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**COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT**

**THE EUROPEAN UNION'S ROLE IN PROMOTING HUMAN RIGHTS AND
DEMOCRATISATION IN THIRD COUNTRIES**

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1. INTRODUCTION

The European Commission (EC) has adopted a number of Communications relating to human rights and democratisation in the last decade¹. This Communication does not seek to rewrite the fundamental policy. Rather it seeks to set this policy in the context of the Commission's overall strategic approach in external relations for the coming years. Changes in the external environment, as well as internal Commission reforms, require a re-focussing of human rights and democracy strategies, in particular to ensure that these issues permeate all Community policies, programmes and projects. Prioritisation, focus, delivery and impact are the main threads running throughout the document. The Commission wants to be judged on its performance in meeting the EU's policy goals. This Communication outlines a way forward.

The basis for European Union (EU) action is clear. The European Union seeks to uphold the universality and indivisibility of human rights - civil, political, economic, social and cultural - as reaffirmed by the 1993 World Conference on Human Rights in Vienna. The EU also upholds the principle that the human rights of women and the girl-child are an inalienable, integral and indivisible part of universal human rights, as reaffirmed by the 1995 Beijing Declaration and Platform for Action. The protection of such rights, together with the promotion of pluralistic democracy and effective guarantees for the rule of law and the fight against poverty, are among the European Union's essential objectives. The Treaty of Amsterdam - which came into force on 1 May 1999 - reaffirms in its Article 6 that the European Union '*is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles that are common to the Member States*' and emphasises in article 49 that the respect of these principles also is required by countries who apply for EU membership. It also introduced, in Article 7, a mechanism to sanction serious and persistent breaches of human rights by the EU Member States. This mechanism was further reinforced by the Treaty of Nice concluded in December 2000. This also extended the objective of promoting the respect of human rights and fundamental freedoms, from development co-operation to all forms of co-operation with third countries (Art. 181bis TEC).

The Commission's action in the field of external relations will be guided by compliance with the rights and principles contained in the EU Charter of Fundamental Rights which was officially proclaimed at the Nice Summit in December 2000, since this will promote coherence between the EU's internal and external approaches. The Charter makes the overriding importance and relevance of fundamental rights more visible to the EU's citizens by codifying material from various sources of inspiration, such as the European Convention on Human Rights, common constitutional traditions, and international instruments.

The European Union is well placed to promote democracy and human rights. It is continually seeking to improve its own democratic governance, and the Commission will shortly adopt a White Paper on the theme. Uniquely amongst international actors, all fifteen Member States of the Union are democracies espousing the same Treaty-based principles in their internal and

¹ The European Union and the External Dimension of Human Rights Policy, COM (95) 567 final; The Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries, COM (95) 216 final; Democratisation, the Rule of Law, Respect for Human Rights and Good Governance: the Challenges of the Partnership between the European Union and the ACP States, COM (98) 146 final and Countering Racism, Xenophobia and Anti-Semitism in the Candidate Countries, COM (99) 256 final. Communication on EU Election Observation and Assistance COM (2000) 191 final.

external policies. This gives the EU substantial political and moral weight. Furthermore, as an economic and political player with global diplomatic reach, and with a substantial budget for external assistance, the EU has both influence and leverage, which it can deploy on behalf of democratisation and human rights.

Since 1992, the EC has included in all its agreements with third countries a clause defining respect for human rights and democracy as 'essential elements' in the EU's relationship. This clause is unique in bilateral agreements. This approach has been further developed in the Cotonou agreement signed with African, Caribbean and Pacific (ACP) countries in June 2000 which is based on respect for human rights, democratic principles and the rule of law, and on good governance. It constitutes a major step in the development of the European Union's human rights policies.

In November 2000, the Council and the Commission adopted an important Joint Statement on the European Community's development policy², which has been welcomed by the European Parliament (EP). Together with the reform of the management of external assistance it represents a new framework for the implementation of EC development policy. This new development policy is firmly grounded on the principle of sustainable, equitable and participatory human and social development. The promotion of human rights, democracy, the rule of law and good governance are an integral part of it.

Poverty reduction, the main objective of the European Community's development policy, will only be sustainably achieved where there are functioning participatory democracies and accountable governments. Corrupt and autocratic governments are likely to misuse development assistance either to maintain repression or for private enrichment at the expense of their populations. Such governments also generate conflict and instability in their region. Democratic, pluralist governments which respect the rights of minorities are less likely to resort to nationalism, violence or aggression, either internally, against their neighbours or further afield. Conflict and instability is costly in human terms. It is also likely to bear upon the EU as the world's largest aid donor, and a favoured destination for immigrants.

The process of globalisation is a potential force for freedom and justice as well as for prosperity. But it has a dark side, too. There is a danger that globalisation will have a negative effect on the welfare of the world's poorest and most vulnerable groups, that not all countries and populations will be able to reap its potential benefits, and that it will lead to a uniformity of cultural values. Special attention needs to be paid to the rights of vulnerable groups, and to empowering those at risk of exclusion, if the process of globalisation is not to increase the division between the billions who benefit and the billions who are left in squalor and misery. The European Union has a role to play in providing positive answers to those concerns. Through its human rights and democratisation policy, it can contribute to making globalisation a truly inclusive process.

The EU should also encourage other global actors, such as multinational corporations (MNCs), to play a full part in increasing respect for human rights world-wide and to use their often considerable influence within a developing country to support rather than undermine that country's own efforts to achieve sustainable development. It is in the interests of those companies: stable countries and free societies are also the best places to invest and to do

² Joint Statement on EC Development Policy, Council and Commission, 10 November 2000 available at: http://europa.eu.int/comm/development/lex/en/council20001110_en.htm.

business. For that reason, the promotion of human rights and democracy is also an essential complement to the EU's support for multilateral trade and investment facilitation.

