic Constitution. On 6 June, the military government outlined a plan to restore civil order, which appeared to accede to the demands of the coup plotters for the restoration of the supremacy of ethnic-Fijians in government.

The armed insurrection was immediately condemned by the Presidency of the EU. On 4 August, on the basis of a communication by the Commission to the Council,<sup>22</sup> the EU invited the *de facto* government of Fiji for consultations under articles 9 and 96 of the Cotonou Convention. The

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<sup>22</sup> COM(2000)460 final.

consultations were held on 19 October. While deploring the interruption of the democratic process, the EU noted the commitments made by Fiji's interim government, including a timetable for constitutional review, the holding of democratic elections within 18 months, and the bringing to justice of the coup plotters.

The Council, acting on a proposal from the Commission, decided to conclude the consultations on 4 April 2001.<sup>23</sup> It adopted a series of 'appropriate measures', taking into consideration recent positive developments, including the judgement by the Fijian Court of Appeal in March stating that the 1997 Constitution remains the supreme law of Fiji and the announcement of elections in August and September 2001. The Council opted for a step-by-step approach, identifying four benchmarks, which included the multi-racial contents of the constitution (by the end of June 2001), the adoption and promulgation of a new constitution (not later than the end of December 2001), the holding of general, free, and fair elections (not later than the end of June 2002), and the initiation of judiciary procedures against George Speight and his associates. Nevertheless, the Council suspended all investment projects under the 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> EDFs and delayed the adoption of the 9<sup>th</sup> EDF until free and fair elections were held and a legitimate government had assumed office. New aid commitments would be conditioned upon the progress made towards the restoration of democracy, as assessed by compliance with the benchmarks. The Council would revoke these measures when democracy was fully restored.

Tensions between ethnic Fijians and ethnic Indians continued to escalate, however. Traditional chiefs gathered to find a peaceful resolution to the stand-off and appointed Josefa Iloilo, a candidate favoured by the rebel leader, to the presidency. In July, the EU threatened to tighten its sanctions. In late August-September 2001, parliamentary elections were held and judged relatively free and fair by international observers. Mr Chaudhry's party won 27 out of 71 parliamentary seats, while Mr Qarase's nationalist *Fijian People's Party* (SDL) won 31, failing to secure an outright majority. However, and despite the provisions of the 1997 Constitution, Prime Minister Qarase excluded Mr Chaudhry's party from the coalition government he formed in September, with the blessing of President Iloilo. In October 2001, Fiji's new Parliament was sworn in, but Ethnic tensions between ethnic-Fijians and ethnic-Indians did not recede. The situation

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<sup>23</sup> Council Decision 2001/334/EC.

remains fluid, making it particularly difficult to assess the real quality of Fiji's 'restored democracy.'

These four cases illustrate the difficulties of conducting political dialogue in a consistent and systematic manner. They clearly demonstrate that the operational mechanisms within the Commission to manage these instruments have not been sufficiently clarified. They also indicate that there is only a narrow range of circumstances in which the consultation procedure of the suspension mechanism can be invoked, mainly interruptions of the democratisation process. Civil conflicts, however, have been responded to under the CFSP.

Furthermore, once development aid has been suspended to a country, the process by which this country could re-qualify to foreign aid remains unspecified, although important improvements have been made since 1996. Article 96 of the Convention of Cotonou stipulates that any measure shall be revoked as soon as the reasons for taking it have disappeared. However, how, when and by whom such a judgement will be made are not made explicit. It is urgent to clarify these grey areas in the conduct of political dialogue and the application of the suspension mechanism, as democratic erosions tend to become more frequent.

Experience suggests, in particular, that the consultation and suspension mechanism is more effective in responding to cases of breakdown of democracy, such as coup d'états (Côte d'Ivoire or Fiji), than flawed elections (Togo or Haiti). In the former, the *de facto* authorities seek to legitimise their rule by agreeing on a calendar for the return to constitutional rule, which can be aptly accompanied by the EC's incentive measures. In the latter cases, such as Zimbabwe, the semi-authoritarian regime resists and resents having its legitimacy contested by outside actors. The increasing acrimony and confrontation between the regime and the EU make it particularly difficult to apply a positive approach of support and inducement as long as the autocratic leaders remain in power. For instance, President Eyadéma of Togo has never recognised the electoral fraud in 1992. His reluctance to abide by free and fair elections was confirmed in 1998. Negative measures and aid sanctions tend to be the only available recourse, until the regime credibly re-commits itself to return to the democratisation path. For these reasons, credible international observation of elections is critical to assess the regime's autocratic tendencies.

