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## **ACCIDENTAL NEIGHBOURS OR REAL PARTNERS? EUROPEAN NEIGHBOURHOOD POLICY AND ITS INSTRUMENTS**

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## ACCIDENTAL NEIGHBOURS OR REAL PARTNERS? EUROPEAN NEIGHBOURHOOD POLICY AND ITS INSTRUMENTS

Rosa Balfour and Alessandro Rotta<sup>1</sup>

### 1. The rationale of looking beyond the enlarged EU borders

Enlarging to ten new members, in May 2004, is profoundly transforming the European Union's own geography, reaching out to new borders and new neighbours. Looking further afield, the prospect of the EU expanding to thirty-three member states over the next couple of decades<sup>2</sup> renews the dilemma between 'widening' and 'deepening' that the policy-makers confronted in the early 1990s, when faced with the historic choice of offering membership to the countries that had emerged from behind the rubble of the Berlin Wall. One way out of this dichotomy was to devise a strategy that can anchor the neighbouring countries to a stable and comprehensive framework of relations through which pursue their development and stabilisation.

In March 2003 the European Commission proposed an ambitious and comprehensive approach to the challenges of the new neighbourhood. Resting on the recognition of the strong interdependence between the EU and its neighbourhood, and on the assumption that, in the future, 'the Union's capacity to provide security, stability and sustainable development to its citizens will no longer be distinguishable from its interest in close cooperation with the neighbours',<sup>3</sup> the declared objective of the new policy initiative is 'to develop an area of prosperity and friendly neighbourhood –a "ring of friends"- with whom the EU enjoys close peaceful and co-operative relations'<sup>4</sup>.

The European Neighbourhood Policy is intimately tied to the EU's enlargement strategy. First of all it was conceived in the context of the EU's expansion towards the East: as it incorporated new members from Central and Eastern Europe, the challenges posed by the Western Soviet successor states became shared with the EU through a new border. Secondly, its rationale follows the logic of enlargement: the notion that the greater the integration and cooperation between countries, the wider the area of peace, economic development and democracy, the more stable and secure the entire community. This logic pervades the history of the EU, from its founding fathers to its five enlargements rounds so far and through to its stabilisation policies developed

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<sup>2</sup> Romania and Bulgaria, left over from the fifth enlargement round of 2004, are supposed to join after 2007. Turkey, recognised in 1999 as a candidate, has received a positive opinion from the European Commission to set a date to start negotiations and awaits the European Council in December 2004 to give its final verdict. Furthermore, the EU-15 had promised to offer accession to the countries of former Yugoslavia and Albania. Of these, Croatia was recognised as a candidate in 2003. The choice of the Commission to group these pre-accession countries in the enlargement DG under Olli Rehn reinforces the prospect of further EU enlargement, even if it is likely to become a longer-term and more differentiated project than the previous round.

<sup>3</sup> European Commission (2003), *Wider Europe-Neighbourhood: A new Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104 final, Brussels: 11 March.

<sup>4</sup> European Commission (2003), *Wider Europe-Neighbourhood*.

towards the countries in the Western Balkans, which indeed have become part of the enlargement process, given their medium term prospect of accession. The ENP thus was matured in the context of enlargement and rests upon the lessons learnt during that ongoing process.

Unable, however, to commit to further enlargement, the first proposal offered neighbour countries ‘the prospect of a stake in the EU’s internal market and further integration and liberalisation to promote the free movement of – persons, goods, services and capital’<sup>5</sup>, in return for progress, by the same countries, in adopting and implementing political, economic and institutional reforms, and for an effective cooperation in the energy and transport sectors, and in the fight against terrorism.

A substantial innovation of the new policy is the attempt to overcome a rigid distinction between internal and foreign policies, by offering to countries that will not adhere in the medium-long term benefits so far reserved to member countries. As EU external borders shifted eastward, and as this was expected to remodel relations also with ‘old’ neighbours in the Mediterranean southern shore, the EU expressed its determination ‘to avoid drawing new dividing lines in Europe’. Rather than a barrier, the new EU external borders were to be seen as an opportunity of cooperation and development. To support operationally and financially this vision, the Commission envisaged the development of new assistance tools, that might be used on both sides of the new borders (see section 3).<sup>6</sup> In other words, it represents an attempts to blur the distinction between ‘insiders’ and ‘outsiders’

Following Council approval - which, however, modified the wording and gave a different prioritisation compared to the Commission (see the table in section 2) - the European Neighbourhood Policy was further developed and given a concrete strategy of implementation. The countries involved are the Western New Independent States (Ukraine, Belarus and Moldova), the non-EU countries under the Euro-Mediterranean Partnership (Morocco, Tunisia, Algeria, Libya, Egypt, Jordan, Israel, the Palestinian Authority, Syria), and the countries of the Southern Caucasus (Armenia, Azerbaijan, Georgia), which were included at a later stage.

Russia has deserved a special position, given that it did not want to be lumped together with the other countries. The framework of relations with Russia will thus be largely defined by the strategic partnership based on the creation of the four common spaces as agreed at St. Petersburg in May 2003. The Commission proposed ‘to draw on elements from the ENP to enrich work on the common spaces, notably in the area of cross border and sub regional cooperation’<sup>7</sup> and the Regulation on the European Neighbourhood and Partnership Instrument will also support strategic partnership with Russia.

