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COMMITTEE**

GOVERNANCE AND DEVELOPMENT

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1. INTRODUCTION

- (1) The structures and the quality of governance are critical determinants of social cohesion or social conflict, the success or failure of economic development, the preservation or deterioration of the natural environment as well as the respect or violation of human rights and fundamental freedoms. These linkages are widely recognised throughout the international community and show how governance matters for development.
- (2) The UN Millennium Declaration states that creating an environment that is conducive to development and to the elimination of poverty depends, inter alia, on good governance within each country, on good governance at the international level and on transparency in the financial, monetary and trading systems. In the Monterrey Consensus Heads of States agreed that good governance at all levels is essential for sustainable development, for sustained economic growth and for poverty eradication. Governance, democratisation and development are equally linked in the EU general objectives as defined in the Treaties, in the Commission's "White paper on Governance"¹ as well as in the May 2002 Council conclusions. In addition, a number of Communications and policy papers that are relevant from a governance perspective have been produced by the Commission during the last years².
- (3) Governance is a key component of policies and reforms for poverty reduction, democratisation and global security. This is why institutional capacity-building, particularly in the area of good governance and the rule of law is one of the six priority areas for EC development policy that is being addressed in the framework of EC programmes in developing countries.
- (4) While there is no internationally agreed definition of governance, the concept has gained importance and over the last ten years all development partners have expanded their work in that field. Also the Community has financed, in a pragmatic way, a number of programmes in this broad area of activity over the last years. Governance concerns the state's ability to serve the citizens. Such a broad approach allows conceptually to disaggregate governance and other topics such as human rights, democracy or corruption. Governance refers to the rules, processes, and behaviour by which interests are articulated, resources are managed, and power is exercised in society. The way public functions are carried out, public resources are managed and public regulatory powers are exercised is the major issue to be addressed in that context. The real value of the concept of governance is that it provides a terminology that is more pragmatic than democracy, human rights, etc. In spite of its open and broad character, governance is a meaningful and practical concept relating to the very basic aspects of the functioning of any society and political and social systems. It can

¹ COM (2001) 428 final; 25.07.2001; Report from the Commission on European Governance, COM (2002) 705, 11.12.2002

² For example, Communication on EU Proximity Policies vis-à-vis its Neighbouring Countries ("Wider Europe" (COM (2003)104 final of 11 March 2003) and Communication on Human Rights in the Mediterranean Region (COM (2003)294 final of 21 May 2003)

be described as a basic measure of stability and performance of a society. As the concepts of human rights, democratisation and democracy, the rule of law, civil society, decentralised power sharing, and sound public administration gain importance and relevance as a society develops into a more sophisticated political system, governance evolves into good governance. Today governance is generally used as a basic measure of quality and performance of any political/administrative system.

- (5) Art 9.3 of the Cotonou Partnership Agreement provides an interesting approach jointly agreed between the ACP signatory states and the EU. “In a context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purpose of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of the rule of law in the management of resources and capacity building for elaborating and implementing measures aiming in particular to preventing and combating corruption”.
- (6) Good governance is first and foremost a domestic issue. Inadequate domestic policies in many countries, not only in developing countries, have played a major part notably in widening the gap between the poor and the rich, both within and between countries and regions. Thus, good governance at all levels of the international system - national, regional, multilateral levels – is crucial to a legitimate, effective and coherent global governance system. The global governance deficit has been addressed continuously in recent years through various initiatives and dialogue at the multilateral level, driven in particular by the United Nations, i.a., by the Commission on Global Governance, and more recently, by the Financing for Development Conference in Monterrey and the WSSD Summit in Johannesburg. The EU has actively participated in this dialogue. Global governance issues are also subject for dialogue between the EC and some important third partner countries, such as China, Russia, India and Brazil. From a EU perspective, good governance also involves the need to continue improving policy coherence in all relevant areas, such as for example, environment, trade or agriculture.
- (7) Good governance is key to the effectiveness of development assistance, and towards the achievement of objectives towards which we should strive. However, achieving good governance is a process. Therefore, as long as good governance has not been achieved, pragmatic approaches must be pursued to support progress. Indicators should not in this context be considered as a simple list of issues to be included in a scoreboard aimed at setting up a purely governance based selectivity, but rather as a tool to mainstreaming governance in all EC-financed interventions and strategies.
- (8) This Communication focuses on capacity building and dialogue on governance in different types of situations. Cases of effective partnerships will be considered, as well as difficult ones and post-conflict situations.

- (9) On the basis of lessons learned from EC and other donors' approaches to governance, of partner countries' views and their own experiences, this Communication aims at identifying practical ways.
- to build capacity for governance and increase partner countries' ownership of the formulation of the relevant reform programs;
 - to ensure synergies and coherence between the different EC and EU policies and instruments;
 - to reinforce the partnerships for development on a country or regional basis, in order to achieve co-ordination between donors' priorities and partner countries' agendas through the policy dialogue as well as complementarity between donors
 - to contribute to the protection of human rights and to the spreading of democracy, good governance and the rule of law

By doing this, the Communication will guide the EU approach in the area of governance and development, identify the type of measures to be supported in different situations and contribute to the international debate on these issues. A handbook will help translate this policy approach into practice.

2. DIALOGUE ON GOVERNANCE: MAIN ISSUES AND BASIC PRINCIPLES

2.1. Poverty reduction

- (10) Governance has become an essential ingredient of development co-operation and is now an integral part of the Poverty Reduction Strategy processes.
- (11) It is both a question of effective mobilisation, representation and empowerment of the civil society, particularly the poor, and a question of effective capacity of public institutions and administrations to define and deliver the required policies. In many developing countries, poverty reduction depends largely on whether or not public institutions can perform the following functions, efficiently and in an accountable manner:
- enable poor people to raise their standard of living and to strengthen their capacity to increase incomes and assets,
 - ensure their access to public services,
 - guarantee people's security and access to means of redress, and protect and promote their rights.
- (12) Marginalisation is an aspect of poverty in itself and empowerment is instrumental in reducing poverty. Major issues to be addressed include promoting power and influence of poor people in society through an enabling political process, promoting participation for women and men through focusing on the institutional rules, norms and practices from which rights and privileges derive, specifically addressing the gender biases that they may embody. Operationalising inclusive

approaches and promoting social inclusion should be part of any pro-poor governance agenda in order to give voice to and reflect the perspectives of the minorities, the excluded groups and the poorest in the policy making process.

- (13) Participatory approaches will also ensure enhanced intergenerational equity based on sustainable development, where environment is a key component together with the social and the economic pillars. Non-state actors and civil society organisations' participation in all the stages of the development process and involvement in policy debates at country level will contribute to bring these issues to the discussions³. This is also relevant on social policy related matters. Social policy is a productive factor and contributes to sustainable development. Social dialogue and the involvement the organisations of employers and workers in the design and implementation of social and employment policy and the functioning of the labour market institutions can be a driving force behind successful reforms having an effective impact on the day to day life of citizens. A key factor to an effective implementation of such an agenda is a proper education effort in the context of the emerging knowledge based economy, including access to ICT so as to reduce and avoid the digital divide. In this context, a dedicated and specific international scientific and technological co-operation effort can help achieve such an objective. The 6th EU Framework Programme for Research and Technological Development provides for such a scheme.

2.2. Ownership by partner countries

- (14) In-country dialogue on governance is essential to build country-driven reform programmes in a context of legitimacy and accountability.
- (15) Not only Parliaments and institutions other than the central government, but other in-country stakeholders (representatives of political, social and economic interests, as well as municipal and other decentralised authorities) play an important role in this dialogue. Each of these actors has the potential to provide valuable input and contribute to country-led comprehensive assessments on pro-poor governance reform programmes with clearly identified needs, priorities and objectives.
- (16) Involvement of supranational or regional bodies as well as assessments at regional level can help in all the areas for which there is a clear regional added value (economic integration, conflict prevention, security), or when transboundary issues are concerned, which is often the case for environment-related matters in particular for the joint management of transboundary natural resources.