The Joint Statement on the European Community's development policy stresses the importance of concentrating EC development co-operation on certain sectors. It identifies institutional capacity building (and in particular for democracy and good governance) as a strategic area for Community activities. It also identifies the promotion of human rights, equality between men and women, and children's rights among the principles to be mainstreamed into co-operation activities. This Policy Statement, together with the reform of the management of external assistance currently underway, represent a new framework for the European Commission's activities in support of human rights and democratisation.

This Communication identifies **three** areas where the Commission can act effectively.

- through promoting coherent and consistent policies in support of human rights and democratisation. This applies both to coherence between European Community policies, and between those policies and other EU action, especially the Common Foreign and Security Policy. It also relates to the promotion of consistent and complementary action by the EU and Member States, in particular in the promotion and mainstreaming of human rights through development and other official assistance;
- through placing a higher priority on human rights and democratisation in the European Union's relations with third countries and taking a more pro-active approach, in particular by using the opportunities offered by political dialogue, trade and external assistance;
- by adopting a more strategic approach to the European Initiative for Democracy and Human Rights (EIDHR), matching programmes and projects in the field with EU commitments on human rights and democracy.

The Communication therefore concentrates mainly, but not exclusively, on the role of the European Community's external assistance in promoting human rights and democratisation. It also responds to the request by the Cologne European Council conclusions to examine the advisability of setting up a European Agency for Human Rights and Democracy.

Chapters 2 and 3 focus on countries other than those which have been recognised as candidates for EU membership. For the candidate countries, the approach developed in Agenda 2000 on the basis of the accession criteria established in 1993 by the Copenhagen European Council applies.³ These stipulate that membership requires that the applicant country ensures the '*stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect for and protection of minorities*'. Fulfilment of the political Copenhagen criteria is a precondition for opening accession negotiations.

³ The approach taken in Agenda 2000 was initially limited to the ten applicant countries of Central and Eastern Europe. However, following the Cardiff European Council in June 1998, it was extended to cover Cyprus and Turkey, and subsequently to Malta when it decided to re-activate its application for membership in February 1999.

2. A MORE COHERENT AND CONSISTENT EU APPROACH

The crosscutting nature of human rights and democratisation requires considerable effort to ensure consistency and coherence⁴. Community activities cannot be viewed in isolation from other European Union actions. The Council has also called for the strengthening of the co-ordination between the Commission and the Member States⁵ in order to improve synergy between the action of the Community and that of the Member States.

To promote human rights and democratisation objectives in external relations, the EU draws on a wide-range of instruments. These derive themselves from the EU's commitment to protect fundamental rights as reaffirmed by the proclamation of the Charter. Some constitute traditional diplomacy and foreign policy, such as *démarches* and interventions in UN Fora, and sanctions. Others include financial co-operation instruments, and the bilateral dialogues, which complements them. Some are more innovative, and potentially underused, namely Community instruments in policy areas such the environment, trade, the information society and immigration which have the scope to include human rights and democratisation objectives. These tools should be used in a coherent manner, to achieve synergy and consistency and to ensure maximum effective use of resources to promote sustainable development and respect for human rights and democratisation world-wide. The Commission, which shares with the Council a Treaty obligation (Article 3 TEU) to ensure the consistency of its external activities as a whole, should work to ensure that these different instruments are used coherently and effectively. This effort needs to be made both internally, and with the Commission's main institutional partners, the European Parliament and the Council.

The full involvement of the European Parliament in the policies pursued in this area helps to ensure increased democratic legitimacy. The EP is active in tabling questions, holding debates, and passing Resolutions on human rights issues. It undertakes regular missions to third countries. Through its Interparliamentary Delegations, it has a significant role to play in encouraging the development of democratic parliamentary institutions in third countries. It maintains regular contact with human rights organisations and human rights defenders.

The Commission can best ensure that EP and Commission approaches are coherent and consistent by regularly exchanging views, and by reflecting Parliament's priorities in the Commission's approach wherever appropriate. In following up the Communication on Election Assistance and Observation, the Commission and the Parliament have already begun to reinforce co-ordination, in particular through the involvement of Members of the European Parliament (MEPs) in EU observation missions. Existing contacts should be intensified. The Commission will involve the Parliament in discussions of programming priorities for external assistance relating to human rights and democratisation. The Commission will provide the Parliament with regular updates on activities undertaken and an evaluation of how far its objectives have been achieved.

With the Council and Member States, the Commission is uniquely placed to promote consistency between Community activity, EU activity, and that of member states. For example, while a Community decision is needed to establish an EU election observation

⁴ The *Comité des Sages* report also argued for an informed, consistent and credible human rights policy for the EU. Leading By Example - A Human Rights Agenda for the European Union for the Year 2000, – European University Institute (October 1998 – Report commissioned by the EC on the occasion of the 50th anniversary of the Universal Declaration of Human Rights available at <http://www.iue.it/AEL/events.htm>).

⁵ Conclusions of the General Affairs Council, 9.10.2000.

mission, the Commission should ensure that such decisions are consistent with the EU's political priorities and CFSP. The Commission also ensures through its input into Council discussions and the development of positions in international human rights forums that these reflect Community action, as well as CFSP. The Commission contributes a Community input to the drafting of the Council's Annual Report on Human Rights, established in 1999.

The Council's own approach to human rights and democratisation policy can be fragmented, since it addresses these questions both geographically and thematically, and in EC and CFSP configurations. The Commission shares a responsibility with the Presidency and individual Member States to ensure that positions are consistent.