The method proposed by the Commission for implementing the ENP consists in the definition, together with neighbour countries, of a set of priorities to be included in

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<sup>5</sup> European Commission (2003), *Wider Europe-Neighbourhood*

<sup>6</sup> European Commission (2003), *Paving the Way for a New Neighbourhood Instrument*, COM (2003) 393 final, Brussels: 1 July.

<sup>7</sup> European Commission (2004), *European Neighbourhood Policy Strategy Paper*, COM (2004) 373 final, Brussels: 12 May.

national Action Plans, covering a number of key areas for specific action, from 'political dialogue and reform [to] trade and measures preparing partners for gradually obtaining a stake in the EU's internal market; justice and home affairs; energy; transport, information society, environment and research innovation; and social policy and people-to-people actions'.<sup>8</sup> The relationship with neighbouring countries will build on mutual commitment to shared values in fields such as the rule of law, good governance and the respect for human rights, and commitments will also be sought in aspects of the EU's external action, such as the fight against terrorism and efforts at conflict resolution.<sup>9</sup> The Action Plans are policy documents of the duration of three to five years; they will be based on the method of differentiation, and will reflect, for each country, the actual state of relations with the European Union and the capacity of meeting the agreed priorities. In the future new contractual links will be negotiated, in the form of European Neighbourhood Agreements, substituting the existing Association Agreements with the Euro-Mediterranean countries and the Partnership and Cooperation Agreements (PCAs) with the Western Newly Independent States.

For the EU the Wider Europe and ENP Communications were welcome and necessary developments, as they represent the Commission's capability of strategic thinking. After all, 'Western Europe faces the uncomfortable choice of importing insecurity from its neighbours, or of exporting to them security – which necessarily involves prosperity and stability'.<sup>10</sup> The costs of not developing a successful strategy are high: however diverse the countries involved in the ENP, they share a number of common features which potentially could translate into risks flowing into the EU. They are all, but Israel (though there are problems here too), governed by more or less authoritarian regimes, are exporters of labour as well as of illegal migration, they are all transit countries for migration from further afield, their per capita GDP is in most cases extremely low compared to the EU average,<sup>11</sup> the Southern neighbours all have rising demographic pressure, they all are net importers of goods from the EU with the exception of the energy exporters, they are ridden by conflicts: the Western Sahara, the Middle East, Moldova and its secessionist region of Transnistria, the Southern Caucasus. The key question is whether the ENP represents a strategy capable of acting as a magnet, as enlargement was, but without offering the prospect of accession.

Alongside these external motivations to develop appropriate strategies, the ENP also contains *internal* policy justifications. Looking at the ENP from a reflexive point of view, in other words at what it means for the EU, two main justifications stand out. In the first instance, the ENP can serve the function of streamlining the range of EU external policy tools by bringing them together under a single policy umbrella as far as the neighbourhood is concerned. This would represent more than a bureaucratic exercise: it could potentially create a greater understanding of EU external policies, and it would enhance internal coherence, at least with regard to assistance tools and to the

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<sup>8</sup> European Commission (2004), *ENP Strategy Paper*.

<sup>9</sup> European Commission (2004), *ENP Strategy Paper*

<sup>10</sup> William Wallace (2003), 'Looking after the Neighbourhood: Responsibilities for the EU-25', *Notre Europe Policy Papers*, No. 4 July.

<sup>11</sup> Excluding Israel, whose per capita GDP is closer to EU averages, the other countries range from €417 in Moldova to €2382 in Russia. Lebanon excels with €5284. Data from European Commission (2003), *Wider Europe-Neighbourhood*.

types of agreements that the EU signs with its partners, by merging existing agreements into a single category. Thus the Association Agreements signed with the countries of the Euro-Mediterranean Partnership and the Partnership and Cooperation Agreements signed with the East European and Southern Caucasus countries will be transformed into Neighbourhood Agreements, while the candidate and potential candidate countries will gradually follow the track of accession agreements. With regard to the Neighbourhood Programme, by creating a single instrument for assistance, not only are the procedures simplified, but the regulatory framework too is the same (discussed at greater length in section 3).

Secondly, the ENP could serve the purpose of raising the profile of the EU as a regional power; indeed, this should be considered as one of the overall aims of the policy. Economically and in terms of assistance the EU already is a crucial actor, but this power is not sufficiently matched by political clout. This aim of raising the EU's profile in the wider region thus depends on the extent to which the ENP can complement and be complemented by the European Security Strategy, thus ensuring through two policy frameworks the full range of external policies, from aid to military security. In short, the ENP is a real test for European Foreign Policy capacity as a whole without offering prospect of accession. Because it consists of the EU's broadest geopolitical project after enlargement (where the stabilisation of the Balkans is included in the enlargement package), EU regional and global credibility is attached to its success.

Given that the ENP is still in its phase of negotiation and bureaucratic elaboration and, in terms of assistance, awaits for 2007 for its full application, its critique can only be partial. One of the aims of this exercise is thus to ascertain the potential of the building blocks that make up the policy. For the purposes of this paper, we will examine the innovations within the policy itself compared to the existing policy frameworks, the structure of incentives, and the ENP instrument.