However, the legitimacy of European electoral observation is often criticised as undue interference in domestic affairs. On 29 October 2001, the Council decided to launch the consultation provided for by article 96 of

the Cotonou Convention vis-à-vis Zimbabwe, after months of stalemate over political violence and the deterioration of the rule of law ahead of next presidential election in March 2002. Exasperated at the expulsion of the Head of its Electoral Observation Mission, Pierre Schori, the EU imposed ‘smart sanctions’ on Zimbabwe’s ruling elite on 18 February 2002. The Secretary General of the Organisation of African Unity (OAU), Amara Essy, criticised the interference in domestic affairs that international electoral observation represented, when foreign donors impose this observation.

It becomes thus urgent to devise more legitimate processes of international electoral observation, based on existing multilateral arrangements and regional organisations. For instance, the United Nations could supervise the creation of a system of international certification of domestic elections. Regional organisations such as the OAU in Sub Saharan Africa, the Organisation of American States (OAS) in Latin America and the Caribbean and the Organisation for Security and Cooperation in Europe (OSCE) in Europe would be responsible for observing elections in their respective areas of responsibility. Such mechanism would probably have greater legitimacy, as it would include rather than the state where elections are held.

## **6. Conclusions: The Learning Curve**

The momentum of reform must be maintained. Clearly, while tremendous progress has been made in recent years, EC democracy assistance policy still lacks clarity, coherence, and consistency. Within the Commission itself, responsibility for encouraging democracy abroad remains fragmented and divided between several directorate generals, in particular external relations, enlargement, and development assistance. The creation of *Europe Aid Cooperation Office* may well enhance the management of aid but may also further complicate the translation of broad policy goals into consistent operational strategies.<sup>24</sup> Furthermore, tensions and contradictions between the first and second pillars of European integration still remain a stumbling block for the application of coherent democracy assistance strategies and governance conditionalities.

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<sup>24</sup> The *Europe Aid Cooperation Office* is structured in 7 directorates, 5 of which are geographically defined. Each of the geographical directorates has a unit for ‘social development and institutional support’, which include support to the rule of law and good governance. The unit for democracy and human rights (F3) is located in a separate directorate (F).

Paradoxically, the current reform of external relations and development cooperation tends to ‘depoliticise’ foreign aid, converting it essentially as a technical activity to be evaluated in terms of the efficiency of aid delivery and the quality of aid programmes, rather than their political thrust. Indeed, the directorate general for external relations, where a Unit for Conflict Prevention, Crisis Management and ACP Political Issues (Directorate A/4) as well as a Unit for Human Rights and Democratisation have been established (Directorate B/1), has become the main focal point for democracy promotion. However, long-term democracy assistance work more often takes places within the realm of development cooperation. The short time-scale of diplomacy and the long-term objectives development cooperation may not always be compatible, and as Clare Short suggests, there may often be a ‘clash between the perspective of foreign affairs ministers and development ministers’.<sup>25</sup>

The examination of democracy and governance assistance underscores the need to integrate external relations and development cooperation more systematically. It questions the current segmentation in two directorate-generals. The directorate-general for development is exclusively entrusted with the management of this cooperation. It is significant that there does not exist a specialised horizontal unit within the directorate-general for development responsible for democracy and governance assistance. The unlinking of the political dimensions of the EU-ACP partnership from the management of EDF resources that this structure appears to suggest may prove particularly counter-productive. Furthermore, foreign policy remains firmly anchored in the inter-governmental pillar of CFSP. As a result, the division of labour between the directorate-generals for external relations and development remains blurred regarding their respective responsibilities in the promotion of democracy and strengthening of governance in developing countries.

At the operational level, there remain many thorny process issues. The new system of performance-based programming is likely to be more demanding than ever and the EC delegations are likely to bear the heaviest burden. Conducting structured political dialogue and organising broadly based consultations will inevitably prolong programming. Although this may ultimately increase the effectiveness of aid, the articulation of country strategies, the monitoring of government performance and the regular

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<sup>25</sup> Quoted in the Ninth Report on International Development of the International Development Committee of the United Kingdom’s House of Commons, 27 July 2000 (para. 16).

review of the quality of democratic governance are particularly challenging endeavours requiring sustained efforts and specialised skills. How these assessments will affect the newly established performance-based allocation system remains unclear, in particular regarding on how adjustment will be made in country allocations as well as between countries.

