

Promoting Democracy by Conditioning Aid? Towards a More Effective EU Development Assistance *

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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 assistance of the European Union (EU) to developing countries.¹ But the technocratic consensus impregnating European Community (EC)² aid and the opacity of its bureaucratic procedures have obliged the EU to address political problems with technical solutions in the straightjacket of complex decision-making processes and intricate management procedures. These administrative shortcomings compound the absence of an overarching democracy assistance strategy.

The exasperation with the failure of the Commission to reform its development aid effectively was 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“.³

Even though the European Union is a major contributor to official development assistance, it has remained a political dwarf in the global aid regime. The EU is being perceived more as a funding agency than a development partner with clearly demarcated aid strategies. The development agenda continues to be set by the international financial institutions (IFIs) in which the EU's voice remains fragmented.

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¹ CEU 1998; EC 1995, 2001a; Burnell 1994, 2000; Diamond 1997; Carothers 1999, 1997; Crawford 2001, 2000a and b; Santiso 1999, 2001a and c, 2002a; Youngs 2001; Schraeder 2002

² The European Union (EU) refers to the regional inter-governmental organisation established by the 1992 Maastricht Treaty, which includes, in its „first pillar“, the European Community (EC) created by the 1957 Treaty of Rome. The European Council, Parliament, and Commission are responsible for the management of community policies, amongst which foreign aid. The aid provided by the EC and managed by the Council and Commission co-exists with that of the EU member states.

³ „Aid that Doesn't Help“, *Financial Times*, 23 June 2000. See also: Comité des Sages 1998; Court of Justice 1998; Court of Auditors 2000a and b; Bossuyt et al 2000; EC 2000d and e, 2001c.

Mainstreaming Democracy and Governance Assistance

Adding a Political Dimension

Concerns about the quality and effectiveness of EC development assistance are not new and the EC has actively sought to address its management shortcomings (EC 2001c, 2000d and e). 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 co-operation, it will only be sustained where there are functioning democracies and accountable government (CEU 2001). The statement identifies the promotion of democratic institutions, good governance and the rule of law as one of the six priority areas for EC foreign aid. This political purpose represents one dimension of the new framework for EC democracy assistance. The other one is administrative reform, which has led to the reunification of the project cycle management under an autonomous implementing agency, the Europe Aid Co-operation Office, the adoption of multi-annual programming, and the deconcentration of responsibilities toward the delegations in the field.

Until recently, the EC lacked common country strategies guiding its interventions in any particular country. The Community Co-operation Framework adopted in May 2000 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.

More Finance

In financial terms, the EU's 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. As table 1 shows, this kind of assistance increased significantly over the years, in absolute as well as in relative terms.

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). But 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: democratization and the rule of law; pluralist civil society; confidence-building to restore peace; and initiatives for target groups.

Table 1:
Commitments for Democracy and Civil Society Assistance, 1988-1998 (million)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Total	17	12	53	58	120	165	207	117	504	612	525
<i>Percentage of total EC aid expenditure</i>	0.4%	0.4%	1.6%	1%	1.8%	2.4%	2.8%	1.6%	7%	9.4%	6.1%
Thereof for Central and Eastern Europe			10	27	26	66	82	26	212	221	271
<i>Percentage of total democracy and civil society assistance</i>			19%	47%	22%	40%	40%	22%	42%	36%	52%

Source: Cox and Chapman 1999.

The sector distribution of EU aid reveals a preference for supporting civil society. As table 2 shows, the bulk of EIDHR resources between 1996 and 2000 were concentrated on human rights and civil society assistance, reflecting the EC's preference for a „bottom-up“ approach to the promotion of democratic governance. 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 the period 1996-2000.

Table 2:
European Initiative for Democracy and Human Rights, Sector Distribution of commitments 1996-2000 (million and percentage)

	1996-2000	1996	1997	1998	1999	2000
Democratization and the rule of law	79,86 19,7%	14,94 19,7%	19,31 25,4%	12,03 18,8%	15,33 16,75%	18,25 18,9%
Pluralist civil society	156,00 38,6%	23,55 30,9%	24,97 32,8%	17,28 27,1%	47,64 52,1%	42,56 43,7%
Confidence-building to restore peace	45,58 11,3%	14,8 19,5%	10,6 13,9%	7,59 11,9%	9,15 10%	3,44 2,5%
Initiatives for target groups	90,32 22,3%	15,72 20,7%	14,15 18,6%	19,92 31,2%	12,37 13,5%	28,16 28,9%
Procedural aspects *	32,93 8,1%	7,01 9,2%	7,01 9,2%	7,01 11%	7,01 7,7%	4,89 5%
TOTAL	404,69	76,02	76,04	63,83	91,50	97,30

Sources: EC 2000a and 2001a

* 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.