It will be argued that the ENP is no revolutionary rethinking of EU foreign policy, but represents a more gradual and cooperative approach towards neighbours. The main innovations are to be found in its methodology and in its instrument: Action Plans are intended to provide jointly negotiated paths for development and reform through benchmarking and differentiation, while the rationalised instrument for assistance is supposed to support the Action Plans' objectives.

By contrast, the political and strategic dimension of the ENP has been contained and watered down by the Council, compared to the Commission's original proposals. Reducing the potential benefits on offer for the neighbouring countries might result in a limited EU capacity of acting as a lever to induce transformation and reform. The fact that the Action Plans are negotiated rather than imposed from Brussels gives the neighbours more space to articulate their needs and demands, but this is likely to imply a limited political dialogue on the themes that the neighbours are unwilling to discuss, such as political liberalisation.

## 2. Policy innovations and the incentives of the ENP

The most important policy innovations contained in the ENP are the introduction of Action Plans based on the concepts of 'benchmarking' and 'differentiation'. In theory, both could allow for a more careful use of political conditionality – a method that has rarely been resorted to by the EU, especially in the context of the Southern Mediterranean. Conditionality essentially ties a set of incentives that a donor country can offer to a partner in return for progress in economic and political reform. So far enlargement has been the process through which conditionality has been most exercised, thanks to the attraction of the final incentive of EU membership. Nonetheless, the EU has a wide range of economic, political and aid tools to exercise conditionality even without the accession carrot. These can be positive ones through incentives and negative ones through forms of 'punishment', such as the withdrawal of aid, the postponement of a summit, or even the suspension of an agreement.<sup>12</sup> Such is the (only) case of Belarus, for example, one of the countries indicated as a potential partner of the ENP, whose PCA was suspended in 1997 due to the deterioration of the internal democratic and human rights situation. Alas, after years of increasing authoritarianism, and following the rigged referendum of October 2004 that allows the President Alexander Lukashenko to stand for another term in 2006, the democratic prospects of the country and thus a change in its relations with the EU seem to disappear from the horizon.

All the existing agreements that the EU has concluded with its neighbours already contain an article allowing either party to take 'appropriate measures' should the obligations of the agreement not be fulfilled. But it does not specify what the 'appropriate measures' are and in what cases they should be resorted to. If conditionality is to have success, its objectives must be clear, the purposes transparent and the processes of policy implementation should reflect the same transparency as the desired outcome.<sup>13</sup> Benchmarking is conceived precisely to provide some signposts to what is expected from the partner country and the EU. These would be devised jointly between the EU and its partner in the Action Plans, the key document introduced by the ENP, which 'should be comprehensive but at the same time identify clearly a limited number of key priorities and offer real incentives for reform'.<sup>14</sup>

If benchmarks would support the EU's approach of identifying objectives and time frames in which to achieve them, making the process more transparent and consistent, differentiation would allow the EU to reward those partners making more progress. As progress towards reform depends largely on the internal political conditions of any given country, external policies should try to be tailor-made to meet such conditions, rather than follow an abstract shopping list of reform priorities one size for all. The Council recognised this need by clarifying that the Action Plans 'should be based on common principles but be differentiated, as appropriate, taking into account the

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<sup>12</sup> Karen E. Smith (1998), 'The Use of Political Conditionality in the EU's Relations with Third Countries: How Effective?', *European Foreign Affairs Review*, Vol. 3, pp. 253-274.

<sup>13</sup> Carolyn Baylies (1995), 'Political Conditionality and Democratisation', *Review of African Political Economy*, No. 65, pp. 321-337.

<sup>14</sup> General Affairs and External Relations Council (2004), Conclusions, Luxembourg: 14 June.

specificities of each neighbour, its national reform processes and its relations with the EU'.<sup>15</sup>

Should the Action Plans follow the characteristics outlined by the Council and described above, i.e. should they be jointly devised, set out realistic and limited objectives, and be based on a set of shared principles rather than leave the space to accuse the EU of 'imposing' or 'exporting' values from abroad, they could provide a key tool to put relations between the EU and its neighbours on a different (more equal?) footing. But their content will depend crucially on the ability of the neighbours to negotiate satisfactory terms, and thus resemble more of a partner and less of an accidental neighbour. As things stand at the time of writing (November 2004), it will be necessary to wait for the publication of the Action Plans, expected in December once they have been negotiated with all the seven countries involved in the first round,<sup>16</sup> in order to be able to ascertain the extent to which this new methodology will be applied in practice.

The implication of differentiation is that the bilateral dimension is privileged over regional frameworks. In the Mediterranean context, for example, where a regional policy is in place since 1995, this would help unhinge the Barcelona Process from the stalemate in which it has often found itself allowing countries to progress more rapidly than others. Indeed, those countries most willing to discuss reform, such as Morocco and Jordan, have welcomed the introduction of differentiation as it allows them to advance their position vis-à-vis the EU. On the other, the regional and multilateral framework of Barcelona has provided the only forum in which Israel and its Arab neighbours meet, an important achievement despite being shadowed by the escalation of the Middle East conflict. Also, regional policies seem to be the most appropriate way to encourage regional cooperation on common challenges, such as infrastructure development or cross-border crime. Indeed, there seems to be an inherent tension in the ENP between differentiation and regional cooperation in favour of the former, which makes it sit uncomfortably next to established initiatives such as the Euro-Mediterranean Partnership.