Furthermore, the Commission chairs the Committees of Member States which are charged with agreeing the strategies and in some cases individual projects under the Community's co-operation instruments: European Development Fund (EDF), Technical Assistance to the Commonwealth of Independent States (Tacis), Asia and Latin America (ALA), Mediterranean (MEDA), European Initiative for Democracy and Human Rights (EIDHR) etc. It should ensure that the approach taken in these Committees is consistent both with CFSP positions taken by the Council, and with other Committees. The Commission should be alert to opportunities to foster coherence, for example by ensuring that Committees are aware of all policy and programming documents which have an impact on their area of interest, (while ensuring that decisions are only made in the appropriate body). The Commission will promote the mutual exchange of information on human rights and democracy policies, programmes and projects in order to create a culture of best practice, optimise the use of limited financial and human resources, and maximise the impact of projects on the ground.

On a country-by-country basis, and in line with the October 2000 General Affairs Council (GAC) Conclusions on external assistance, Commission delegations must promote coherent and complementary action through on-the-spot co-ordination and a regular two-way exchange of information on EC and member states' co-operation programmes and projects relating to human rights and democratisation. Such exchanges should not be limited to projects but also extend to thematic and policy issues relevant to the country in question.

The adoption of a Community Co-operation Framework for Country Strategy Papers in May 2000⁶ now provides a strategic basis for such co-ordination. It also serves as a tool for the Commission itself to take a more coherent and consistent worldwide approach to the promotion of human rights and democratisation, using the various financial instruments available. Previous activity has sometimes been criticised as fragmented and inconsistent, including between countries and regions. The Country Strategy Papers encourage a more systematic approach by requiring an analysis of the situation in each country relating to human rights, democratisation and the rule of law.

In addition to its approach towards co-operation programmes, the Commission, consistent with its commitment to respect the EU Charter will ensure that in the formulation of other policies, any negative effect on human rights and democratisation is always avoided, and wherever possible, policies are adapted to have a positive impact. Particular policy areas of focus are likely to be **Justice and Home Affairs** including **immigration and asylum** and the **fight against organised crime, social policy, the environment, research, culture** and the

⁶ Working Document of the Commission Community Co-Operation: Framework for Country Strategy Papers, SEC(2000)1049 and in particular Section B3 of the Political Analysis section http://europa.eu.int/comm/development/lex/en/sec2000_1049_0_en.htm

information society. A methodology for assessing impact will be developed on the basis of international experience, including that used to promote gender equality.

Trade and **investment** are areas that in recent years have seen a proliferation of initiatives intended to promote human rights, particularly in developing countries. The European Parliament has taken a particularly active part in this debate⁷. Other key players are the social partners (business, trade unions) and civil society organisations. Trade unions are often the largest mass membership organisations in partner countries, and are watchdogs for international labour standards, including freedom of association. The EU believes respect for social rights and labour standards leads to durable and equitable social and economic development. It pursues a positive approach by promoting social development through incentives and capacity-building measures, rather than sanctions. The EC has its own instrument in the 'social incentive clause' in the Generalised System of Preferences (GSP) which provides for additional preferences to be extended to countries honouring certain International Labour Organisation (ILO) standards⁸. The Cotonou Agreement encourages co-operation in the areas of trade and core labour standards. The Commission is also active in the debates in the ILO on core labour standards and in the Organisation for Economic Co-operation and Development (OECD) on the role of multi-national companies.

The Commission supports many of the initiatives taken on Corporate Social Responsibility (CSR) by other organisation. It intends to adopt a Green Paper on CSR in June 2001 that will seek views on the added value of an EU approach to promoting all aspects of CSR, including its external dimension.

3. INTEGRATING HUMAN RIGHTS AND DEMOCRATISATION INTO DIALOGUE AND COOPERATION

To be effective, respect for human rights and democracy should be an integral, or 'mainstream', consideration in all EU external policies. This means including these issues in the planning, design, implementation, and monitoring of policies and programmes, as well as the dialogue pursued with partners both by the Commission and the Council. Dialogue with third countries

3.1. Dialogue with third countries

States are primarily responsible for upholding human rights and fundamental freedoms. They are answerable to their citizens, the international community and the UN for failure to respect human rights in their countries. The most effective way of achieving change is therefore a positive and constructive partnership with governments, based on dialogue, support and encouragement. This should aim to improve mutual understanding and respect, and promote sustainable reform. However a prerequisite for success is that these states are genuinely ready to co-operate. The EU should pursue this approach wherever possible, while recognising that in some cases, the third country may have no genuine commitment to pursue change through dialogue and consultation, and negative measures may therefore be more appropriate. This is

⁷ EP Report (Howitt) A4-0508/98 on EU standards for European Enterprises operating in developing countries: towards a European Code of Conduct

⁸ Council Regulation (EC) No 2820/98 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 OJ L 357 , 30.12.1998 P. 0001 – 0112.

the basis on which the EU's essential element agreements, and the 'suspension clauses' operate. All avenues for progress are explored before the EU resorts to sanctions.

3.1.1. *Regional and bilateral dialogues, and partnership and co-operation agreements*

The EU engages in a political dialogue of varying degrees of formality with all countries with which it has relations. In many cases, the basis for a dialogue on human rights and democracy is the 'essential elements' clause included in all third country Community agreements since 1992, which now applies to over 120 countries⁹. Even where an agreement including such clauses is not in force, political dialogue should reflect Treaty provisions on human rights and democracy. Annex 1 gives more details on dialogue arrangements with geographical regions.