³ Communication on NSA participation in EC development policy (COM (2002) 598 final of 7 November 2002)

2.3. Policy dialogue

- (17) Policy dialogue should consist of regular ongoing contacts between partners also addressing all governance-related issues of common and mutual interest.
- (18) There is a tendency to focus on dialogue with countries when there is a crisis/problem, on an ad hoc basis, or in response to specific events. This may give a negative connotation to the political dialogue from partner countries' perspective. More regular policy dialogue should allow the establishment of shared agendas and lead to the joint definition of priority areas of co-operation including on governance-related matters, on the basis of each partner country's needs in a flexible way.
- (19) If properly linked to EU co-operation programmes and priorities, the policy dialogue can contribute to promoting a stable and democratic political environment, to peace building processes, and to security. It should include ways and means to build these objectives into EU assistance programmes and to encourage partner country governments to pursue these objectives as an integral part of their overall development strategy. The policy dialogue combined with appropriate assistance is being used by the EU in a number of difficult partnerships.
- (20) Indicators are important tools for monitoring and evaluation as well as to improving the quality of programmes and interventions. Governance indicators are only relevant if they are elaborated and assessed in a participatory manner, with the effective involvement of relevant stakeholders, through a transparent process driven by the partner country. They should cover all aspects of governance and not be limited to those fields directly linked to a given reform programme. They should illustrate policy design, service delivery outcomes, transparency in public finance management, gender equity, respect and promotion of human rights, democratic principles and rule of law. Each indicator must at the same time be specific enough to suggest an appropriate institutional solution. Indicators that simply point out a problem in a sector that may involve many institutions and policies at the same time, without suggesting any solution are less useful.
- (21) However developing appropriate processes to identify and agree upon governance-related indicators remains a challenge. Considerable joint donor work on governance indicators is currently underway via the OECD/DAC's network on governance (GOVNET), where all major donors are represented. The EC participates in the GOVNET and is co-financing an OECD-led project on governance indicators.

2.4. Security

- (22) Security is directly linked to development: there is no development in chronically insecure environments. Conversely governance failures with roots in poverty, are a key contributing factor to outbreaks of violent conflict. Security is key to regional stability, poverty reduction and conflict prevention. One of the main citizens' expectations is that the State is able to guarantee their security of life, property, political, economic and social rights.

- (23) The concept of security is increasingly understood not just in terms of security of the state, but also embraces the broad notion of human security, which involves the ability to live in freedom, peace and safety. Security must be seen both as a national interest and as part of the individual rights. Security systems reform is an integral component of good governance. Effective management, transparency and accountability of the security system are necessary conditions for the creation of a security environment that upholds democratic principles and human rights. Hence working towards good governance and sustainable peace requires a successful process of reform of the security system, particularly in post-conflict environments.
- (24) The "security system" is defined by OECD as encompassing: a) the state institutions which have a formal mandate to ensure the safety of the State and its citizens against acts of violence and coercion (e.g. the armed forces, the police, paramilitary forces, the intelligence services and similar bodies); and b) the elected and/or duly appointed civil authorities responsible for control and oversight of these institutions (e.g. the Parliament, the Executive, defence ministries, and judicial and penal systems). Reform of core security actors such as the military, paramilitary, police as well as its civilian oversight structures, are of fundamental importance to create safe security environments and to keep the security sector permanently subject to the same governance norms as other parts of the public sector and military forces under the political control of a civilian authority. These institutions are part of a broader security picture and dependent on the existence of effective justice and law enforcement institutions. Security system reform must thus be linked to efforts undertaken to strengthen national and local rule of law. Interventions in the following categories can have an influence on the Security system reform: Armed forces and intelligence; Justice and internal security apparatus; Non-state security forces; Civil oversight mechanisms; Civil management bodies; Civilian capacity building; Regional initiatives; Initiatives to demilitarise society
- (25) Global security and international terrorism have also an impact on development. In addition to providing support to partner countries in the context of the UNSC Resolution 1373, development assistance can contribute to fighting against the international terrorism by focusing on poverty reduction and reducing inequality.

2.5. Human rights and good governance clauses: consultation procedures

- (26) Since the early 1990s, a human rights "essential element" clause has been systematically included in EC agreements with third countries, including trade and co-operation accords and association agreements. Such clauses stipulate that respect for fundamental human rights and democratic principles underpins the internal and external policies of the parties and constitutes an "essential element" of the agreement. In the event of a breach, a range of measures can be considered, with the provision that their application should respect the principle of proportionality between the breach and the degree of reaction. These measures include: alteration of the contents of co-operation programmes or the channels used; reduction of cultural, scientific and technical co-operation programmes; postponement of a Joint Committee meeting; suspension of high-level bilateral contacts; postponement of new projects; refusal to follow up partner's initiatives; trade embargoes; suspension of arms sales, suspension of military co-operation

and suspension of co-operation. The inclusion of essential elements' clauses is not intended to signify a negative or punitive approach. They are meant to promote dialogue and positive measures, such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments where this is lacking, as well as the prevention of crises through the establishment of a consistent and long-term relationship.

- (27) In the case of the Cotonou Partnership Agreement⁴, 77 ACP countries and the EU agreed to set up consultation procedures linked to the respect for the key elements of the Partnership. Article 9 of Cotonou states that respect for human rights, democratic principles and the rule of law constitute its essential elements, and good governance, its fundamental element. Article 96 foresees that in cases of violation of one of those essential elements one party can invite the other party to hold consultations (a similar procedure had been introduced for the first time in 1995, through article 366a of the revised Lome IV Convention). Consultations under article 96 aim at examining the situation with a view to finding a solution acceptable to both parties. If no solution is found, or in emergency cases, or if one party refuses the consultations, appropriate measures can be taken. Suspension of co-operation is in this context a measure of last resort. Appropriate measures, which should be proportional to the violation of an essential element, are intended to give a clear signal to the government regarding the respect of art. 9.
- (28) Prior to the introduction in 1995 of the consultation procedure, co-operation was de facto fully or partially suspended for a number of countries. Since 1995, consultations have so far been used in 12 cases, involving 10 ACP countries⁵ A recent example relates to Zimbabwe where consultations were undertaken pursuant to Article 96 of the ACP-EC agreement, following which targeted sanctions were applied, including freezing of funds and assets of individual members of the Government, a ban on their travel/transit, and a ban on exports of equipment for repression and training related to military activities.⁶
- (29) On the basis of the experience, some key elements for the success of consultations, *i.e.* to finding a solution acceptable by the two parties and/or implementing the measures necessary to remedy the situation, can be highlighted. The basic framework should be formed by: (a) the commitment of the authorities to return to a situation of normality is fundamental, in particular after a coup d'état, and (b) the coherence of EU position and co-ordination between donors. In order to ensure a proper monitoring of the process, the concrete violations of the essential elements must be identified, the sectors in which corrective measures are required from the authorities must be defined and a close political dialogue is to be kept during and after the formal meeting of consultations. Finally, the adoption of positive measures such as the strong and active EU involvement in the crises/conflict resolution is necessary.

⁴ OJCE L 317, 15.12.2000

⁵ Niger, Guinea Bissau, Togo, Haiti, Comoros, Ivory Coast, Fiji, Liberia, Zimbabwe and Central Africa Republic

⁶ Council Common Position and Council Regulation 310/2002 of 18th February 2002

- (30) The Commission is exploring ways in which to use the human rights' clause more effectively. The idea of using it to establish dedicated working groups on human rights with third countries is being piloted. In 2003 a Sub-group on Governance and Human Rights was established for the first time under the Co-operation agreement with Bangladesh. The group provides an opportunity for in-depth exchanges on human rights' issues between EU and Bangladeshi officials. Its first meeting took place on 19 May 2003 in Dhaka and addressed a wide range of issues, including the death penalty, the judicial system, support to electoral processes and the creation of a Human Rights' Commission. The possibility of providing further support for human rights' projects was also explored. In addition, the Communication on "Reinvigorating EU actions on human rights and democratisation with Mediterranean partners"⁷ also draws on the clause in order to pioneer a more developed approach to human rights and democratisation in the region. The Communication identifies ten areas for improvement including the development of National and Regional Action Plans on Human Rights, a more operational focus on human rights in political dialogue and greater attention to human rights and democratisation issues in CSPs and National Indicative Programmes.

2.6. Corruption

- (31) The fight against corruption is increasingly part of the international and EU agenda for poverty reduction. In the Global Programme against Corruption run by the UN, corruption is defined as the abuse of power for private gain and includes the entire public and private sector ("*corruption is every transaction between actors from the private and public sectors through which collective utilities are illegally transformed into private gains*"). Corruption undermines the government's credibility and the legitimacy of democracy. It is very often a tax on the poor. Because the formal processes are violated or by-passed, good governance is undermined. Corruption during general or local elections or within parliament reduces accountability and representation, corruption within the judiciary negates the rule of law, and corruption within the public sector leads to unfair distribution of social services. A feature of good governance is that institutions and processes all combat corruption and corrupt behaviour.
- (32) International experience from development co-operation directed specifically at corruption prevention has shown that to make an impact, combating corruption ought to be done within the framework of broader support to strengthen good governance and democratisation processes. Civil society, the mass media, the office of the public prosecutor and the judiciary, the financial administration (its processes such as auditing and control) should all be strengthened, the procedures for official procurement as well as the public service appointment processes should be transparent, and effective Parliamentary accountability should be ensured.