Providing a Legal Basis

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 to the status of an overarching objective of foreign aid, not only for the Community but also for its member states. These regulations outlined a „positive approach“ of support and inducement with the allocation of incentive financing to encourage democratization . 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 co-operation agreements. They also mandated the Commission to insert democracy clauses in all future co-operation 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“.⁴

The 1992 Maastricht Treaty for the first time codified development co-operation as an autonomous policy field with specific objectives, making the respect for democracy and human rights a general principle of EU law, henceforth to inform all of its activities.

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Similarly, accession to and continued membership in the EU became explicitly conditional upon the endorsement of and adherence to a democratic system of government (articles 6 and 7 of the Amsterdam Treaty). 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). However, and unlike development aid, CFSP remains firmly anchored in the inter-governmental pillar of the EU.

In response to a legal challenge posed by the European Court of Justice, the Council adopted in 1999 two regulations, known as the „human rights regulations“, which provide the current legal basis for all democratization activities under the EIDHR. 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.

Electoral Observation and Assistance

⁴ 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.

Electoral assistance constitutes the most visible form of EU democracy assistance. Over the course of the 1990s the EU undertook and funded a great variety of electoral observation missions (EC 2000b). However, only in 1998 did the EU start to equip itself with the necessary operational guidelines. Then the Council established criteria for assessing the fairness and regularity of elections observed by the EU.⁵ In June of the same year, it set up guidelines for electoral observation and in June 1999 it adopted common criteria for the selection of electoral observers.

Too often, elections have 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 an adequate response to democratic erosion and decay. Accordingly, the types of interventions are progressively expanding, moving from an exclusive focus on international observation to support for domestic monitoring and more refined forms of assistance, such as assistance in designing new electoral systems, constitutional engineering, institutional reform and support for the administration of elections by independent electoral commissions. Support for political parties and the reform of party systems remains tentative, however, not least out of concerns over issues of national sovereignty.

A communication from the Commission of April 2000 constitutes the first thorough and systematic review of the EU's experience in the field of electoral assistance and observation. It recognises that „an ad hoc approach no longer seems appropriate nor the best use of resources“ (EC 2000b:3) and that there has been no consistency in the choice of budgetary instruments and legal frameworks. It suggests the establishment of a permanent EU Electoral Unit within the Commission, responsible for the co-ordination 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 legitimize 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 the light of the 1998 guidelines, post-conflict and first-generation elections may require a more flexible approach.

Crisis Mitigation and Conflict Prevention

⁵ 9262/98 PESC 157 COHOM 6.

The standard strategies for promoting democracy and governance, including governance conditionality, tend to become ineffectual in crisis situations and can sometimes compound the problems that prompted the crisis in the first place. Echoing the DAC Guidelines on Conflict, Peace and Development Co-operation the Commission considers that the main contribution of development co-operation 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“ (OECD DAC 1997:9). 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, democratization and economic reconstruction are seen as three mutually reinforcing elements (EC 2001b).

In the same document, the Commission proposes a two-pronged strategy, distinguishing between long-term conflict prevention („projecting stability“) and short-term conflict management („quick reaction“). It recognises that preventing the occurrence or recurrence of

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conflict in „dysfunctional states“ implies 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 violent conflict.

While it acknowledges the destabilising effects of state disintegration in conflict-ridden and war-prone countries, the Commission’s approach fails to recognize that democratization itself can generate sources of conflict. In fact, hasty transitions towards democracy and premature elections can destabilize fragile peace processes. While democracy and modernization 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 democratization processes are highly volatile. Democratization 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 environments. It can go backwards and sideways as much as forward. 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 (Carothers 2000). Increasingly, the term democracy is used with adjectives to capture the reality of „hybrid regimes“ struggling to consolidate (Collier and Levitsky, 1997).

Ultimately, these considerations question the intellectually elegant assumption of a linear „democratization 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 democratization and guide policy (Schedler 1998 and 2001; Carothers 1997, 2000 and 2002). Rather than evaluating particular situations along a democratization continuum, policy-makers should focus on the wide template of democratising regimes. Particularly tricky is the transition from crisis to conflict. Often, democratic regressions and crises of governance lead to the suspension of EU development assistance, thus neutralising its ability to „project stability“.