'Essential elements' clauses stipulate that respect for fundamental human rights and democratic principles as laid down in the Universal Declaration on Human Rights (UDHR) underpin the internal and external policies of the parties and constitute an 'essential element' of the agreement. In more recent agreements, this is enhanced by a final provision dealing with non-execution of the agreement. This requires each party to consult the other before taking 'measures' save in cases of special urgency. An interpretative declaration, or the clause itself, clarifies that cases of special urgency include breaches of an 'essential element' of the agreement. Measures can include, *inter alia*, the suspension of high level contacts, and changes to co-operation programmes, including the postponement of new projects or the use of different channels of delivery. For example, the EU may suspend co-operation with governments but continue support to local populations through projects carried out by civil society organisations.

However the EU's insistence on including 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. The dialogue on human rights that they enable should be a two-way one, with the EU also agreeing to discuss human rights and democratisation issues within its own borders.

As a reflection of both sides' interest in promoting human rights, the dialogue should also be used to exchange views on thematic issues which may not be of concern in that country, such as the death penalty, torture and racism and xenophobia, the human rights of women, not least in order to build coalitions and support for EU positions in international fora, including the UN. In addition, dialogue can provide for a useful exchange of views on the human rights situation in other third countries, in particular where partners bring greater knowledge and expertise to the table.

The Commission believes that the more systematic inclusion of human rights and democracy issues into political dialogue will give substance to the essential elements clauses and permit both parties to identify the most effective measures needed to build political and economic stability. A long-term dialogue on human rights and democratisation is also an element in the EU's conflict prevention strategy¹⁰. It can have an early warning role by highlighting at an

⁹ A model clause was approved by the Council in 1995. The Commission's approach is outlined in its Communication on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries (COM (95) 216 final).

¹⁰ Communication on Conflict Prevention of 11 April 2001 (COM (2001) 211).

early stage problems which could in the future lead to violent conflict as well as contributing to their resolution.

In all its dialogues with third countries (other than the candidate countries who have a special status), the Commission will in future seek to ensure that the discussion covers issues of concern relating to human rights and democracy, where this is not already the case. This will apply both to the Commission's own dialogue including that conducted through its delegations, and the dialogue that takes place on an institutionalised basis (Troika format, Association Councils etc).

3.1.2 Approaches to dialogue

Discussions between the Commission and the partner country should in particular be linked to the establishment of the EC's assistance programme. The dialogue should encourage partner governments to pursue the objective of peace and stability as an integral part of their development plans, and identify opportunities for EC assistance to contribute to those objectives. Discussions should consider how ratification of the fundamental human rights instruments and of other rights-based international agreements (e.g. ILO conventions, Convention on Bio-diversity) and their effective implementation could be pursued, together with consideration of how UN recommendations should be followed up. This reflects the EC's development priority of promoting institutional capacity-building, good governance and the rule of law.

The analysis of the political and security situation included in Country Strategy Papers provides a starting point. The common CSP framework requires this to be considered in a broad context, including the regional dimension, the human rights situation, i.e. economic and social rights as well as civil and political rights, and relevant cultural and social factors with direct impact on the political process and on the potential for conflicts and instability. These can include questions of democratic participation (including universal suffrage, free elections, multiparty structure, equality of access to political activity, participatory decision making); human rights (including adherence to, and implementation of, commitments under international human rights Treaties and Conventions, protection of civil liberties including freedom of speech and of assembly, effective operation of human rights monitoring); and the rule of law (including an independent and effective judiciary, transparent legal framework, equality of all citizens before the law, police and public administration subject to the law, enforcement of contractual obligations).

Successful dialogues should include the joint establishment of certain goals depending on local circumstances. These are necessary for both the EU and the partner country to measure progress over time. These could include the ratification of international instruments, peaceful resolution of existing or potential conflicts, or concrete improvements in respect for human rights of vulnerable groups. Some internationally accepted benchmarks exist, for example as established by the ILO, the UN and the Council of Europe. The Commission will draw on these as appropriate, and where there are new developments in this field, assess their usefulness. However, the EU should avoid the mechanistic use of indicators, or attempt to compare or rank countries' performance. Each situation is different. Trends matter more than snapshots. The EU's objective should be to pursue a consistent approach between countries and regions, and avoid double standards.

Dialogue should be transparent. The Commission will evaluate the impact of its dialogue and related activities, and report on it to the Parliament and the Member States.

3.1.3 Dialogue with civil society

Civil society makes an important input into policy-making for all regions with which the EU has relations. The Cotonou Agreement formally gives to civil society including NGOs an enhanced role. The Commission will build on experience and continue the dialogue on human rights and democratisation issues with civil society and NGOs both through its delegations and in Brussels, including through the Human Rights Contact Group meeting in the European Parliament.

These exchanges provide useful information for both sides and strengthen mutual understanding. They should take place in the framework of the Commission's overall approach to dialogue with civil society. Dialogue with Commission policy-makers should be made easier, for example through greater transparency of Commission policy-making and use of the Internet. At local level, the Commission will use its co-ordination role to hold occasional roundtables with civil society- and member states. These could both cover policy issues and identify areas where the EC and member states could potentially provide support to strengthen civil society.

The December 1998 Council conclusions called for a '*reflection on the usefulness of convening a periodic human rights discussion forum with the participation of EU institutions as well as representatives of academic institutions and NGOs*'. Three Forums have been held so far in co-operation with the Council Presidency¹¹ and a fourth will take place in May 2001.

The Commission believes that these Forums have served a useful role, and that the Forum, appropriately constituted, could serve as the centrepiece for the EU's dialogue with NGOs on human rights and democratisation. However, there is undoubtedly room to improve the Forum's effectiveness and representativeness (including possible wider civil society participation), and to be clearer about its purpose. The Commission will therefore evaluate the Forums held so far, and on the basis of this, consult the Council, European Parliament and the NGOs themselves, on the best way forward. The Commission will make suggestions on how the Forum can play a role in implementing the approach in this Communication.