On the whole, benchmarking and differentiation do not change the nature of the EU's use of conditionality, but together they could make its use less arbitrary by negotiating a set of realistic objectives with the partners, and by giving greater transparency and predictability to the process. However, there are political signs that suggest that pushing for reform in the neighbouring countries might not be a prominent feature of the ENP.

Conditionality depends essentially on the nature of the incentives that are on offer, in the first instance, and on the costs of non-compliance. The first communication outlining the EU's neighbourhood policy presented the 'four freedoms' – the free movement of persons, goods, services and capital – as the main incentives offered to partners: 'if a country has reached this level, it has come as close to the Union as it can without being a member'.<sup>17</sup> The vision was of an open space for free circulation in

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<sup>15</sup> General Affairs and External Relations Council (2004), Conclusions, Luxembourg: 14 June 2004.

<sup>16</sup> The countries are: Ukraine, Moldova, Morocco, Tunisia, Jordan, Palestinian Authority and Israel, whose final agreement is still pending.

<sup>17</sup> European Commission (2003), *Wider Europe – Neighbourhood*.

which its members shared ‘everything but institutions’, as Commission President Romano Prodi put it. However, the following General Affairs and External Relations Council scaled down the dimension on the incentives considerably, showing a wavering of the political commitment necessary to maintain the momentum of such an ambitious and comprehensive strategy – something that does not bode well for the policy and for the neighbours.

### **A comparison of Commission and Council priorities in the neighbourhood**

<b>Wider Europe Communication</b>	<b>Council Conclusions<sup>18</sup></b>
	<b>1.</b> More effective political dialogue and cooperation
<b>1.</b> Extension of the Internal Market and Regulatory Structures	<b>4.</b> Perspectives for participating progressively in the EU’s Internal Market and its regulatory structures, including those pertaining to sustainable development (health, consumer and environmental protection), based on legislative approximation
<b>2.</b> Preferential Trading Relations and Market Opening	<b>5.</b> Preferential trading relations and further market opening in accordance with WTO principles
<b>3.</b> Perspectives for Lawful Migration and Movement of Persons	<b>6.</b> Enhanced cooperation on matters related to legal migration
<b>4.</b> Intensified Cooperation to Prevent and Combat Common Security Threats	<b>2.</b> Intensified Cooperation to Prevent and Combat Common Security Threats
<b>5.</b> Greater EU Political Involvement in Conflict Prevention and Crisis Management	<b>3.</b> Greater cooperation in conflict prevention and crisis management
<b>6.</b> Greater Efforts to Promote Human Rights, Further Cultural Cooperation and Enhance Mutual Understanding	<b>8.</b> Enhanced Cultural Cooperation, mutual understanding and people-to-people contact <sup>19</sup>
<b>7.</b> Integration into transport, energy and telecommunications networks and the European Research Area	<b>9.</b> Perspectives of integration into transport, energy and telecommunications networks and the European Research Area
<b>8.</b> New instruments for investment promotion and protection	<b>10.</b> New instruments for investment promotion and protection while preserving the respective competences of the Community and the Member States
<b>9.</b> Support for integration into the global trading system	<b>11.</b> Support for WTO accessions and integration into the global trading system
<b>10.</b> Enhanced assistance, better tailored to needs	<b>12.</b> Enhanced and improved assistance, better tailored to needs, including improved interaction of all relevant sources of finance, including IFIs
<b>11.</b> New sources of finance	See above. <sup>20</sup>
	<b>7.</b> Enhanced cooperation to tackle drugs trafficking, trafficking in human beings and organised crime, through, inter alia, support for border management and cross-border cooperation
	<b>13.</b> Promotion of intra-regional, sub-regional and cross-border cooperation
	<b>14.</b> Enhanced cooperation in the field of education, training and science
	<b>15.</b> Enhanced cooperation in environmental protection

<sup>18</sup> The numbers illustrate the position in the Council’s list of priorities. I have placed them next to the Commission’s list (and thus not in numerical order) to allow the reader to get an idea of the changes in language and position between the two texts.

<sup>19</sup> It is worth underlining that human rights have disappeared from the agenda.

<sup>20</sup> The merging of points 10 and 11 seems to suggest that the Member States would prefer resorting to external sources of financing rather than to EU sources. See Wallace (2003).



Freedom of movement of persons was the first victim of the Council's intervention, a field which could have represented a strong incentive for the partner countries. Rather than offering 'perspectives for lawful migration and movement of persons', as the Wider Europe Communication had suggested, the Council reduced this incentive to 'enhanced cooperation on matters related to legal migration'.<sup>21</sup> Instead, the Council focused more on the security aspects of the challenges in the neighbourhood, by emphasising the enhancement of political dialogue, cooperation to fight common security threats, conflict prevention, cooperation in fighting illegal trafficking and organised crime and in border management etc. These do not necessarily consist of incentives; rather they reflect the shared challenges and in many cases there is a stronger EU interest in securing the cooperation of partners.