⁷ Communication on Human Rights in the Mediterranean Region (COM (2003)294 final of 21 May 2003)

- (33) Tolerance of corruption is not compatible with co-operation partnerships. But corruption is difficult to measure and to assess. This issue can therefore be best addressed in the context of the regular dialogue between partners in order to assess the efforts made by the country concerned in fighting corruption by considering the changes underway, the continuity of progress achieved and the quality and determination of efforts undertaken by the authorities to implement appropriate measures and reforms. The views expressed by civil society will contribute to this process and should explicitly be taken into account at all stages.
- (34) An important step was taken in the Cotonou Agreement in that regard, which could constitute an example for future agreements with other third countries or regions. The negotiations on the broader concept of good governance resulted in a two-pronged approach: on the one hand, a commitment to good governance as a fundamental and positive element of the partnership, a subject for regular dialogue and an area for active Community support; and on the other hand, an agreement to consider that serious cases of corruption, including bribery leading to such corruption, would constitute a violation of that element calling for appropriate measures to remedy the situation. The consultations procedure defined in Article 97 is to be applied not only in cases of corruption involving Community funds but also more widely, in any country where the Community is financially involved and where corruption constitutes a serious obstacle to result-oriented development strategies. It is thus not confined to cases of corruption directly affecting EC financial co-operation activities. This is important in particular when considering the fungibility of public finances. These provisions reflect a strong commitment of the parties to take the appropriate measures to prevent and combat corruption. They show that corruption is a shared and not an unilateral concern.
- (35) Another case in point is represented by Latin America. The fight against corruption is a regular subject for the dialogue and special co-operation in this field currently under negotiation with Central America and the Countries of the Andean Pact. The Madrid Political Declaration (EU-Latin American/Caribbean Summit, Madrid, 16-17 May 2002) contains the commitment to strengthening democratic institutions, the rule of law, judicial systems, the promotion and protection of Human Rights, as well as the fight against corruption and organized crime. Furthermore, the new generation of the EU bilateral Agreements with Latin American countries will contain the firm commitment to the principles of good governance.
- (36) The way in which fighting corruption is articulated in CSPs and NIPs is to address the institutional causes of corruption or an environment that tolerates corruption by providing capacity building to institutions and to non-state actors as well as support to improve the regulatory framework. This issue is in particular dealt with in countries where corruption is as a major development problem (according to sources such as Transparency International) and fighting corruption is part of the Government agenda. The Commission has funded five projects with TI to develop anti-corruption strategies at regional and country level in the past three years.

- (37) The recent Commission Communication on a comprehensive EU policy against corruption⁸, calls on EU institutions and Member States to make more effort to combat this form of crime. With regard to EU's relations with third countries, the Commission suggests the inclusion of 10 general principles into national anti-corruption strategies of EU acceding and candidate countries as well as other EU partners. This includes preventive and repressive measures, as well as codes of conduct and incentives for the private sector and the establishment of white lists. At the global multilateral level, further progress also is expected through the future UN Convention against corruption, which will adopt a comprehensive and multidisciplinary approach by balancing the need for the establishment of a functional mechanism for the recovery of assets with the need for institutionalisation of effective preventive measures.

2.7. Migration

- (38) Sound management of migration is also a factor in ensuring overall good governance. If carefully managed, migration can be a positive factor for growth and success of developing countries. One of the basic principles of improving the management of migration is that it requires joint effort. Dialogue between the country of origin and the countries of destination needs to be intensified and co-operation needs to be developed in a spirit of partnership. The principles set out in the 3 December 2002 Communication on migration and development provide the framework for the strengthening of the dialogue on migration with developing countries. By promoting good governance the EU is addressing one of the important root causes of migration.

2.8. Sector-wide approaches and mainstreaming

- (39) An increased use of sector-wide approaches to good governance, with budget support or other financial mechanisms, such as basket funding, can contribute to broaden ownership, and to improve co-ordination and efficiency.
- (40) Sector Programmes require an approved sectoral policy document integrated in an overall strategic framework (such as PRSP), a sectoral medium term expenditure framework and an annual budget, and a co-ordination process amongst donors led by Government. A good governance analysis can be applied at all these stages.
- (41) Governance related interventions can also follow a sector-wide approach, and are particularly relevant for administrative reforms (Public Sector Reform Programs, Decentralisation, Security System Reform, Reforms of the Judiciary, etc.). This may include working with non-state actors.
- (42) Mainstreaming Institutional Capacity Building in Sector Programmes contributes to good governance. Mainstreaming in areas such as transport, health or education, takes place through support to the relevant institutions on policy formulation, monitoring and implementation, as well as for the programming and management of the budget.

⁸ COM (2003) 317 final; 28.05.2003

2.9. Budget support

- (43) The EC has first started to provide budget support to economic reform programmes to ACP countries some 15 years ago in the context of structural adjustment programmes agreed by the countries with the Bretton Woods Institutions. More recently, budget support is becoming increasingly used in regions outside the ACP.
- (44) One of the pre-requisites for effective budget support is adequate, or improving, public financial management. Budget support, by providing funding linked to agreed outcomes (based on indicators of progress) in better public financial management, creates additional incentives for reform. By providing funding through national budgets, it also gives the Commission a stake in the dialogue on budget systems. Annual reporting on results helps to strengthen domestic accountability, and the increasing use being made in EC budget support operations of countries' own regular reporting to Parliament aims to improve the quality and content of these reports, and thus to promote Parliamentary accountability of Government. It also helps to reduce some of the extreme pressures on national budgets, which are in themselves often a source of difficulty for public financial management
- (45) The Commission's approach to budget support, linking volumes to the achievement of agreed outcomes in poverty reduction and public financial management, also adds a further set of incentives for improved internal dialogue between Treasuries and the key line Ministries, since Treasuries have a new interest both in the results line Ministries deliver and in ensuring that they are fully funded. By providing accompanying capacity-building support, moreover, budget support operations help to improve the ability to implement agreed improvements.
- (46) In addition, budget support can help to tackle those areas of public financial management where the aid process may in itself create problems for governments. Off-budget project aid is rarely captured in national planning systems, and almost never in accounting ones. Budget support provides funding through those systems. This ensures that resource planning is done on the basis of a complete picture, rather than the partial vision available when most investment expenditures are funded off-budget by donors and their recurrent cost implications may be invisible to planners. It also ensures that the picture national Parliaments receive is complete, without the omissions and distortions which off-budget donor flows create. This also helps to improve domestic accountability.
- (47) Major achievements of these reforms include in many countries a sustainable reduction of budget deficits, the elimination of discretionary tax and tariff exemptions, which have been interfering with the creation of a level playing field for private sector actors, and increasing the stability of the banking sector by stopping the practice of political loans. However, at the same time, it became increasingly clear that reforms cannot be bought, that their benefits have not sufficiently benefited the poor and that they need sufficient support (ownership) in the country. Since 1999, the structural adjustment programmes have been replaced by support to national Poverty Reduction Strategies.

- (48) In the PRSP context, the good donor practice is that donor aid should support and be aligned to a country-owned reform programme and its translation into the budget. In many PRSP countries, donors agree on joint frameworks which state the principles that guide budget support, and describe, often in matrix form, on which reform areas and desired results they intend to focus their dialogue with governments. Improving economic governance by increasing the effectiveness, efficiency and transparency of public expenditure, and improving social service delivery to the poor, are major elements of that dialogue between donors and governments. Most PRSP countries have started to improve sustainability of public spending by introducing a medium term focus with Medium Term Expenditure or Budget Frameworks (MTEFs/MTBFs). There is also an increasing use of tracking surveys that follow social sector expenditure to see to what extent central government funds reach the final beneficiary.

2.10. Trade

- (49) Governance at all levels is crucial for the integration of developing countries into the multilateral trading system, and for the creation of an attractive business environment, in which investment and trade can thrive. It is, therefore, vital to economic development, without which poverty and poverty-related problems cannot be tackled.
- (50) The integration of developing countries in the multilateral trading system not only depends on meaningful market access and increased domestic production of tradable and exportable goods and services. The domestic governance context is key to taking advantage of the potential which globalisation can bring. Only if developing countries have adequate institutional capacities and are willing to put in place a transparent, predictable and effective legal, regulatory, judicial, and institutional environment, and are in a position to enforce rules and regulations, will they be able to attract sufficient domestic, regional, and international investment. In recognition of this, the Commission has adopted a specific policy framework for trade related technical assistance which provides the basis for co-operation in this area⁹.
- (51) In relation to its own trade policy, the EU provides developing countries with preferential access to the EU market under the Generalised System of Preferences (GSP). This system aims to support development by according lower tariff levels to goods from developing countries than those applied to industrialised partners. However, these preferences may be withdrawn¹⁰ (as is currently the case for Myanmar) in cases of clear governance failures such as use of prison labour, slavery and violation of the right of association. Furthermore, the GSP also provides positive incentives through additional preferences to countries which have incorporated certain ILO conventions into national law and/or which ensure sustainable management of their forests. Thus through positive and negative incentives the EU seeks to encourage good governance in trade related areas.