3.2. 'Mainstreaming' the promotion of human rights and democracy in EC assistance programmes

The European Community's external assistance programmes (Phare, Tacis, ALA, MEDA, CARDS) total some € 5 billion p.a. in addition to European Development Fund resources for the African, Caribbean and Pacific countries (13.5 billion Euro under the 9th EDF between 2000-2007)¹². This assistance is available, *inter alia*, to promote human rights, democracy and the rule of law, through programmes focussed primarily but not exclusively on assistance channelled via governments, much of it targeted at tackling the root causes of poverty.

¹¹ EU Discussion Forum, Brussels, 30 November and 1 December 1999 – EU Human Rights conference 'The EU and the Central Role of Human Rights and Democratic Principles in Relations with Third Countries', Venice, 25-28 May 2000 – EU Human Rights Forum, Paris, 13 December 2000. http://europa.eu.int/comm/external_relations/human_rights/conf/index.htm.

¹² As an example, 182 m€ of EDF programmes in direct support of human rights and democratisation from 1997- 2000. A further 115 m€ supported election assistance and observation between 1996 and 1999, of which 71 m€ was spent in Africa (some under the EDF).

With the exception of the EDF (which operates under the Cotonou Agreement), programmes are based on Council Regulations, which specifically identify human rights and democratisation as principles or priorities, although the way in which this is done varies. The EC's Development Policy also targets the root causes of poverty and is grounded on the principles of sustainable, equitable and participatory human and social development.

The financial instruments in favour of candidate countries (in particular Phare) are a sound basis for a coherent treatment of the human rights and democracy problems. For the other instruments, the Commission will enhance the positive impact of EC assistance programmes on respect for human rights (including economic, social and cultural rights) and democratisation by:

- Including these issues in the dialogue used to draw up the Country Strategy for EC assistance (as outlined in 3.1.2 above)
- Using Country Strategies to focus on sectors or cross-cutting interventions to improve the overall governance situation and make complementary use of the full range of EC instruments available, including the EIDHR (see below) to promote human rights and democratisation
- Supporting participation of civil society in the EC's development co-operation, in line with the approach in the Cotonou Agreement, and building the capacity of civil society actors engaged in dialogue and implementation of programmes.
- Taking active steps to use participatory approaches in programme design and to assess, monitor and enhance the impact of individual projects and programmes on human rights
- Taking performance in the area of human rights (including economic, social and cultural rights), democracy and the rule of law into account when deciding country allocations under the main co-operation programmes.

The Commission will examine the possibility of systematically assessing the human rights and democratisation impact of co-operation projects, so as to both avoid negative effects and enhance positive impacts. It will study the experience of member states, international organisations and other donors in the field, as well as the approach taken by the Commission to gender and environmental impact assessments. Even where such impact assessments are not feasible, Commission staff working on assistance programmes still need training and greater awareness of human rights and democratisation issues to apply the new approach outlined above.

In its co-operation with African, Caribbean and Pacific countries, the Commission has already begun to consider progress in implementing institutional reforms for human rights, democracy, the rule of law and good governance as an element in defining allocations for individual countries within the total EDF financial envelope. The Communication 'Revitalising the Barcelona Process' announced that the same approach would be taken for MEDA. This is an important positive measure in encouraging action by governments, and Commission will extend it to other regions, in order to promote a coherent approach worldwide, and encourage member states to do likewise.

Humanitarian assistance provided by the European Community's Humanitarian Office (ECHO) is intended to relieve human suffering and Regulation 1257/96 states unequivocally that EC "humanitarian aid decisions must be taken impartially and solely according to the victims' needs and interests". EC humanitarian aid is therefore provided to all victims of crises, unconditionally, impartially and independently of political convictions. It is not subject to recipient countries' human rights records.

However, the Commission, through ECHO, has an obligation to ensure that humanitarian activities themselves respect and contribute to the protection of the human rights of the victims of armed conflict. There is also an emerging consensus among humanitarian NGOs and International Organisations that integrating human rights analysis into the early planning of humanitarian activities may alleviate possible negative side effects and perhaps even contribute to the protection of the rights of victims.

The Commission has therefore recently launched a 'human rights approach to humanitarian assistance'. This has two aspects: humanitarian protection activities are funded in emergencies, and human rights considerations are mainstreamed into humanitarian assistance. This means that as of 1 February 2001, when submitting humanitarian projects for funding by ECHO, partners must explain how their operation will impact on the human rights situation in the field.

4. THE EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS (EIDHR)

Approximately 100m€ is available annually under Chapter B7-7 of the budget, known since 1994 as the European Initiative for Democracy and Human Rights (EIDHR), to support human rights, democratisation and conflict prevention activities to be carried out primarily in partnership with NGOs and international organisations. Regulations 975/99 and 976/99¹³ provide the legal basis.

The EIDHR has been the subject of a number of EP Reports¹⁴ and evaluations¹⁵. These have generally acknowledged the positive contribution made by the EC towards the protection of human rights and the development of democratic processes in third countries. However, they have also commented that the impact of EC assistance through both the EIDHR and the main assistance programmes is reduced because of a lack of focus on priorities, as well as the limited sustainability of action. These reports suggested that its impact could be considerably enhanced through the development of a more strategic vision of how to use the instruments available to the Community in support of human rights and democracy objectives. The management of the programme has also been criticised.

¹³ Council Regulations (EC) Nos. 975 and 976/99 of 29 April, O.J. L 120 of 8 May 1999.