This leaves the economic and aid incentives, and the possibility of participating in EU programmes (discussed in the next section), and EU support of the neighbours for WTO accession and financing from other bodies such as IFIs, as the most appetising carrot that is being offered.

Accessing the EU's internal market is the long-term prospect. While this certainly represents an important target, it is doubtful whether it can serve as a real 'carrot' to the partner countries. First of all, approximation to EU single market legislation is such a long-drawn and costly enterprise, as the EU member states well know, that it is not necessarily convenient for neighbours which are poor and underdeveloped compared the EU. With the exception of Israel, none of the countries in the EU neighbourhood are capable of competing in the internal market. Secondly, the agreements currently in place with all countries except for Armenia, Azerbaijan and Georgia, include the prospect of establishing bilateral free trade areas; the Euro-Mediterranean Partnership foresees the creation of a regional one, theoretically by 2010 – and even this prospect is not on the way to being achieved in the short term.

Preferential trade relations and the offering of market openings could potentially provide partners with new avenues to export their goods – so long, however, that the EU lifts its restrictions, raised in the name of the Common Agricultural Policy, on those agricultural goods and textiles that many of the neighbours produce. It is likely that the EU will open up sections of the internal market negotiated on a bilateral basis.

It is still too early to evaluate these aspects. The Commission is proposing to develop clearer timetables for progress in economic harmonisation and enhancing trade integration, but it will be necessary to wait at least until the publication of the Action Plans that are currently being negotiated with the neighbours. However, some first signs of displeasure of the partners have already emerged. Ukraine was the first country indicated with which an Action Plan was supposed to be approved. Negotiations between the two sides started in January 2004, but by June the contents of the Action Plan met the disapproval of Ukrainian officials. At the EU-Ukraine summit held in The Hague last July, the ENP suffered its first blow: the Action Plan was rejected by Kiev

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<sup>21</sup> General Affairs and External Relations Council, Council Conclusions on Wider Europe – New Neighbourhood, 16 June 2003, endorsed at the European Council, Presidency Conclusions, Thessaloniki, 19-20 June 2003.

on the grounds that it did not add anything new to the text of the PCA.<sup>22</sup> According to Ukrainian President Leonid Kuchma, ‘fixing Ukraine’s status as an EU neighbour will freeze relations, rather than promote their development’.<sup>23</sup> Kuchma’s position also reflected internal political dynamics especially in the context of the bitter presidential electoral campaign that dominated political life in Ukraine throughout the year, and indeed the Action Plan was eventually accepted. Nonetheless, the episode illustrates the limits of the incentives that the EU is offering.

Whatever the limitations of the incentives, especially after Council’s intervention that suggests that it will not be easy to maintain the strategic vision, political momentum and commitment of the first version of ‘Wider Europe’ between the divergent interests and thinning resources of the enlarged EU, the focus of the ENP remains incentives-based. In the absence of the final carrot of accession, the Commission has chosen to focus on positive rather than negative conditionality, especially while it is trying to sell the policy to the neighbours. Presumably, the Neighbourhood Agreements, which are supposed to constitute an important upgrade of relations, will include a regime of negative measures similar to that put in place through the ‘essential element’ clause of the Association and Partnership and Cooperation Agreements, giving the EU the tools to act in cases of breaches of the agreed upon principles while keeping the same method of case-by-case discretion.

To avoid waving the ‘sticks’ before reaping some benefits of the ‘carrots’ might be a wise move. After all, the EU has showed some muscle over the violation of principles such as basic human rights only in a few cases – in the accession countries in Central and Eastern Europe, to an extent in the Balkans after the NATO intervention for Kosovo,<sup>24</sup> and occasionally in Sub-Saharan Africa or Central America. Elsewhere, the EU’s ‘negative’ reaction is usually limited to rhetorical declarations and condemnations. In other words, if the EU’s conditionality regime is limited to those areas where its influence is greater, there is no need to build the tools to exercise negative conditionality if they will not be used. Once the benefits of greater cooperation with the EU become more tangible, one could envisage (or hope for?) a stronger position in political dialogue, especially with regard to human rights violations.

On the other hand, the laudable incentive-based structure of the ENP masks a weakness: the EU’s lack of a strategy with regard to those countries that are not willing to comply or cooperate. The Belarusian option of staying out in the cold cannot always be sustainable because of the risks of an unstable proximity briefly mentioned earlier. This is no secondary matter: non-compliant states are currently in the spotlight of international politics; if the EU does not want to follow the lead of the US in cases such as Iraq, it needs a coherent strategy towards the ‘difficult’ countries, such as Syria and Libya (not to speak of countries further afield).

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<sup>22</sup> Andrew Beatty, ‘Ukraine threatens to reject new EU deal’, [www.euobserver.com](http://www.euobserver.com), 11 June 2004.

<sup>23</sup> ‘European neighbourhood policy fails to meet Ukraine’s interests, Kuchma says’, *Interfax-Ukraine*, 8 July 2004.

<sup>24</sup> Rosa Balfour (2005), ‘Principles of Democracy and Human Rights: a Review of the European Union’s Strategies towards its Neighbours’, in Sonia Lucarelli and Ian Manners (eds.), *Values in EU Global Action*, London: Routledge (forthcoming).