⁹ COM (2002) 513 final, 18.09.2002

¹⁰ Under Article 26 of the GSP

2.11. The business sector

- (52) The promotion of social development in developing countries can, in general, not be achieved on a sustainable basis through public sector alone. Private companies can play an important role in this respect.
- (53) In developing countries, weak governance (in terms of inefficient administrations, lack of accountability and financial transparency, corruption, inefficient financial systems and other state failures) represents a major disincentive for investment, savings, and resource mobilization at both domestic and international level. Indeed a fast deteriorating governance could even trigger sudden capital outflows and capital flight. Given that the tax-base is usually very small, fiscal revenues often cannot finance adequately the health sector and other social services. Only a strong sustainable economic growth can create the wealth needed to successfully combat poverty and to make it possible that the taxation revenues sustain the basic foundations of the public sector. A dynamic business sector is key to economic growth. Foreign Direct Investment (FDI) can play a crucial role in developing countries. To attract FDI, countries must build an enabling environment. Governmental predictability, accountability and transparency are part of this. So are the consistent application of sound economic policies and the promotion of a stable macroeconomic framework coupled with a strong legal and regulatory framework to ensure protection from state coercion, arbitrary actions and corruption. Both domestic and foreign investors need to be assured that their assets will be secure and that contractual obligations will be upheld.
- (54) An effective public-private sector dialogue and partnership is important to promote sustainable development and should include issues such as human rights and Corporate Social Responsibility (CSR). CSR¹¹ is a concept whereby companies integrate social and environmental concerns in their business activities and in interaction with their stakeholders on a voluntary basis. Voluntary social and environmental practices of business, going beyond companies' existing legal obligations, can play a major role in filling the governance gap in an innovative way. CSR is not a substitute, but a complement to hard law and social dialogue. As such it must not be detrimental to public authorities' task to establish binding rules, at domestic and/or at international level, for the respect of certain social and environmental or reporting standards. Issues such as implementation of Core Labour Standards, the development of human resources and decent work, financial transparency, environmental protection, can all profit from a responsible private sector engagement.
- (55) The adoption, in August 2003, of Draft UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights¹² highlights the growing recognition of the responsibilities of business to their stakeholders. The Norms are a set of ethics guidelines bringing together a range of legal obligations for companies drawn from existing human rights,

¹¹ COM (2002) 347 final, July 2002, "Corporate Social Responsibility: a business contribution to Sustainable Development"

¹² Draft Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights. E/CN.4/Sub.2/2003/12/Rev.1

labour and environmental standards, as well as providing guidelines for companies operating in conflict zones.

- (56) The European Parliament, in passing a resolution on EU standards for European Enterprises operating in Developing Countries: Towards a European Code of Conduct¹³, recognised the influence the European private sector has over the processes of development, environmental impact and human rights in the developing countries in which they operate.
- (57) The OECD Guidelines for Multinational Enterprises are a comprehensive and respected corporate responsibility instrument containing voluntary principles and standards for responsible business conduct in areas that include human rights, core labour standards and anti-corruption measures. The Guidelines have global reach as they are recommended by the governments of the 37 adhering countries¹⁴ to multinational enterprises based in those countries wherever in the world they operate. The Commission has played an active role in the promotion of these Guidelines.

3. CURRENT COUNTRY OWNED PRACTICES AND APPROACHES

- (58) The launching of the African Union (AU) and the establishment of New Partnership for Africa's Development (NEPAD) have created a new pan African level of governance African leaders have agreed that peace and security, democracy, good governance, human rights and sound management are among the key conditions necessary for sustainable development and poverty eradication, as well as for ending armed conflicts in the continent.
- (59) The NEPAD's approach to governance is encapsulated in the Heads of State and Government Declaration on Democracy, Political, Economic and Corporate Governance¹⁵.
- (60) One of the features of the initiative is the African Peer Review Mechanism (APRM), which is an instrument voluntarily acceded to by Member States of the AU as an African self-monitoring mechanism. Fifteen African countries have so far signed a Memorandum of Understanding to accede to the APRM process. The purpose is to ensure that members' policies and practices conform to the agreed political, economic and corporate governance values, codes and standards contained in the NEPAD Declaration. To accede to the peer review process, each State is required to clearly define a time-bound Programme of Action for implementing the Declaration on Governance including periodic reviews. The APRM could spur countries to consider seriously the impact of domestic policies,

¹³ Report on EU standards for European Enterprises operating in Developing Countries: Towards a European Code of Conduct A4-0508/98

¹⁴ Adhering countries are the 30 OECD members and Argentina, Brazil, Chile, Estonia, Israel, Lithuania and Slovenia. Latvia's adherence is being completed and an application by Singapore is being considered.

¹⁵ Assembly of Heads of State and Government, 38th Ordinary Session of the Organization of African Unity, 8 July 2002, Durban, South Africa

not only on internal political stability and economic growth, but also on neighbouring countries, as well as promote mutual accountability.

- (61) In other regions, there is a wide range of regional and subregional groupings, fora and arrangements for cooperation addressing governance issues. Governance figures prominently on the Organisation of American States (OAS) agenda (including general reports to the General Assembly). In the area of fight against corruption the OAS has for example set up a comprehensive follow-up mechanism to the Inter-American convention against corruption, including a specific mechanism for associating civil society. Democratic governance is also one of the five priorities for action that the Rio Group identified at its last Summit in Cuzco (May 2003). The countries confirmed their commitment to the consolidation of democracy, the rule of law, and to the need to establish more efficient political systems. The same could be said in Asia where governance issues are high in the agenda of the Asian countries or their groupings, especially in the aftermath of the Asian financial crisis. The debate in that part of the world focuses on less pervasive and direct role of the State in the economy, implementing market-based economic principles, fostering regional trade integration, strengthening the domestic financial markets and enhancing the possibilities for a collective response to potentially destabilizing threats etc. The regional development banks, for example Asian Development Bank (ADB) and the Inter-American Development Bank (IDB), in which partner countries and other countries in the respective regions are majority stakeholders, and which have broad development mandates, also address governance issues (in the context of, for example, the modernisation of the state and reforms of the public sector) as priority areas in their policies and operations. Furthermore, in the particular case of IDB, under the heading "Modernization of the State", the Bank has recently developed a strategic framework for State reform and the consolidation of democratic governance.

4. TOWARDS A MORE DYNAMIC AND PROACTIVE APPROACH

4.1. A Policy Agenda for Governance

- (62) Governance can be approached from different perspectives in different country situations. Policy prescriptions for difficult partnership, post conflict situations or effective partnership situation will differ. Good governance is to be analysed and promoted on a country-specific basis. It cannot be addressed on the basis of one-size-fits-all model but rather on the basis of existing situations. This involves a process of progressive consolidation of accountable, effective and democratic institutions and an open dialogue with non-state actors including economic and social partners and other civil society organisations. Institutional sustainability and capacity building are the core elements of a governance agenda.
- (63) The EC has – through its presence in almost all developing and transition countries, and through its policies and vast array of instruments – long experience in maintaining both assistance to and dialogue with Governments in different country situations. In all cases, the EC policy line and support to governance is integrated in its normal co-operation instruments. Depending on the specific country situation, this can include:

- dialogue,
- humanitarian assistance,
- the whole set of development assistance including:
 - support to institutional capacity building,
 - support to administrative decentralisation, electoral support, non-state actors,
 - support to activities in the area of human rights.

Technical and financial instruments include projects, sector programmes and budget support, the financing of recurrent costs as well as technical assistance. In all its interventions the EC seeks increased coherence, complementarity and co-ordination with EC and EU Member States policies as well as with other donors to increase efficiency and to send consistent signals to the Governments and to the populations living in partner countries.