¹⁴ Lenz Report on setting up a single coordinating structure within the European Commission responsible for human rights and democratisation, PE 220.735/fin, 4.12.97; Imbeni Report on the report from the Commission on the implementation of measures intended to promote observance of human rights and democratic principles (for 1995), COM (96) 0672 – C4 – 0095/97, PE 223.610/fin, 2.12.97; Roubatis Report on COM(95) 0567 – C4 – 0568/95, PE228.009fin. 6.11.98.

¹⁵ See <http://europa.eu.int/comm/europeaid/evaluation/index.htm>, including: Evaluation of Aspects of EU Development Aid to the MED Region, COWI, Denmark, November 1998; Evaluation of Community Aid concerning positive actions in the field of human rights and democracy in the ACP countries, 1995–1999; Franklin Advisory Services August 2000. Evaluation of the PHARE and TACIS Democracy Programme: European Institute (Sussex)/ISA Consult/GJW, November 1997. See also European Court of Auditors Special Report 12/00 on the management by the Commission of European Union support for the development of human rights and democracy in third countries (OJ C 230, 10.08.2000).

The Commission has already begun to reform the programming and implementation of the EIDHR, and the overall reform of EC external assistance will further significantly improve its effectiveness. The management of the EIDHR is being made more transparent, including through regular publication of reports of actions funded¹⁶ and the establishment of guidelines, standard formats and project appraisal documents that set out clearly how project proposals are to be assessed and selected.

In its future implementation of the EIDHR, the Commission will build on the experience acquired over the last few years, basing itself on the Commission's 1998 Vade-Mecum on Grant Management which sets out the main procedures to be applied in committing, and subsequently spending, budget line funds. This document requires, *inter alia*, that the availability of grants must be publicised widely and that "targeting should be achieved by clearly defining the purpose of grants, as derived from the policy goals and desired impact".

Three instruments are currently used to implement the EIDHR, and they will continue to form the basis of the EC's approach. They are:

- **Calls for Proposals**, involving publication in the Official Journal and on the Commission's website.
- **microprojects** (<50,000€ over 12 months), managed by Commission delegations and awarded through local Calls for Proposals. These should be extended to more delegations as they acquire greater local management capacity in line with the reform of external assistance.
- **targeted projects**¹⁷, carried out in support of policy objectives which cannot be covered under Calls for Proposals or microprojects, selected in line with transparent, published guidelines.

The Commission will also pursue more effective evaluation of activities undertaken and their impact, including through regular exchanges of experience with the Human Rights and Democracy Committee of member states examining both EC and bilateral activities to seek synergies and improvements. The scope for establishing indicators of impact will be pursued.

4.1 The added value of EIDHR

Despite these improvements which are planned or in train, there is still a need to develop a more strategic approach for the EIDHR and its relationship to other instruments, in line with the recommendations of the Court of Auditors. The strategy for the EIDHR should be based on its added value in promoting EU human rights and democratisation objectives. Compared to **other EC instruments**, it:

¹⁶ The implementation of measures intended to promote observance of human rights and democratic principles in external relations (1996-1999)' COM (2000) 726 final of 14.11.00. A detailed report on the activities supported under the 2000 budget will be published in June 2001.

¹⁷ All projects funded through the EIDHR, including those selected via Calls for Proposals, are targetted on specific objectives. The use of the term 'targetted projects' refers to those financed at the initiative of the Commission in line with specific priorities

- is complementary to the EC programmes carried out with governments (EDF, Tacis, ALA, MEDA, CARDS, Phare, etc) in that it can be implemented with different partners, and in particular NGOs and international organisations. In addition, it represents a form of 'human rights venture capital fund', allowing the launch of initiatives on a pilot or experimental basis which may subsequently be taken up by governments on a wider scale;
- can be used without host government consent, or where the main EC programmes are not available for other reasons, such as their having been suspended;
- is an essential complement to the EU's Common Foreign and Security Policy objectives in the fields of human rights, democratisation and conflict prevention. In some regions, it provides the only legal base for certain activities including the promotion of political and civil rights, election observation and conflict resolution initiatives¹⁸.

The EIDHR's main added value compared to **other donor** support in this area is that it:

- is identified with the EU, and reflects and promotes its values, including institutionalised multilateralism, fundamental rights, democracy and the rule of law, and respect for minorities;
- provides grants that are perceived as having the EU's political backing, which can at times help protect potentially vulnerable civil society organisations *vis-à-vis* repressive governments;
- can be used to take more political risks than the support provided by a member state with commercial or political interests;
- is understood as impartial, particularly in comparison to other national donors;
- can be used to pursue human rights and democratisation initiatives on a regional basis, reflecting the EU's own nature as an organisation committed to regional integration, as well as the existence of agreements between the EU and regional groupings.

4.2 Establishing a strategy for the EIDHR

The EIDHR must have a more strategic, prioritised and longer-term approach, so as to enhance its impact and effectiveness in view of the comparatively limited budget and the resources to manage it. The EIDHR strategy will have **three** elements:

- (1) a limited number of thematic priority issues, selected on the basis of the EIDHR's added value and potentially to be addressed in all countries outside the EU. For these issues, the Commission will seek to establish a specific role for itself, not only within the EU, but also on the international scene.
- (2) the identification of certain 'focus countries', chosen in line with the EU's political and development priorities, and the particular added value of the EIDHR in meeting them.
- (3) the potential for flexibility to allow the EU to respond to urgent and unforeseen needs.

¹⁸ Communication on Conflict Prevention, 11 April 2001 (COM (2001) 211).

The priorities identified through this strategic approach will form the basis of the annual programme that is submitted to the Committee of member states for examination. This programme is reviewed each year, and the priorities - both thematic and country - can be adapted as appropriate. The annual programme will also be discussed with the European Parliament and at the annual Discussion Forum for Human Rights NGOs.