Strengthening Governance and Preventing Democratic Decay

As far as the quality of democratic governance is concerned, the nature of the political regime of democratising states often lies somewhere in between genuine democracy and overt autocracy. Many new and restored democracies possess the formal attributes of democracy while the mode of governance exhibits 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 democratization in specific countries. Assessing whether semi-authoritarianism is a stable condition, a temporary stage, or a different trajectory to democracy represents tremendous challenges. But 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.⁶

⁶ These situations include: authoritarian governments neither committed to nor willing to engage in democratization ; 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).

The policy challenges are equally great. Dealing with „dysfunctional states“ (EC 1997a:16) requires a subtle dosage of both positive and negative incentives. It entails assessing the extent to which leaders have the political will to democratise. Promoting democratic governance in faltering democracies such as 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 and negative measures built in long-term, coherent and consistent strategies.

The Difficult Art of Conditioning Aid

Negative and Positive Incentives

The overarching EC democracy assistance strategy has been and continues to be one of „constructive engagement“. Its overall objective is to encourage political change and policy reform in a non-confrontational manner, based on dialogue and partnership with governments. However, while the importance of ownership for sustaining reform and increasing the effectiveness of aid is now well established, the EU recognises that, in some cases, a genuine commitment to democratic governance and the rule of law may be weak or lacking. In this case, it may be appropriate to make financial assistance conditional on the recipient country's political performance (EC 2001a). This raises the question of how to design and apply conditionality in order to really further democratization .

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 this type 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 them precludes the disbursement of aid.

By now, the failure of conditionality to attain its desired objectives and bring about sustained economic and political development is widely recognised. Craig Burnside and David Dollar (1997) have found that there is no direct relationship between aid flows and policy reform. This finding is substantiated by a recent study on Sub-Saharan African countries which shows

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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, 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.

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 ties aid rewards to the direction of change, rather than the perceived level of democracy (Nielson 1999). Aid selectivity is a particular form of ex-post conditionality establishing a positive link between aid allocations and country performance. Of course, selectivity-based approaches to political conditionality require establishing rigorous monitoring mechanisms to assess the dynamics of democratization and the direction of governance reform.

Aid practice so far does not make much use of „incentive conditionality“ (Youngs 2001). Other political considerations remain important in determining aid flows, especially for large donors and multilateral institutions. A recent study of EC 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). In general, donors have not effectively tailored their assistance to the specific country and to the specific phase of the reform process (Devarajan et al. 2001). More even, better policies and improving performance often lead to decreasing levels of assistance (Collier and Dollar 1998), sending the wrong signal.

To the EC, radical strategies of aid selectivity are largely unavailable. As long as it adheres to an aid policy of global reach, it cannot discriminate among aid recipients. The principle of selectivity can only be applied to the scope and amount of aid, not to its direction. Still, the „tranching“ of aid into several components and the introduction of phased programming could be used to reward democratising countries.

More fundamentally, governance conditionality and selectivity strategies beg the original question 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 a sign of weak institutional capacity and state failure.

Making European Development Aid More Selective

The EC is increasingly relying on incentive conditionality to complement its positive measures of direct support. The co-operation between the EU and the so-called ACP (African, Caribbean and Pacific) countries, which was established in 1975 and which is often cited as a model of development partnership (von Meinjenfeldt et al. 1999, ECDPM 2001 a and b), incorporated in 1995 elements of governance conditionality. Article 366a of the revised fourth Lomé Convention 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 co-operation, 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 EU in its use, in particular to „transpose“ foreign policy decisions under the „second pillar“ of the EU into development aid policies.

The Cotonou Convention of 2000, building on the legacy of the fourth Lomé Convention, reinforces the elements of governance conditionality and aid selectivity. Articles 9 and 96 replicate the provisions on the „essential elements“ and the „suspension clause“ contained in the previous agreement. 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 modernization of the public sector, promoting political, administrative and financial decentralization, and building capacity of non-state actors.

The inclusion of good governance into the agreement proved to be a particularly controversial issue. As a compromise solution, the EU and the ACP agreed to include 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), 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 does not lead automatically to the initiation of the suspension mechanism

⁷ Disagreements over democracy and good governance also marked the first EU-Africa summit, which was held in April 2000 in Cairo, Egypt.

enshrined in the convention. Nevertheless, serious cases of corruption, including bribery, are now grounds for suspending the co-operation (article 97).