- (64) In this framework, dialogue should be used to ensure a regular contact with partner countries and go beyond situations of imminent/ongoing crisis. It should include a regular and where possible joint assessment of the developments relating to respect for human rights, democratic principles, the rule of law and good governance. Closer co-ordination between the EU, the Member States and other donors can contribute to the efficiency of the dialogue.
- (65) Dealing with situations of difficult partnerships is an issue that the international community should continue to address. Development co-operation with these countries requires specific approaches that address the root causes of the problems, which are very often linked to governance, involving a range of measures tailored to the specific country context.
- (66) In governance-related interventions the EU should consider shifting from a “project approach” to a sector programme approach where appropriate. The purpose is to facilitate the elaboration by partner governments of coherent strategies and action plans, involving donors and other relevant stakeholders in a unified process and framework. The sector-wide approach constitutes an avenue for harmonising donors’ practices and procedures, and to deal with issues such as the recurrent costs in the public administration in a co-ordinated way.
- (67) To improve the effectiveness and impact of EU governance interventions, and other areas of development, progress towards common EU policies and approaches, country/regional strategies and harmonisation of procedures will be needed. Overall the approach of EU Member States to governance is shifting from an initial focus limited to economic processes and administrative efficiency towards greater concern for issues of democracy, justice and participation. Other bilateral and multilateral donors also reflect this experience. There appears to be a general shift towards more country-wide bilateral co-operation programmes. Strengthening the institutional and legislative framework, to underpin institutional sustainability, democratisation processes, the rule of law and respect and protection for human rights and individual freedoms is a common feature of all

EC interventions. These different fields constitute both sectors of intervention and cross-cutting issues in the CSP/RSP. The EC will continue to seek complementarity and coherence with other bilateral donors and multilaterals.

- (68) Using indicators on governance is of mutual interest of partners. They can facilitate in-country dialogue and country-led processes of reform of governance systems (electoral system, justice) as well as improve the quality of development interventions.
- (69) Current EC approaches to governance in different situations, i.e., difficult partnership, post conflict and effective partnerships, are presented below. To illustrate these approaches and to provide policy guidance in different areas and situations on the basis of lessons learned, case studies have been selected.
- (70) This Communication focuses on developing countries according to the Joint Statement of the Council and the Commission on Community's Development Policy¹⁶. However, experiences in other countries and regions can bring interesting approaches and useful practices to be possibly shared across regions.
- (71) The Western Balkans can serve as an illustration of EU policy in a post-conflict context.

WESTERN BALKANS

MAIN DEVELOPMENT CONSTRAINTS: The post-conflict situation and the legacy of the Yugoslav Federation partition are the main features. In addition, specific institutional complexities were induced by the peace arrangements (e.g. Tripartite BiH, New constitution for Serbia and Montenegro, Kosovo under UN administration, Ohrid agreement in FYROM). The international community has been highly involved, with full or partial administration of large entities (eg. UN mandates for BiH and Kosovo). Other constraints refer to the need to set up entire departments of administration in the successor states (e.g. state border services), to border demarcation and controls well as to the potential for disputes arising from propriety rights/cadastral issues. The region is also confronted with more classic issues of transition from a socialist system to an effective democracy and a functioning economic market. EU aims with the Stabilisation and Association Process (SAP) to help these countries to address these institutional challenges, to enter into a partnership relation and gain back ownership and to progress on the way to European integration.

MAIN POLICY RESPONSES/MEASURES: At the core of the EU policy towards the region – the Stabilisation and Association Process (SAP) - is the acknowledgement that these Western Balkans countries are potential candidates for EU membership (European Council of Feira, June 2000, reiterated in Copenhagen, December 2002 and Thessaloniki, June 2003) and that the 1993 Copenhagen criteria¹⁷ will continue to apply. Support to

¹⁶ Joint Statement of 10.11.2000; Communication on the European Community's Development Policy (COM(2000)212 final 26.4.2000)

¹⁷ Agreed at 1993 Copenhagen European Council; EU membership criteria for Accession States based on stable democracy, respect for human rights, the rule of law, the protection of minorities, a functioning market economy, the adoption of the common rules, standards and policies that make up the body of EU law.

governance and institutional reform is thus predetermined by this wider perspective: the Western Balkan countries are aiming to adopt European standards in the political, economic and legislative sphere. Most notably, the EU is aiming to apply the very valuable experience it has gained from the enlargement process (experience of post-communist transition, experience of transfer of EU acquis in Central and Eastern Europe). The approach followed is comprehensive and encompasses democratic stabilisation (incl. protection of minorities, return of refugees, etc.), possible constitutional reform, the rule of law (including police and judicial reform, anti-corruption), reform of public administration, economic governance (public expenditure management, privatisation process, respect of property rights) as well as capacity building to comply with SAP obligations (i.a. trade facilitation and statistical co-operation). Community Assistance under the CARDS Programme currently allocates 40% of its resources to address the institutional challenges and institution building needs. On an exceptional basis, EC macro-financial assistance (MFA) is provided in support of the Western Balkan economies and plays a significant role in improving economic governance in these countries. In addition, the EC is developing its strategies in the field of Justice and Home Affairs, through supporting the Western Balkans countries to strengthen their capacity to combat organised crime. Intense efforts are being put into the development of integrated border management. Migration and asylum is also a key focus.

4.2. Difficult partnerships

- (72) Difficult partnerships are characterised by a lack of commitment to good governance. They differ from weak governance cases, where the Government makes efforts and is committed, but capacity is weak and outcomes are limited.
- (73) Donors cannot afford to totally abandon poor performers or difficult partnerships in particular for three main reasons: (1) for reasons of solidarity: populations should not pay the price for the lack of commitment by their governments; (2) for reasons of security, linked to the dangers of isolating a country and of leaving extremists and terrorism growing in failed states; (3) for reasons of aid effectiveness in a longer term perspective, taking into account the potentially high risks and costs associated with leaving a country for a long period (poverty rises, institutions collapse, the private sector if any is paralysed, etc). There are also risks of spillover effect, in particular, of conflicts spreading to neighbouring countries or to the wider international community.
- (74) Therefore, instead of totally withdrawing from a given country, the EU and other donors should find alternative entry points and approaches to co-operation with the country concerned.
- (75) Difficult partnerships range from countries where the EC approach to governance includes dialogue and financial support through various financial instruments, to extremely difficult partnerships where co-operation has been suspended.
- (76) Entry points will be particularly difficult to find in the most extreme cases, where 'appropriate measures' or sanctions may have been taken or may be required by the international community. Even in these situations, the following kinds of activities can still be carried out:

- Humanitarian assistance or food aid, provided their intrinsic rationale continues to be respected (access for all affected, regardless of political orientation, gender etc.)
- Support to activities carried out by civil society organisations, e.g. in support of human rights or aimed at covering the basic needs of the population.
- Political initiatives at the international or regional level with the aim of finding a durable solution to the crisis.
- In cases where Article 96 or 97 of the Cotonou Agreement or other relevant consultation procedures have been implemented, the role of the EC is to monitor the agenda of corrective measures that has been decided including those that the partner country has committed itself to adopt. After the consultations, the necessary adaptations to these measures have to be – where possibly jointly - identified and assessed. If the consultations are successful and the relevant measures are effectively implemented by the Government, these cases may gradually evolve into a more effective partnership.

(77)

NORTH KOREA

MAIN DEVELOPMENT CONSTRAINTS - The economic and social situation in the DPRK is in very bad state. International humanitarian assistance has helped to avert the worst effects of famine and economic collapse, but are not enough to revive the economy and the social conditions of the North Korean population. Despite some economic reforms introduced in July 2002 (free prices and salaries, no state food distribution system, acceptance of farm markets), the foundations for a sustained economic recovery do not exist; the DPRK does not simply have the resources to rebuild its agricultural, industrial, infrastructure and social base. This situation can not be reversed without both i) a commitment to policy and institutional reforms to put the economy onto a sustainable growth path (the introduction of governance principles and rule of law, transparency and social society which at present do not exist); and ii) the building of economic relations with the international community in order to attract the trade, investment and economic assistance needed to achieve economic development for the medium and long term. The current North Korea nuclear crisis does not help the situation and until resolved, will not allow for the necessary international economic support.

MAIN POLICY RESPONSES/MEASURES - Since the nuclear crisis broke out in October 2002, the EU continues to provide humanitarian and food aid . The EU has provided a contribution of 283M€ in food and humanitarian aid to the DPRK since 1995. Despite the current political situation, the GAERC of 18 November 2002 decided that the EU should continue to provide North Korea with humanitarian assistance and food aid.

The Country Strategy paper for the DPRK for 2001-2004 had foreseen 15 M€ of technical assistance projects to help North develop the necessary reform in its economy through a vast programme of training and institutional building. The implementation of this economic cooperation assistance (which should have started with two pilot projects worth 1 M€ each in the fields of training in market economy principles and energy efficiency and €15M for follow up activities), is suspended for the time being given the current political situation. But, the EU stands ready to enhance economic cooperation with North Korea if the present crisis can be resolved in a satisfactory manner.

The EU has raised its concerns over the human rights situation in the DPRK during our political dialogue meetings with North Korea, the last occasion being June 2002 in Pyongyang. There had been some progress in our discussions and the DPRK had shown a more constructive engagement in human rights talks, with positive comments on role of NGOs and promises to resolve outstanding problems on their working conditions. The EU requested humane treatment of returning refugees from China, as the latter had hardened its position on this after a number of incidents of North Korean refugees seeking asylum in foreign embassies in Beijing. The EU tabled a Human Rights resolution on North Korea at the UN Commission of Human Rights session in Geneva. This was adopted on 16 April.