The following proposals could be considered.

- At the strategy level, **strategic planning** in the area of democracy and governance assistance should be strengthened, ideally within the directorate general for development by expanding the responsibilities of the existing Directorate A (A/1). This strategic planning department would support delegations in the design of country assistance strategies and ensure the consistent application of policy guidelines.
- The establishment of a **democracy and governance unit** should be seriously considered. This unit would be responsible for assessing policies and revising strategies. Ideally, a Commission-wide mechanism should be established to supervise democracy promotion initiatives, including the respect of the democracy clauses enshrined in the cooperation agreements with third countries since 1995. This unit would capitalise the Commission's recent experience with political dialogue and aid suspension and should become the focal point for supervising political dialogue, coordinating the consultation process and guiding the suspension mechanism across countries. It would provide critical institutional support to the country Delegations, which remain the central locus for conducting political dialogue in specific countries, as each case is unique. Such a set-up would be particularly useful in the context of the deconcentration towards Delegations. It shall be responsible for articulating methods to assess democratic governance and identify corresponding performance indicators to monitor progress or detect regress. Furthermore, the establishment of such a unit will allow for a more strategic use of EIDHR resources, in particular in cases where official aid has been suspended (EC 2001a). In such cases, EIDHR resources, which are not affected by the suspension and whose disbursement depends on a unilateral decision by the Commission, should be better targeted to promote political dialogue within the country to mitigate crises of governance and prevent conflict.

The Governance and Institutions Department of the British Department for International Development (DFID) and its Governance Advisory Group constitutes a promising model to mainstream governance



concerns in regional and country operations.<sup>26</sup> It combines a central departmental unit responsible for designing governance policies and ensuring consistency in its application, with a decentralised group of associated experts advising field offices on the articulation of country strategies and operational programmes.

- The **policy research and evaluation** capabilities of EC should be dramatically enhanced to assess the effectiveness of aid strategies and develop an autonomous voice in the global aid regime. The EC aid apparatus still lacks the research capacities of institutions such as the World Bank and thus encounters difficulties in setting its own agenda and having its voice heard in multilateral forums. The need for more coherent aid policies and strategies should not lead the EC to adopt the IFIs agenda, but rather to influence it and challenge it. In particular, and unlike the IFIs, the identity of EC aid is founded on its distinctively political character and approach. Challenging the intellectual monopoly of the IFIs on aid policies and the predominance of economic approaches to development will require the EC to enhance its credibility as an innovator and leader in development thinking.

In the current institutional set-up, the Evaluation Unit (Directorate H/6) is now placed under the responsibility of the Board of *Europe Aid*, which appears to indicate that its main function will be the evaluation of the efficiency of aid programmes, rather than the assessment of aid strategies. The establishment of the Quality Support Group (QSG) is evidence of the current efforts at enhancing the quality of programming, but fails to address the central question of strategy and the translation of general objectives into coherent policies and consistent programmes. A first, but sub-optimal option, would be to expand the mandate of the Evaluation Unit to encompass strategic evaluation. Alternatively, policy research and strategic evaluation capabilities should be established within the directorate general for development. Ideally, the EC could establish a policy think-tank or specialised agency to advise the Commission on democracy and governance issues.

- In that context, a **systematic review of the suspension mechanism since 1995** should be conducted to evaluate the effectiveness of the consultation procedure under the EU-ACP cooperation framework.

<sup>26</sup> Other bilateral aid agencies have also created specialised, transversal policy units responsible for coordinating their democracy and governance work. These include, for instance, United States' USAID, Canada's CIDA, United Kingdom's DFID, Germany's BMZ, Sweden's Sida and The Netherlands' DGIS.

Political dialogue and the consultation process provided for by the Cotonou Convention are likely to become the EU's principal instrument to deal with faltering democracies and crises of governance, what the OECD DAC (2001a and b) terms 'poor performers' in the context of elusive and difficult partnerships. It is thus essential to have a critical look at how it can be improved to better manage these politically sensitive processes.