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 new convention provides for a consultation mechanism in the event of a serious breach of the terms of the agreement. This constitutes an important „signalling instrument“ through which the EU can respond to regressions or interruptions of the democratization 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“ and „the

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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 (article 96). The article states further that: „if the consultation does 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.“ It also allows for the „special urgency“ procedure of the previous convention.

However, the consultation procedure remains largely unregulated and the „appropriate measures“ are at the discretion of the EC. While this uncertainty provides for flexibility, it can and does also generate misunderstandings and frictions, between the EU and its 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. 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.

Another innovation of the Cotonou Convention is the introduction of performance-based management and the simplification of instruments (ECDPM 2000). Co-operation instruments have been reduced from ten to two, a grant facility and an investment facility. The agreement also tries to end „aid entitlements“ according to which countries were allocated fixed amounts of aid regardless of their performance. Instead, it introduces 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.

Strategic planning is also being reformed. A single Country Support Strategy (CSS) is to guide the programming process for each ACP country, based on the country's own development strategy. Performance reviews will allow to modify the volume of resources allocated in response to evolving needs and performance. This will not affect the core, „base case“ element of aid allocations, but provisions for a „high case“ element in aid allocations are to be used to reward particularly well-performing countries. The introduction of country strategies constitutes a positive, yet ambitious, development in the management of EU 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.

The Commission's endorsement of country strategic frameworks echoes the World Bank's approach, including in terms of contents (Santiso 2002b, 2001b, 2000a and b). 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, EC 2001d). However, the alignment of the EC with the approach of the IFIs has its limits, because – contrary to the apolitical mandate of the IFIs – EC aid now has explicitly political objectives. 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 countries under the Highly Indebted Poor Countries (HIPC) initiative, this tension is likely to gain greater prominence. 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. Since the EC has mainly been a „follower“ in the process of the redefinition of aid strategies and governance conditionality since the late 1990s the stated objectives of EC aid run the risk of being diluted.

Case Studies

Suspension of aid for non-respect of democratic principles and interruption of the democratic occurred in eleven 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 Democratic Republic of Congo.

The cases reviewed here 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 its three stages: at its inception (consultation procedure), implementation (suspension of aid) and conclusion (resumption of aid). The cases reveal a learning curve, in particular in the way in which the consultations are conducted, as the Commission has gradually incorporated the lessons from experience, albeit mainly in an ad hoc manner.

Niger

In January 1996, a military coup led by Colonel Ibrahim Baré Maï nassara 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 European Council decided, by unanimity, to suspend its development co-operation under the basis of article 366a of the fourth Convention of Lomé (Koulai mah-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 democratization process. The period of suspension was established at six months, after which a new decision had to be taken to prolong the suspension. In the absence of such a decision, co-operation 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. The political crisis continued and democracy further eroded. Following a gentlemen's agreement in July 1998, 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 nine months, by 31 December 1999.

The EC suspended, once again, its co-operation 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 lections in October and November under the supervision of an independent electoral commission. Tandja Mamadou was elected President. The EU resumed its co-operation gradually as progress in the transitional process was observed.

Haiti

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 Organization 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. 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 co-operation (including the second „tranche“ of the National Indicative Programme of the eighth FED, amounting to 44.4 million and direct budgetary aid). The country further slipped into crisis, with a series of failed attempted coups d’Etat in July and December 2001. Relations between the EU and the government of Haiti are now marked by acrimony and mutual distrust.

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, EU 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. The constitution was suspended and democratic institutions dissolved. 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 by France, the United Kingdom and the United States).

The EU consulted with Côte d’Ivoire on 7 February on the basis of articles 5 and 366a of the Convention of Lomé. 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 EU decided not to suspend co-operation but to adopt „appropriate steps“ including „the pursuit of co-operation 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“. The Commission would monitor compliance with the electoral timetable and the adoption of measures to guarantee the impartiality and credibility of the elections.

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 EU 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).

Another round of consultations took place on 15 February. Open and transparent local elections were held in 25 March. On 29 May, the Commission proposed to resume aid on a „gradual and phased“ basis, focusing in particular on institutional support. On 25 June the Council of the EU decided to gradually restore co-operation with Côte d’Ivoire to accompany the positive developments. However, the EU demanded a national and multiparty dialogue, national reconciliation and legal proceedings concerning human rights abuses. The resumption of full co-operation would depend on the progress achieved, pending a further review in January 2002. Eventually, the EC normalized its cooperation. In March 2002, it increased its macroeconomic support to 56 million euros and adopted a 264 million euro five-year program covering the period 2002-7.