(78) In less dramatic but still difficult partnerships, the EC policy line and support may be integrated in its normal co-operation instruments. The main priorities are usually the following:

- Maintain a regular dialogue with partner countries authorities
- Support to institutional capacity building
- Support to human rights and other governance related activities
- Projects or programmes aimed at meeting the basic needs of the most vulnerable groups, i.a., the improvement of service delivery to the poor and the enhancement of civil society, in particular by supporting and working with non-state actors.

(79)

ANGOLA

MAIN DEVELOPMENT CONSTRAINTS - After 28 years of civil war, which have prevented stable and accountable democratic institutions and practices to evolve in Angola, this country still lacks of human resources and has a weak institutional capacity in the post conflict situation. The basis for the reorganisation of an independent legal system is very fragile. There are particular problems related to the transparency of public finances, such as the fact that a large part of oil revenues do not appear in the budget, which means that the revenues from Angola's vast natural resources could be better managed to the benefit of its own people. Civil society organisations are still very fragile and the human rights record remains poor. Corruption is widespread. The Government and the EC have a different perception of current priorities. From the government's perspective, institutional reforms come only in second place behind physical rehabilitation. The EC expresses serious concerns regarding the implementation of key institutional reform programmes, in particular of the justice sector and public administration.

MAIN POLICY RESPONSES/MEASURES - In tackling governance issues in Angola three different aspects are relevant. The first priority in the post-conflict situation is to deal with emergency issues, i.e. mainly humanitarian assistance. Other issues must stand back at this stage. Secondly account had to be taken of the new context in which co-operation takes place, i.e. the Cotonou agreement and governance-related international commitments. Hence the need for an approach ensuring coherence between political, development and humanitarian aspects. In this context the political dialogue comes to play, and in the case of Angola there has been a close interaction between the Common Position instrument and the co-operation strategy (CSP/NIP). Taking into account these aspects as well as the principle of linking relief, rehabilitation and development (LRRD), which is the basis of the EC/Angola co-operation strategy, the approach taken is a step by step/gradual approach, based on the evolving (post-conflict) situation in the country and its transition from the relief to the rehabilitation stage. This general approach has led to a selection of appropriate entry points and instruments. The Council Common Position of 25.6.2002¹⁸ puts great emphasis on good governance as the instrument ensuring the link between political and poverty reduction related aspects of co-operation. It provides the framework for the political dialogue. The lack of transparency of oil revenues is one of the key elements of discussions between the Government and donors. The Government indicated that it is committed to a fully transparent way of managing the budget. The positive statement by the Government is taken as a possible point of entry for dialogue on governance-related reforms. Regarding transparency of oil revenues, process similar to Kimberley process¹⁹ could be considered. Discussions and development on the matter, could take place outside classic areas of co-operation in a possible “non-aid” strategy. The “Publish What you Pay” initiative, which proposes to ensure transparency of oil revenues by obliging oil companies listed at stock exchanges in the EU or US to publish their payments to governments in third countries, could be a useful instrument in this context. The same goes for the Extractive Industries Transparency Initiative (EITI), launched by the UK in June 2003 and based on the “Publish What You Pay” initiative. For the time being, Angola decided to be an observer only to this process.

(80)

BANGLADESH

MAIN DEVELOPMENT CONSTRAINTS - Good governance has been identified as the key development challenge of Bangladesh, in view of the scale of the governance problems and the adverse effects on poverty and development. The situation is particularly critical in the area of political governance, where the most pressing topics to be addressed are (1) a comprehensive anti-corruption strategy and the establishment of an independent and effective Anti-Corruption Commission; (2) the reform of the criminal justice sector including a comprehensive reform of the policing services and the separation of the Judiciary from the Executive; (3) Decentralisation and improved effectiveness of local government services; (4) Institutionalisation and promotion of human rights and the set up of an independent Human Rights Commission and an Ombudsman.

¹⁸ OJEC L 167, 26.6.2002

¹⁹ Kimberley process, a global initiative aimed at ending trade in so-called “blood diamonds” by establishing that exported gems have not come from conflict areas.

MAIN POLICY RESPONSES/MEASURES - The EC has a two pronged approach, acting as part of the international donor community and as bilateral partner. As part of the international donor community the EC has engaged the state in a policy dialogue through support to sector wide programmes. At bilateral level, the 2001 Co-operation Agreement has increased the importance of Governance in EC Bangladesh relations. Although funding for governance specific actions in the NIP is limited in proportion to the scale of the problem, good governance is an substantial cross cutting issue in the NIP. The EC has recently engaged in a political dialogue with the state that is proving constructive and fruitful. Since the dramatic 'Operation Clean Heart' the poor state of governance is high on the political agenda of the EU institutions. While Bangladesh has a certain unease about the public reprimands, recent contacts have nevertheless revealed that the EU governance message is started to be taken more seriously.

4.3. Post-Conflict Situations

- (81) In many cases, the state institutions in a post-conflict situation are either non-functioning or even non-existent. They have seriously limited capacities of delivering public services. A cease-fire or a peace agreement, which constitutes the framework for the country's rehabilitation, includes the democratisation and national reconciliation processes as well as a strategy for the economic development. A mechanism for the dialogue between the country representatives and the donors' community is usually in place. It is intended to facilitate the discussions between partners on the support to the country in its transition towards the long-term development.
- (82) The main priorities to be dealt with in a post-conflict environment are usually the following:
- the identification of the root causes of the conflict
 - the ability and willingness of different actors' (Government, Parliamentarian and Judicial authorities, political parties, civil society) to address the root causes of the conflict,
 - the steps to be taken in the reconciliation process
 - the authorities' willingness to address governance issues, which very often had led to the conflict, and which may remain entrenched in the post-war environment
 - linking relief, rehabilitation and development
- (83) In order to promote pro-poor governance agendas and facilitate the political will to change by the government, donors combine dialogue and different financial instruments. They provide in parallel humanitarian aid, which is neutral and aims to address peoples' needs. Co-ordination between donors is essential for an effective, result oriented dialogue with the partner country.

MAIN DEVELOPMENT CONSTRAINTS - The main constraints are the slow implementation of the Peace Accords (PA) signed in 1996 and the lack of progress towards democratisation and economic development. Most structural causes that led to conflict are still unsolved. There is a lack of both institutional capacity and political will to implementing the reform process required by PA. Other main problems are the exclusion and discrimination against indigenous people, who are the majority of the population, low level of civil society participation, especially in rural areas, threats towards human rights activists and justice sector operations, corruption, drug trafficking, money-laundering. A weak justice system and weak national police force are in contrast with the mounting lack of security and the supposed existence of parallel power structures. On the economic side, the very skewed income distribution, the very weak taxation base and the low tax ratio in relation with the GDP must be addressed, including through the taxation system reform.

MAIN POLICY RESPONSES/MEASURES - A significant part of EC assistance directed to governance related areas (demobilisation and rehabilitation of the former guerrilla and armed forces; improvement of the citizens' security by creating and ensuring the functioning of civil police; strengthening the judicial system; giving legal protection to property by introducing a national land register; support of the National Ombudsman for human rights). The main objective of CSP for 2002-2006 is to create and reinforce the necessary conditions for the Peace Agreement implementation.. The co-operation agenda focuses mainly on the follow-up of the Consultative Group Meeting - aimed at accelerating the PA implementation - and the next general and Presidential elections to be held in November 2003 including the realisation of a EU Electoral Observation Mission. Guatemala is also a focal country for the European Initiative for Democracy and Human Rights (EIDHR). The «Mesodialogo», a permanent forum on EC co-operation with Guatemala composed by the EC, EU Member States, the government and local and EU civil society organisation, support by the EC, needs to be further consolidate. In the framework of the CSP 2002-2006, the Mesodialogo has contributed to the preparation of key actions aimed at, inter alia, reinforcing the participation of the civil society and consolidating the State's decentralisation process. The EC approach at bilateral level is complemented by the principle and objectives set by the so called San José Dialogue between the EU and six Central America countries, which succeeded in contributing to the peace process and democratisation of the region, and was consequently re-oriented towards new challenges related to sustainable and equitable economic and social development, and to the deepening of economic linkages between the two regions.