### 3. The tools and ENP programmes

Addressing the specific opportunities and challenges related to the geographical proximity common to the EU and its neighbours, and to conceive a sound alternative to enlargement while offering some benefits implicit in a greater integration with the EU, required the definition of new assistance tools. Under the current financial perspectives, the countries involved in the ENP are covered by a wide and diversified array of thematic and geographic instruments, governed by different regulations and thus following different procedures for the identification, selection and implementation of projects and programmes. In particular, as the Commission noted, the implementation of genuine joint projects on either side of the enlarged EU border, might have raised considerable problems because of the different systems applied to the financial management of Community funds.

In 2003 the Commission proposed the adoption of a two-step approach to create a new instrument, working at an enhanced coordination between existing tools for the 2004-2006 period while proposing a new regulation for the post-2007 period, once the new financial framework is in place.<sup>25</sup>

To cover the first phase and overcome the limitations implied by the current financial instruments, the Commission proposed the introduction of Neighbourhood Programmes (NP) covering the external borders of the enlarged European Union. These are based on the INTERREG network of programmes (both existing and under preparation) and are designed to permit a single application process, including a single call for proposals covering both sides of the border and a joint selection process for projects. Funding is to be obtained from the allocation for the existing programmes, specifically from the internal European Regional Development Fund (ERDF, about € 700m) and from external assistance (€ 75m under TACIS, € 90m within PHARE, € 45m each for both CARDS and MEDA). The financial participation of external funds will be decided according to the yearly planning of each programme, while the share derived by structural funds is allocated according to multi-annual programming. Resources will be managed by the same units responsible for the management of national external assistance programmes.<sup>26</sup>

Implementing guidelines following the indications of the Commission have been published with regard to INTERREG/TACIS and INTERREG/CARDS borders, but not in relation to the future MEDA Neighbourhood Programme.<sup>27</sup> The MEDA Neighbourhood Programme Strategy Paper, still discussed within the MED committee, outlines some differences with regard to the definition of the NP with the MEDA countries. Whereas continental transnational and cross-border cooperation primarily responds to EU external land borders, the EU policy in the Mediterranean needs to strengthen regional and sub-regional cooperation among Mediterranean partners. Neighbourhood represents a supplementary dimension of the Euro-Mediterranean

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<sup>25</sup> European Commission (2003), *Paving the Way*.

<sup>26</sup> European Commission (2004), *Neighbourhood Programmes 2004-2006. Implementing Guidelines for INTERREG/TACIS and INTERREG/CARDSs*, Brussels: 11 June.

<sup>27</sup> TACIS covers the whole of the former Soviet Union and, until 2003, Mongolia; CARDS is the programme developed for former Yugoslavia and Albania, MEDA for the EMP countries.

partnership, beside the bilateral and regional level on which MEDA was articulated so far.<sup>28</sup> All these elements contribute to make the outlined MEDA NP much more similar to traditional EU cooperation towards the area, and casts doubts over a replication of INTERREG mechanisms also in the case of Mediterranean countries.

As for the post-2006 phase, the *Paving the way* Communication outlined three possible options to develop a new instrument: expanding the content and geographical scope of existing cooperation instruments; further enhance coordination between existing instruments; creating a single new Regulation to govern a Neighbourhood Instrument to fund activities both inside and outside the Union.<sup>29</sup> This last option was considered by far the most suitable to overcome coordination problems and provide assistance on both sides of the EU external border, using a single budget chapter drawing from the cohesion and external policies headings of the new Financial Perspectives.<sup>30</sup>

The regulation on the new instrument was proposed last September by the Commission as part of a radical overhaul of the tools of external assistance. The reform of external assistance consists of a major simplification of programmes and procedures, reducing the number of instruments to six: (i) an Instrument for pre-accession (IPA); (ii) the European Neighbourhood and Partnership Instrument (ENPI); (iii) a Development Cooperation and Economic Cooperation Instrument (DCECI); (iv) an Instrument for stability; (v) a Humanitarian Aid Instrument; (vi) a Macro Financial Assistance Instrument - the first four of which are completely new. IPA, ENPI and DCECI are all policy driven instruments, while the other three are designed to address specific needs and to respond to crisis situations. Such a reorganization is complemented by a general harmonization of programming and procedures, and is expected to improve the overall coherence of the EU external action, both between different instruments both within policies and EU political action and priorities. An output-oriented resources allocation should, in the intentions of the Commission, lead to improved efficacy and efficiency of the resources employed, while the general simplification of the framework should result in a better dialogue and coordination with other donors and institutions and with third countries.<sup>31</sup>

The European Neighbourhood and Partnership Instrument (ENPI) has thus been developed in accordance with the principles of the wider reform of the tools of EU external assistance, and should work coherently with the other new instruments. As a policy driven instrument, it will operate in the framework of agreements with partner countries and its activities will be orientated by strategic priorities negotiated with beneficiary countries, focusing on the implementation of the Action Plans. While covering all countries involved into the ENP, the new instrument also supports the EU partnership with Russia. The new instrument replaces MEDA and TACIS programmes,

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<sup>28</sup> José Luis Rhi-Sausi, Raffaella Coletti and Battistina Cugusi (2004), 'Strumenti e Metodologie dei programmi di prossimità nel Mediterraneo nella fase di transizione. Prospettive per la cooperazione interregionale', Paper presented at the conference *Sperimentazione delle politiche di prossimità nel Mediterraneo Occidentale*, Naples, 22-23 June, downloadable from [www.cespi.it](http://www.cespi.it).