Fiji

On 19 May 2000, a group of armed men stormed the Parliament, taking hostage its members, the Prime Minister and forty 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. On 29 May, the head of the army, Commodore Frank Bainiramar, 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. Consultations under articles 9 and 96 of the Cotonou Convention were held with the de-facto government of Fiji. 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. It demanded four benchmarks to be met: 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 EC suspended all investment projects under the EDF programs 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 standoff and appointed Josefa Iloilo, a candidate favoured by the rebel leader, to the presidency. In July 2001, 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 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 tensions between ethnic-Fijians and ethnic-Indians did not recede. The situation remains fluid, making it particularly difficult to assess the real quality of Fiji's „restored democracy“.

Progress Ahead?

The Limits to the Consultation Cum Aid Suspension Procedure

The 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.

The consultation and suspension mechanism has proven to be more effective in responding to cases of breakdown of democracy, such as coup d'états (Côte d'Ivoire or Fiji), than to flawed elections (Togo or Haiti). In the former, the de-facto authorities seek to legitimize their rule by agreeing on a calendar for the return to constitutional rule, which can be aptly accompanied by the EU'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 makes 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. Negative measures and aid sanctions tend to be the only available recourse, until the regime credibly re-commits itself to return to the democratization 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 criticized as undue interference in domestic affairs. For instance, 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 presidential election in March 2002. Exasperated at the expulsion of the Head of its Electoral Observation Mission, the EU imposed „smart sanctions“ on Zimbabwe's ruling elite on 18 February 2002, which was criticized by the Secretary General of the Organization of African Unity as interference in the country's domestic affairs. It becomes thus urgent to devise more legitimate processes of international electoral observation, based perhaps on existing multilateral arrangements and involving existing regional organizations.

The Limits to EU Policy Formulation and Implementation Capacity

Clearly, while 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 the Europe Aid Co-operation Office may well enhance the management of aid but may also further complicate the translation of broad policy goals into consistent operational strategies. Tensions and contradictions between the first and second pillars of European

integration remain an additional stumbling block for the application of coherent democracy assistance strategies and governance conditionalities.

Paradoxically, the current reform of external relations and development co-operation tends to „depoliticise“ foreign aid, converting it essentially into 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, most changes have tended to focus on procedural improvements, while limited progress has been made on the far more important issue of linking resources to strategic objectives. The Directorate General for External Relations, where a Unit for Conflict Prevention, Crisis Management and ACP Political Issues as well as a Unit for Human Rights and Democratization have been established, has become the main focal point for democracy promotion. However, long-term democracy assistance work more often takes places within the realm of development co-operation. And as Clare Short suggests, there may often be a „clash between the perspective of foreign affairs ministers and development ministers“.⁹

At the operational level, there remain thorny issues. The new system of performance-based programming is likely to be more demanding than ever, and the EU Delegations are likely to bear the heaviest burden. Moreover, 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 review of the quality of democratic governance are particularly challenging endeavours requiring sustained efforts and specialised skills.

In order to assess democracy and governance in partner countries, the EC is increasingly relying on quantitative performance indicators. Less attention has been given to the manner in which performance indicators are identified, specified and monitored. The process by

The current reform of external relations and development co-operation tends to „depoliticise“ foreign aid, converting it essentially into a technical activity.

which quantitative and qualitative indicators are defined greatly influences their legitimacy and thus their operability (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 democratization 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).

⁹ 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).

Four Modest Proposals

Strategic planning in the area of democracy and governance assistance should be strengthened, ideally within the Directorate General for Development. The strategic planning department would support country delegations in the design of country assistance strategies and ensure the consistent application of policy guidelines.

A *Democracy and Governance Unit* should perhaps be established. It would be responsible for assessing policies and revising strategies, capitalizing the Commission's recent experience with political dialogue and aid suspension, it would coordinate the consultation process and guide 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. The unit would work out methods to assess democratic governance and identify the performance indicators for monitoring progress or detecting regress. 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.¹⁰ 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.

Policy research and evaluation capabilities should be dramatically enhanced. The EC aid apparatus still lacks the research capacities of institutions such as the World Bank and 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 EU to adopt the agenda of the IFIs, but rather to influence it and challenge it. After all, the identity of EC aid is founded on its distinctively political character and approach. But 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. 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 *systematic review of the suspension mechanism since 1995* should be conducted. Political dialogue and the consultation process provided for by the Cotonou Convention are likely to

¹⁰ Several bilateral aid agencies have also created specialised, transversal policy units responsible for co-ordinating 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.

become the EC's principal instrument to deal with faltering democracies and crises of governance. 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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