MAIN DEVELOPMENT CONSTRAINTS - Between 1959 and 1994 ethnically based laws were introduced, and several massacres against tutsi and twa minorities took place, creating waves of refugees. The civil war broke out in 1990 with the invasion by Rwandan militia under the banner of the tutsi dominated Rwandan Patriotic Army (RPA). Agreements signed in 1993 in Arusha included the formation of a broad-based government, a reduced army and a programme of transition. However, the genocide of tutsis and moderate hutus started in April 1994 and made it impossible to implement the agreements. The genocide led to the massive loss of human resources and the destruction of institutional capacity as well as social and economic infrastructure : approximately 800.000 people were killed, 2.000.000 people fled to other countries and 1.500.000 were internally displaced. The consequences of war and genocide have been at the root of Rwanda's social, political and economic problems today. Educated layers of the population were thinned out - killed, imprisoned or in exile. Securing the borders has imposed a heavy burden on the budget, as well as the debt burden. The cost of genocide suspects' imprisonment and the justice process including compensation for victims also put a strain on the budget. The cost of the Rwandan demobilisation and reintegration program is also considerable. Rwanda has traditionally suffered from a scarcity of land and high population pressure and the integration of thousands of ex-combatants will not be without problems. Rwanda is rebuilding a new non-ethnic based identity. The key issue is the achievement of the reconciliation process through the transition to democracy, through bringing to trial those accused of participation in the genocide and through improving the human rights situation.

MAIN POLICY RESPONSES/MEASURES - The EU and its member states were among the first international actors to acknowledge the post-genocide regime. During the period after the genocide, EC co-operation was focused on humanitarian aid and rehabilitation. By late 1999 there were no longer pressing humanitarian needs in Rwanda and ECHO withdrew from Rwanda. Donors have supported the Government's economic Reform Programme and some of them, including the EC, have started providing budget support to Rwanda. Rwanda reached the decision point for the HIPC initiative for benefiting from the HIPC initiative.

The ongoing interventions focus on institutional support with technical/logistical support for the Ministry of Finances, the general population census and support for good governance and justice sector. The infrastructure component is focussing on water supply systems and road sector management. Finally, the macroeconomic support and the funding of rural micro-projects and urban labour intensive works have continued. The 9th EDF National Indicative Programme has been signed in March 2003, the focal sector being rural development, including rural economy, as well as transports and water supply in rural areas. The support to the government's economic reform program will continue. The importance of institutional capacity building, transition to democracy and justice and the reinforcement of decentralised structures and civil society are also targeted.

The political dialogue framework is the EU common position²⁰, revised every year. It covers the internal situation aspects (justice of genocide, human rights, democratisation process, ...) and Rwanda's foreign policy (involvement in the DRC's conflict, illegal exploitation of DRC's natural resources). An EU Special Envoy for the Great Lakes Region was designed in 1996. Heads of Delegation report on regular basis on human rights situation and on political issues. A new constitution was adopted by referendum on 4th of June 2003, which marks the end of the transition period. Presidential elections through direct universal suffrage took place in August 2003 and were observed by the EU and even if some irregularities were noted, it was considered an important step towards the consolidation of the democratisation process. To complete the transition process towards democracy, legislative elections took place end of September/beginning of October 2003 and were also observed by the EU. The final report of the EU Election Observer mission, which will cover the whole electoral process, is expected by mid-October 2003.

4.4. Effective partnerships

- (86) In an effective co-operation partnership, the Government is committed to development objectives and to the internationally agreed targets. National institutions, civil society and donors take part in the discussions leading to a national development (or a poverty reduction) strategy that is progressively implemented by the Government with donors' support. The expected outcomes depend largely not only on partner country commitment and political will or on donors' technical and financial support, but also on partner country capacities and on the level of institutional sustainability. In the framework of the normal dialogue with the partner country all subjects and issues related to co-operation are regularly discussed in an open manner.
- (87) Priorities for action in effective partnerships should aim at ensuring that adequate policies and pro-poor reform programs are adopted and implemented in the area of governance. The main priorities are usually the following:
- Ensure a continuous and effective dialogue with partner countries
 - Provide support contributing to the strengthening of democratic governance, citizens participation and access to justice
 - Provide support to activities in the area of human rights
 - Strengthening transparency, accountability and effectiveness of state institutions through support to institutional capacity-building at all levels in the area of good governance and the rule of law including public service reform in all areas, reform of the security system, tax reform and administration, budget process and auditing procedures, statistics etc.

²⁰

OJCE L 285; 23.10.2002

- Integrate institutional support in the other sectors of the co-operation programmes
- Support to foster civil society's capacity to participate in policy-making processes and debates

(88)

MEDITERRANEAN REGION

MAIN DEVELOPMENT CONSTRAINTS - All MEDA countries face considerable challenge, both politically and economically. On the political front, most countries combine opaque governance practices with a poorly developed civil society. In economic terms, major structural reform is needed in the region, both to improve the growth performance of the MEDA partners and create jobs for a rapidly growing labour force. Stabilising employment at the current high levels would indeed require a growth rate of about 7 percent, way above present levels. Failure to do so will increase poverty and heighten social pressures with important repercussion beyond countries' borders. Transparency of the markets and fight against corruption represent also considerable challenges. Migration is a key focus with the EU increasingly concerned over the flows of illegal migrants both from and through the Mediterranean partners. For their part the partners have complaints relating to the treatment of legally established migrants in the EU. Finding an overall balanced approach to migration is our common challenge. Issues related to the fight against terrorism, organised crime and drug trafficking are also priorities. The situation regarding respect for human rights and democracy in the region continues to give cause for concern; autocratic regimes and poorly developed civil society lead to important deficit in terms of respect of human rights and democratic principles.

MAIN POLICY RESPONSES/MEASURES - Institutional reform is a key-element of the Euro-MED partnership both at multilateral and bilateral co-operation levels. The Barcelona process is implemented in various fora, including Euro-MED Ministerial Meetings, the Euro-MED Committee and various technical groups and committees, where issues related to governance are addressed (institutional reform, transparency and open market, fair administration of justice, etc). As for the bilateral relations, institutional reform is being developed through the association agreements, concluded with all but one (Syria) of the MEDA partners. These agreements provide for a political dialogue, the progressive establishment of free trade with the EU and co-operation in a number of economic, social and cultural areas.

In its Communication on Wider Europe-New Neighbourhood Initiative, the Commission put forward an ambitious vision: the creation of an enlarged area of peace, stability and prosperity encompassing the neighbours to the East and to the South (Mediterranean countries) based on common values and deep integration. In return for progress in implementing political, economic and institutional reforms, the EU's neighbourhood is to benefit from the prospect of closer economic and political links with the EU. This objective is going to be implemented by means of Action Plans which will cover, inter alia, reform towards strengthening democracy and respect for human rights, good governance and the rule of law.

Support to policy reforms and economic management is a major focus of EU relations with its Mediterranean partners, including through regular sessions of economic dialogue

conducted both at the bilateral and regional levels. The dialogue on economic policies and on legal and regulatory frameworks is combined with policy assistance which includes modernisation of the budgetary process to increase transparency and control mechanism in the field of public finance and institutions. Appropriate technical assistance is also provided to facilitate the reform process.

Cooperation in the area of Justice and Home Affairs in the Mediterranean is a recent phenomenon. Foreign Ministers meeting in Valencia in April 2002 therefore adopted a framework document for a Euromed programme in the area of judicial co-operation, fight against terrorism, drug trafficking and organised crime, as well as co-operation on issues relating to social integration of migrants, migration and movement of people. A regional action plan on JHA matters was agreed at the Valencia Euro-MED Ministerial. Following several meetings and a 5-days workshop (June 2003) with MEDA partners, priorities were defined. Experts and practitioners from MS and Mediterranean countries will now work together to create common tools/programmes for the training of judges, prosecutors and police in the main priority areas of terrorism, organised crime and money laundering. JHA programmes have also been included in several National Indicative Programmes.

Human rights and democracy is being developed with the MEDA partners in the context of the association agreements, the EIDHR initiative and under the MEDA programme. Most recently, the Commission has adopted a Communication on *Reinvigorating EU Actions on Human Rights and Democratisation with Mediterranean Partners*, defining a number of strategic guidelines in view of developing a comprehensive approach to this key issue.

(89)

BURKINA FASO

MAIN DEVELOPMENT CONSTRAINTS - There is a need for the strengthening of institutional capacity, and of civil society. The necessary reform of the legal system is under way. Lack of natural resources, environmental degradation, drought (Sahel climate), as well as high dependency on agriculture (occupying 80 % of the active work force and representing 40 % of GDP) and little exports diversification are all major obstacles to long term development. Another concern is the limited and sporadic social conflict. Finally, the situation in the region may have consequences in economic and social terms as a large number of burkinabé are living in neighbouring countries.