The following proposals could be considered.

- At the strategy level, **strategic planning** in the area of democracy and governance assistance should be strengthened, ideally within the directorate general for development by expanding the responsibilities of the existing Directorate A (A/1). This strategic planning department would support delegations in the design of country assistance strategies and ensure the consistent application of policy guidelines. This department would also be responsible for drafting the annual report on EC development cooperation that has been suggested by the Development Council in May 1999.
- The establishment of a **democracy and governance unit** should be considered. This unit would be responsible for assessing the effectiveness of existing policies and strategies. Ideally, a Commission-wide mechanism should be established to supervise democracy promotion initiatives, including the respect of the democracy clauses enshrined in the cooperation agreements with third countries since 1995. Alternatively, the unit could be incorporated into the directorate B for transversal policies of the directorate general for development.

This unit would capitalise the Commission's recent experience with political dialogue and aid suspension and should become the focal point for supervising political dialogue, coordinating the consultation process and guiding the suspension mechanism across countries. It would provide critical institutional support to the country Delegations, which remain the central locus for conducting political dialogue in specific countries, as each case is unique. Such a set-up would be particularly useful in the context of the deconcentration towards Delegations. It shall be responsible for articulating methods to assess democratic governance and identify corresponding performance indicators to monitor progress or detect regress.

Furthermore, the establishment of such a unit will allow for a more strategic use of EIDHR resources, in particular in cases where official

aid has been suspended (EC 2001a). In such cases, EIDHR resources, which are not affected by the suspension, should be better targeted to promote political dialogue within the country to mitigate crises of governance and prevent conflict.

The Governance and Institutions Department of the British Department for International Development (DFID) and its Governance Advisory Group constitutes a promising model to mainstream governance concerns in regional and country operations.<sup>27</sup> It combines both a central departmental unit responsible for designing governance policies and ensuring consistency in its application, as well as a decentralised group of associated experts advising field offices on the articulation of country strategies and operational programmes.

- The **policy research and evaluation** capabilities of EC should be greatly enhanced to assess the effectiveness of aid strategies and develop an autonomous voice in the global aid regime. In the current institutional set-up, the Evaluation Unit (Directorate H/6) is now placed under the responsibility of the Board of *Europe Aid*, which appears to indicate that its main function will be the evaluation of the efficiency of aid programmes, rather than the assessment of aid strategies. The establishment of the Quality Support Group (QSG) is evidence of the current efforts at enhancing the quality of programming, but fails to address the central question of strategy and the translation of general objectives into coherent policies and consistent programmes. A first, but sub-optimal option, would be to expand the mandate of the Evaluation Unit to encompass strategic evaluation. Alternatively, policy research and strategic evaluation capabilities should be established within the directorate general for development. Ideally, the EC could establish a policy think-tank or specialised agency to advise the Commission on democracy and governance issues.

The EC aid apparatus still lacks the research capacities of institutions such as the World Bank and thus encounters difficulties in setting its own agenda and having its voice heard in multilateral forums. The need for more coherent aid policies and strategies should not lead the EC to adopt the IFIs agenda, but rather to influence it and challenge it. For instance, the EC's annual report on development assistance should

<sup>27</sup> Other bilateral aid agencies have also created specialised, transversal policy units responsible for coordinating their democracy and governance work. These include, for instance, United States' USAID, Canada's CIDA, United Kingdom's DFID, Germany's BMZ, Sweden's Sida and The Netherlands' DGIS.

ultimately be comparable to the World Bank's *World Development Report* or UNDP's *Human Development Report*. Challenging the intellectual monopoly of the IFIs on aid policies and the predominance of economic approaches to development will require the EC to enhance its credibility as an innovator and leader in development thinking. In particular, and unlike the IFIs, the identity of EC aid is founded on its distinctively political character and approach.

- In that context, a **systematic review of the application of the suspension mechanism since 1995** should be conducted to assess the effectiveness of the consultation procedure under the EU-ACP cooperation framework. Political dialogue and the consultation process provided for by the Cotonou Convention are likely to become the EU's principal instrument to deal with faltering democracies and crises of governance, what the OECD DAC (2001a and b) terms 'poor performers' in the context of elusive and difficult partnerships. It is thus essential to have a critical look at how it can be improved to better manage these politically sensitive processes.

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