4.2.1 Thematic Priorities

Priorities should be identified in terms of **themes** or **issues** aimed at addressing specific medium to long-term goals. Priorities should not be defined on the basis of **activities**, such as human rights training. These are a means of contributing to tackling those issues, but not an end in themselves. Nor should they be defined in terms of **target groups**. Where the EC wishes to enhance the impact on the rights of certain groups (for example women, children and indigenous peoples), this should be addressed in the project design and the selection methodology. In particular, and in line with the EC's Development Policy Statement, the Commission should ensure that promotion of gender equality, and of children's rights are mainstreamed in all thematic priorities pursued under the EIDHR. The same approach applies to the rights of indigenous people, in line with the Commission's working document and the Council's Resolution, which called for respect for the rights of indigenous peoples to be integrated as a cross-cutting aspect at all levels of development cooperation, including policy dialogue¹⁹.

The Commission recognises that certain groups, such as children and indigenous peoples, are particularly vulnerable. But the Community, in highlighting certain human rights and democracy objectives, should focus its action on addressing the root causes of the problems, rather than the symptoms.

Where relevant, encouragement will be given to projects that have a regional dimension, reflecting the EU's added value and in line with the EU's policy of encouraging regional co-ordination and integration.

The Commission proposes the following **four** thematic priorities for the EIDHR programme for 2002 and in the medium-term:

(1) Support to strengthen democratisation, good governance and the rule of law

This should focus on working with civil society to promote greater participation of people in decision-making at all levels, including an equal participation of men and women, and different identity groups (ethnicity, religion etc); the development of pluralist political processes; a free media; an independent and well-functioning justice system; the rights of freedom of association and assembly; and support for electoral processes including observation by domestic and EU observers.

A flourishing civil society, able to draw on an independent and impartial legal system, plays a fundamental role in holding governments accountable and denouncing human rights abuses. Strengthening and empowering individuals and civil society, including through education, training and awareness raising, and enabling effective advocacy for all rights, including social, economic and cultural rights, are essential complements to our assistance programmes with

¹⁹ Council Resolution on indigenous peoples within the framework of the development cooperation of the Community and the Member States, 30 November 1998 adopted on the basis of the Commission Working Document on Indigenous Peoples of 11 May 1998 (SEC (1998) 773). The Commission will report on follow-up of the Resolution in 2001.

governments, particularly those involving good governance, institution-building, the rule of law and poverty reduction. EIDHR support should not duplicate existing mainstream programmes carried out with government, although the activities undertaken may provide an input to future programmes with governments. Locally managed microprojects are a particularly useful tool to fulfil this priority. Where civil society is weak and needs strengthening - for example, under, or in the aftermath of a dictatorial regime - local NGOs are unlikely to have the capacity to apply for funding from Brussels.

Support for measures facilitating the peaceful democratic conciliation of group interests, and resolution of differences is important for conflict prevention, as is training in the rule of law, and in particular humanitarian law.

Election assistance and observation is an area of increasing EC support, both because of the central importance of elections to democratisation, but also as a reflection of the added value of a co-ordinated EU presence in election observation.

(2) Activities in support of the abolition of the death penalty

The EU's commitment to the abolition of the death penalty was reaffirmed in Article 2 of the EU Charter. It is a requirement for countries seeking EU membership. It is a high profile policy that the EU pursues in international human rights fora and in dialogue with all countries, regardless of the nature of the EU's relationship with them. It is an area where the EU is taking the lead and other donors are less active. Support for abolition of the death penalty should include projects intended to reduce its use, for example by promoting debates at government and civil society level on its ineffectiveness in reducing crime.

(3) Support for the fight against torture and impunity and for international tribunals and criminal courts

The EU's commitment to the fight against torture and inhuman and degrading treatment or punishment was reaffirmed in Article 4 of the EU Charter. EU policy guidelines on the fight against torture have been adopted²⁰. Assistance programmes should complement them. The Commission has devoted significant resources to activities relating to torture, including the rehabilitation of torture victims, and the political protection provided by EC support can be important for NGOs active in this sensitive area. In seeking to be an agent of change, the EU should ensure that it focuses as much as possible on prevention, including through human rights education of the police and other possible agents of torture.

The EU has been a strong supporter of the establishment of international tribunals and the International Criminal Court. Addressing impunity is important to preventing, resolving and dealing with the consequences of conflict.

(4) Combating Racism and xenophobia and discrimination against minorities and indigenous peoples

This is an area where the EU has significant internal as well as external policy competence. The Council of Ministers has recently adopted two Directives, under Article 13 of the EC Treaty, providing protection against discrimination in employment and other areas on grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation. The EU Charter lays down the equality before law of all people (Art. 20), prohibits discrimination on

²⁰ Conclusions of the General Affairs Council, 9 April 2001

any ground (Art. 21) and requests the Union to protect cultural, religious and linguistic diversity (Art. 22). Measures aimed at balancing opportunities and at bridging existing dividing lines among different identity groups are important to conflict prevention. EIDHR action will reflect the Declaration and Plan of Action to be adopted at the World Conference against Racism in Durban in September 2001²¹. Special attention will be given to promoting and supporting the rights of indigenous peoples in the framework of the International Decade of the World's Indigenous Peoples (1995-2004).

The above thematic priorities primarily focus on political and civil rights, as this is where the EIDHR has particular added value compared to other EC instruments. This is not to question the indivisibility and interdependence of political, civil, economic, social and cultural rights, or to accord political and civil rights a higher priority. Rather, it reflects the fact that significant material support for the promotion of social, economic and cultural rights should generally be pursued through the Community's main development assistance programmes (e.g. health, education and food security). These instruments have greater added value in this area, not least through the significantly greater resources that are available to address what are generally expensive problems. However, the first priority identified above, ('democratisation, good governance and the rule of law') includes support for awareness raising and capacity building of groups who pursue a rights based approach to basic human needs and access to resources. Social, economic and cultural rights as human rights objectives are also promoted through the EC's development co-operation and external assistance programmes (see 3.2).