MAIN POLICY RESPONSES MEASURES - Poverty reduction is at the forefront of all EC activities, which are based in the government-led PRSP process. There is a high degree of consistency and convergence of the various types of EC support with EU Member States and other partners interventions. While maintaining its support for the consolidation of macroeconomic and sectoral policies, the partnership strategy between Burkina Faso and the EU aims to strengthen support for the process of reforms through the consolidation of the rule of law and devolution, involving greater participation of beneficiaries. Main EC financed programmes, which focus on budget support, transports and institution building, include the consolidation of the judicial system, an improvement in living conditions of the population through water supply, and a programme of decentralised co-operation. Burkina Faso also benefited from aid through the Budget including i.a., cofinancing with NGOs, human rights, democracy, etc.

Burkina Faso was also the pilot country for a new approach to budget support. By providing funds through the budget, this makes money available for the recurrent costs (teachers' salaries, school books, drugs etc.) needed to make investments effective in reducing poverty. By using national budget systems it helps to reduce the acute shortage of funds that makes good management practically impossible. By linking funding to progress with public financial management it provides incentives to improve, and through accompanying capacity building support it makes improvements possible. By linking other funding to results it provides an incentive for government to shift its attention from inputs – what is spent where – to outcomes – what that spending achieves in higher enrolments, exam pass rates, vaccination coverage etc. This helps to improve administrative governance through more appropriate incentives and accountability for results. In Burkina, the early budget support missions' use of access to health services as an indicator led to the discovery that while more health centres were being built the number of people attending was declining because of the shortage of other inputs. This discovery led to a refocusing of effort in the health service, and the availability of additional recurrent cost budgets through budget support supported this reorientation. In addition, by linking up with other donors in a joint process, the load on Burkinabe public service from multiple donor missions is reduced – a major saving in a country of acutely limited administrative capacity – and by providing funds through national budget systems a unified planning and accountability framework is made possible.

(90)

EASTERN EUROPE and CENTRAL ASIA

MAIN DEVELOPMENT CONSTRAINTS - In many of the countries of Eastern Europe and Central Asia the institutions and thus the governance are still weak. The various measures of corruption - including Transparency International's Corruption Perception Index - show that corruption is a problem in many of the NIS countries. This is also evidenced by the business environment and enterprise performance survey of firms in the region conducted by the EBRD and the World Bank. The civil service in the NIS countries suffers from a number of shortcomings such as (a) the continued existence of institutions whose functional and organisational structure has not been reformed; (b) the need to create new organs and institutions from scratch that can perform newly defined state functions; (c) or abolition of unnecessary functions; (d) incomplete and unreformed legislation governing the rights and obligations of civil servants; (e) the prevalence of widespread corruption within the state administration due to lack of transparency, unaccountability and low salaries; (f) the weak or, at least under-utilised human resources management capacity within public administration; (g) the lack of professionalism of the public administration also hinges on certain important issues, such as low wages, lack of incentives and the lack of possibilities for improving professional capacities.

MAIN POLICY RESPONSES MEASURES - The EU's cooperation objectives are to build a partnership with the NIS in which respect for democratic principles and human rights and the transition towards market economy are fostered and supported. These objectives are based on the Partnership and Cooperation Agreements (PCAs) with most of these countries and the Common Strategies with Russia and Ukraine, and form part of a proximity policy, reflecting the political and strategic importance of the region to the EU. The strategic importance of this partnership is now increasing as the EU enlarges to the east. For Russia and the Western NIS, special attention is given to initiatives addressing major cross-border problems including organised crime and corruption. Administrative reform is a defining factor for improving governance and combating

corruption, as it addresses the root of the problem, i.e. the bureaucratic over-regulation of economic activity, which creates the opportunities for corruption. A key long-term priority of the Tacis programme is support for the reform of the public service, judicial and legal reform. Tacis provides policy advice in areas such as state budget reform, regional finance reform, public procurement reform, regulations for preventing conflicts of interest in the civil service, public access to information, legal status of civil servants and training and human resource management in the civil service. The European Initiative for Democracy and Human Rights, in the NIS, supports the promotion and strengthening of the rule of law, independence of the judiciary and human prison system, promotion of good governance and fight against corruption. The EU works in close cooperation with relevant European and international organisations in particular the Council of Europe, OSCE and UN in the field of governance, money laundering and fight against organised crime. In the framework of the OECD Anti-Corruption Network for Transition Economies, six NIS (Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan and Ukraine) have recently adopted a regional plan to fight corruption. The plan commits these countries to specific actions to increase integrity and transparency in public services, promote corporate responsibility and accountability, and allow active public participation in making reforms.

5. CONCLUSION

- (91) Governance has become an important area for donors' support in the context of development co-operation programmes based on country-owned strategies in recognition of the primary responsibility of national authorities and the role of domestic policies. It refers to the rules, processes, and behaviour by which interests are articulated, resources are managed, and power is exercised in society. It is a key component of poverty reduction strategies. Focusing on governance implies working with governments, contributing to building their capacities in all sectors of co-operation, such as health, education, transport, rural development, etc. It also entails specific support to administrative reforms, improvements in the management of public finances, security systems, etc. It finally involves fostering civil society and encouraging participatory approaches to public policies. The analysis of governance at country level provides a basic measure of the quality and performance of the political and administrative system.
- (92) The Cotonou Agreement reflects this overall approach and constitutes a useful reference for other EU agreements with third countries. It contains a commitment to good governance as a fundamental element of the ACP-EU partnership, subject for regular dialogue and identified as an area for Community support. The participation of non state actors is part of the process. It also contains specific provisions to deal with serious cases of corruption, which following consultations may lead to appropriate measures.
- (93) Being one of the priority areas of EC development policy identified in the November 2000 Policy Statement, governance is being addressed in EU's external action through a broad range of programmes and instruments. Their impact on poverty reduction, sustainable development and institutional sustainability largely depends on the quality of the policy dialogue and the involvement of all stakeholders in the reform processes. The EC currently manages a large number of programmes and is conducting policy dialogues in

most developing countries and regions (the Mediterranean region, Asia, Latin America, Africa, etc) that illustrate EU's action to improve administrative, economic and political governance in partner countries. Dialogue also takes place at the multilateral level.

- (94) In dealing with governance, the EC is progressively developing a policy framework building on Member States' and other donors' experiences and best practices. The policy agenda and the specific examples of interventions presented in chapter 4 of this Communication are a basis for further debate with Council, European Parliament and partners. They provide a menu-approach with key guiding principles which are to be implemented on a country-specific basis. This Communication also suggests a pragmatic approach to governance, ways to apply indicators and it confirms the need to use various types of political and financial instruments in a consistent manner.
- (95) Progress should also be made on coordination and complementarity between the EC and EU Member States by adopting common policy principles in this specific area. The degree of overall consistency between EU Member States approaches to governance appears to provide a good basis for this exercise.
- (96) On the basis of the outcome of the debate with Council and Parliament, the Commission will operationalise the above-mentioned policy principles into guidelines and a handbook aiming at helping delegations to consistently manage EC co-operation programmes related to governance. The CSP/RSP process and their periodic reviews constitute the appropriate framework to link in a consistent manner EU external action priorities, instruments and allocations at country or regional level.

ANNEX

Glossary

ACP	Africa, Caribbean and Pacific
ADB	Asian Development Bank
AU	African Union
APRM	African Peer Review Mechanism
BiH	Bosnia-Herzegovina
CARDS	EC Assistance Programme to the Western Balkans
CSP	Country Strategy Paper
CSR	Corporate Social Responsibility
DAC	Development Assistance Committee
DPRK	Democratic Popular Republic of Korea
DRC	Democratic Republic of Congo
EC	European Community
ECHO	Humanitarian Aid Office of the European Community
EDF	European Development Fund
EIDHR	European Initiative for Democracy and Human Rights
EU	European Union
FYROM	Former Yugoslavian Republic of Macedonia
GAERC	General Affairs and External Relations Council
GOVNET	OECD/DAC's network on governance
FDI	Foreign Direct Investment
HIPC	Highly Indebted Poor Countries
IDB	Inter-American Development Bank
LRRD	Linking Relief, Rehabilitation and Development
MTBF	Medium Term Budget Framework
MTEF	Medium Term Expenditure Framework
MEDA	EC Assistance Programme for Morocco, Algeria, Tunisia (Maghreb), Egypt, Israel, Jordan, the Palestinian Authority, Lebanon, Syria (Mashrek), Turkey, Cyprus, Malta, Libya currently has observer

	Status
NEPAD	New Partnership for Africa's Development
NIS	Newly Independent States
NGO	Non-governmental organisation
NSA	Non-state actor
OECD	Organisation for Economic Co-operation and Development
OAS	Organisation of American States
PA	Peace Accord
RSP	Regional Strategy Paper
SAN JOSE GROUP	Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama
SAP	Stabilisation and Association Process (Western Balkans)
TACIS	EC Assistance Programme for Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan
UN	United Nations
UNSC	United Nations Security Council
WSSD	World Summit for Sustainable Development
WTO	World Trade Organisation