<sup>29</sup> European Commission (2003), *Paving the Way*.

<sup>30</sup> European Commission (2004), *ENP Strategy Paper*.

<sup>31</sup> European Commission (2004), *Communication from the Commission to the Council and the European Parliament on the Instruments of External Assistance under the Future Financial Perspectives 2007-2013*, COM (2004) 626 final, Brussels: 29 September.

as well as a number of thematic instruments, such as the European Initiative for Democracy and Human Rights (EIDHR), which is likely to become one of the horizontal themes of the ENPI.

The two main objectives of the ENPI are the promotion of a progressive economic cooperation between the EU and partner countries, and to address the specific opportunities and challenges of the space of proximity. It also includes measures for legislative approximation, regulatory convergence and institution building. These will be supported through mechanisms such as the exchange of experience, long term twinning arrangements with member states or participation in Community programmes and experiences.

The most innovative feature of the ENPI is to conceive new (and old) borders as an opportunity for cooperation rather than as a barrier, and to prefigure and overcome the rigid distinction between the internal and foreign policy domains, by using, in planning and implementing external assistance, instruments so far employed only within the EU territory. The new regulation provides the legal basis to this radical policy innovation, by stating, for the first time in an assistance regulation, that, for the purpose of promoting cross border and trans-regional cooperation, 'Community assistance might be used for the common benefit of Member states and partner countries'.<sup>32</sup>

Cross border cooperation is therefore an important and innovative component of the ENPI, that will finance joint programmes bringing together regions of the member states and partner countries sharing a common border, using a 'structural funds' approach, based on multi-annual programming, partnership and co-financing. Joint programmes will be adopted by the Commission and will be managed jointly by the relevant member states and partner countries through a joint management authority operating through shared management and normally located in a member state. Project financing and implementation will be based on annual Action programmes, in line with the principles included in recent regulations such as TACIS and MEDA.<sup>33</sup> This component will be co-financed through the European Fund for Regional Development (ERDF).

The cross border component also provides important opportunities for actors other than central governments to participate in the ENP. The proposed ENPI regulation underlines the importance of complementing Community assistance with national, regional and local measures in each country involved,<sup>34</sup> and calls for partnerships involving national, regional, and local authorities, economic and social actors. Partners should be involved, in particular at local and regional level, in the preparation, implementation and monitoring of programmes and projects.<sup>35</sup>

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<sup>32</sup> European Commission (2004), *Proposal for a Regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation and economic cooperation*, COM(2004) 629 final, 2004/0220 (COD), Brussels: 29 September, Title I, Article 1 (2).

<sup>33</sup> European Commission (2004), *Proposal for a Regulation*, Title III.

<sup>34</sup> European Commission (2004), *Proposal for a Regulation*, Title I, Art. 3.

<sup>35</sup> European Commission (2004), *Proposal for a Regulation*, Title I, Article 4 (2), (3).

The relevance of these provisions is two-fold: on one hand it allows and stimulates regional and local governments from the EU to participate in the development and implementation of ENP cross border programmes, and to forge wide horizontal partnerships with similar partners in the ENP countries, exporting and transferring their expertise in using EU funds; on the other hand, favouring partnerships between national, regional and local subjects, Community assistance supports decentralisation processes and the strengthening of local democratic governance in partner countries. This aspect is potentially important because it could allow the EU to get involved in cooperation programmes with local representatives and civil society (the ‘people-to-people’ dimension) while bypassing unfriendly national governments. It appears that the Commission will encourage this route to do something about Belarus. But there are some unclear points in this regard. The fact that Action Plans are negotiated with central governments and that the ENPI’s use is supposed to reflect the aims of the Action Plans makes central governments an inescapable interlocutor, with the only exception of Belarus which is not set to negotiate an Action Plan. Secondly, there are some doubts on the intentions of the Council to boost policies aimed at democratisation.

Resource allocation is naturally key to assess the credibility of the ambitious goals stated through the ENP, to evaluate whether the innovative features of ENPI will actually find their concrete application, and whether the aid dimension of the ENP can constitute an incentive for the recipient country. The financial amount foreseen for the ENPI is € 14.929m for the 2007-2013 period, which looks like a substantial increase compared to the resources available for the main programmes currently covering the ENP countries for 2000-2006, TACIS (€3.138m) and MEDA (€5.350m). Even adding the resources of the horizontal or ad hoc instruments insisting on the same area,<sup>36</sup> the proposed financial amount certainly represents an upgrade of EU assistance to these regions.

#### **4. Some open questions**

This analysis can only be provisional. The ENP exists only on paper. The Commission is currently negotiating Action Plans; the process is taking longer than expected, despite the optimistic deadline of July 2004 set in the Regional Strategy Paper. Until the various positive components are in place – assistance tools, the economic incentives, cooperation in other fields of interest to the EU’s neighbours, such as on visa and migration policies, new and apparently more advanced contractual relations through the Neighbourhood Agreements –, it will be hard to evaluate the actual impact of the ENP on shaping the EU’s neighbourhood. Upgrading and renewing relations with new and old neighbours certainly offers them a ‘vision of the future’<sup>37</sup>.

But the ENP will only succeed if the EU confers to its neighbours the standing of real partners. Already there is scepticism among the neighbours: Ukraine and Moldova were

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<sup>36</sup> Horizontal and ad hoc instruments are, for example the EIDHR programme, for which we should lament its suppression, or supporting the fuel gap.

<sup>37</sup> Judy Batt, Dov Lynch, Antonio Missiroli, Martin Ortega and Dimitrios Triantaphyllou (2003), ‘Partners and neighbours: a CFSP for a wider Europe’, *Chaillot Papers* No. 64, Paris: EU Institute for Security Studies.

hoping for a clearer membership prospect, while the southern shore of the Mediterranean is unclear about the benefits of the ENP over the Barcelona Process. The outcome of the negotiations over the Action Plans will reveal the extent to which the EU is listening to the needs of its neighbours or is presenting a long shopping list of reforms to be accomplished in timetables which are only occasionally respected.

If the neighbours deserve the status of partners, they also need to be confronted on the themes of reforms. The stalemate of the Barcelona Process and the PCA framework are not just imputable to a failure of European foreign policy. If states are increasingly infiltrated by criminal oligarchs, if black markets expand at the expense of GDP growth, if societies are increasingly challenged by Islamic fundamentalism, if elections are still rigged and torture endures as a common feature to all the ENP countries, it also reflects the reluctance of authoritarian or semi-authoritarian states to implement economic and political reform. If the EU wants to stabilise its neighbourhood, it cannot escape addressing these issues.

A glaring absence in terms of means regards the reinforced political dialogue and cooperation in a number of security issues that the Council itself prioritised over the economic incentives (see the table in section 2). More specifically, it is unclear how this political dialogue will take place, as the ENP does not set up an institutional framework guiding high-level meetings on these subjects. Presumably this framework will be provided for in the Neighbourhood Agreements, as much as it is provided for in the Partnership and Cooperation Agreements and the Association Agreements (and multilaterally in the Euro-Mediterranean Partnership). Given that the joint institutions established in the context of these agreements spend much of their time discussing the nitty-gritty of trade and economic cooperation, the question remains of how political dialogue and cooperation will be ensured in the absence of continuous political commitment, which, conversely, tends to be ad hoc and following urgent agendas, such as the fight against terrorism or organised crime.

In terms of the coherence, efficiency and clarity of aims, the value of single framework for relations with the diversified universe of neighbours is quite undisputable. In the field of external assistance especially, the single regulatory framework and the possibility of opening up EU programmes to the participation of neighbours in issues of cross-border interest in particularly innovative, and its importance should be viewed in the context of the overall reform of external assistance that the Commission is carrying out, more promisingly than the previous reform of 2001. Similarly, the merging of the agreements into a Neighbourhood Agreement breaks down the perceived hierarchy between different agreements and puts the neighbours on equal standing between them.

The ENP is a strong signal that the EU is trying to consolidate its position as a regional power. The emphasis on the neighbourhood makes explicit a trend that has been developing over the past decade or so: the EU's hierarchy of interests is clearly based on geographical proximity. With the entry of many new members without ties with former colonies, the imperial legacy of the European former colonial powers and the ensuring ties between the EU and the rest of the world appear to be weakened, and a glance at EU spending in worldwide aid illustrates this.

But the EU neighbourhood is not just an area of EU interest. To the East, Russia has long played a pivotal role in its previous Soviet space – the ‘union’ with Belarus, Putin’s repeated visits to Kiev during the 2004 presidential election campaign, the free trade agreement between Russia, Ukraine, Belarus and Kazakhstan signed in September 2003, Russian military presence in the Southern Caucasus, all demonstrate that the neighbourhood is a field of ‘competition’ for influence with the EU. Similarly, the Eastern Mediterranean and the Middle East are areas of ‘competition’ (or convergence?) with the US.

This means that the ENP needs to be accompanied by political initiatives capable of complementing the structural elements that the Neighbourhood policy is developing in line with the EU’s distinctive ‘style’ of foreign policy making. The Instrument for Stability to respond to crises situations, the decision earlier this year to create a European *gendarmierie* go in the direction of ensuring that political crises in the neighbourhood are addressed with EU tools. But much will depend on how the ENP is complemented by the European Security Strategy (ESS). Approved at the very end of 2003 as an effort of the High Representative for CFSP Javier Solana, the European Security Strategy too considers it an ‘EU interest’ that ‘countries on our border are well-governed’ and the new neighbourhood as a strategic priority for the Common Foreign and Security Policy.<sup>38</sup> So far, under the auspices of the ESS, Solana has unveiled a plan for EU involvement in the Middle East conflict, and it remains to be seen what specific strategies will be developed for the rest of the neighbourhood. The international credibility of the EU, nonetheless, will depend on the synergy between these two policy frameworks.

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<sup>38</sup> Council of the European Union (2003), *A Secure Europe in a Better World*, European Security Strategy, Brussels: 12 December.