In support of an EU strategy for the promotion of **Corporate Social Responsibility (CSR)**, the encouragement of CSR initiatives in third countries, and support to trade unions and other NGO monitoring bodies, might be considered a future priority for the EIDHR. However the list of priorities should not be lengthened, if strategic focus is to be maintained.

4.2.2 *Country Focus*

In addition, the Commission will identify a limited number of 'focus countries' on which it intends to concentrate EIDHR support, and where issues that are not global thematic priorities can nonetheless be addressed through use of EIDHR **targeted projects**. These countries, and the issues, will be identified primarily on the basis of the analysis and priorities identified in CSPs and Accession Partnerships, so as to ensure coherence and complementarity with other EC instruments, and the establishment of a critical mass of EC support. Wherever possible, **microproject** budgets will be made available to delegations in focus countries. Designation as a focus country will also mean that greater priority will be given to projects involving those countries in **Calls for Proposals**.

Identification as a focus country will not necessarily signify that the country concerned is classified by the EU as one of the worst offenders against human rights, or one where democracy is least evident. Rather it will be an indication of the political priority which the EU attaches to working to strengthen respect for human rights and democracy in that country, or to preventing and resolving conflict, as well as the potential for activity under the EIDHR to contribute to those goals.

²¹ World Conference against Racism, racial Discrimination, Xenophobia and Related Intolerance, Durban, South Africa – 31 August -7 September 2001. The Commission will present a contribution to this conference in a Communication to be adopted in May 2001.

In some cases, the country will be considered an EIDHR focus country due to the non-availability of other funding instruments, or due to a desire to channel support via the NGO sector. In identifying focus countries, geographical balance will be taken into account, although this should not be the main concern. The Commission will be guided primarily by need and the scope for effective action by the EIDHR.

Focus countries will be included in the annual programme for the EIDHR. They will therefore also be reviewed on an annual basis, taking into account EU positions and statements in international forums to ensure coherence across pillars, the views expressed by NGOs, and an evaluation of the effectiveness of previous EIDHR support.

4.2.3 Flexibility

An important element of the EIDHR strategy is to allow the EU to respond to urgent and unforeseen needs which will inevitably arise, and where the EIDHR is the appropriate instrument to pursue the EU's objectives. Conflict resolution initiatives are an example, as are positive measures in support of an Article 96 consultation under the Cotonou Agreement, or in situations where other forms of aid have been suspended. The annual programme for the EIDHR will retain the budgetary flexibility to respond to such needs. Projects outside established priorities should nonetheless be clearly driven by the EU's strategic priorities.

Additional flexibility to respond to human rights and democratisation priorities at a country level will be permitted through the **microprojects** scheme. When establishing priorities for local Calls for Proposals, Commission delegations should base themselves on the global priorities, but may adjust them to address specific local issues, particularly where these are identified in CSPs and Accession Partnerships.

This strategic approach to EIDHR programming will be discussed with the Committee of Member States, European Parliament and NGOs, with a view to implementing it for the 2002 budget.

The Regulations providing the legal basis for the EIDHR expire on 31 December 2004. They require the Commission to provide the Council with an assessment of the operations financed by the Community under the Regulations in 2002, which may be accompanied by appropriate proposals concerning their future.

4.3 Co-operation with the United Nations and other international organisations

While primarily focussed on direct support to civil society through NGOs, the EIDHR is an important instrument for co-operation with international organisations. Joint projects have been pursued for several years with the Council of Europe and OSCE/Office for Democratic Institutions and Human Rights (ODIHR). In 2000, following the agreement between the UN and the EC on the principles applying to the financing of programmes administered by the UN, the Commission established a comprehensive programme of co-operation in the field of human rights with the Office of the High Commissioner for Human Rights (OHCHR) with emphasis on providing support to the World Conference against Racism.

Co-operation between the Commission and international organisations is important to the pursuit of the EU's human rights and democratisation objectives. It should be made more effective, and based both on the comparative advantage of the organisation and the EC's priorities as established in the EIDHR programme. In some focus countries, international bodies such as the UN and the International Committee for the Red Cross (ICRC) may have privileged access to work to improve the human rights situation, making them natural partners for the Commission. The Commission and international organisations should work together to ensure that the EC contribution highlights the priority which the European Union attaches to

those particular causes. Decisions to co-finance projects should naturally be guided by the same considerations of need, cost-effectiveness and sustainability which apply to all projects undertaken through the EIDHR. The Commission will seek to agree co-operation strategies with certain international organisations and fix achievable and realistic medium/long-term goals. Co-financed programmes and projects coherent with such strategic plans could then be identified.

Co-operation with the UNOHCHR is particularly important as a reflection of the importance the EU attaches to the signature, ratification and application of international human rights instruments by the third countries with whom it has partnerships, as well as to the follow-up of relevant recommendations by UN bodies. Enhanced co-operation could involve not only projects, but also support to the UN mechanisms (e.g. special rapporteurs) where these relate to issues identified as a priority for the EU. This would contribute to strengthening the multilateral framework to which the EU is committed. Such an approach would identify the OHCHR as a partner for the EC on an *ad hoc* basis, and is consistent with the Communication on building an effective partnership with the UN²².

5. A EUROPEAN HUMAN RIGHTS AGENCY?

The European Council first mooted the possibility of a European Human Rights Agency in the run-up to the 50th Anniversary of the Universal Declaration of Human Rights, celebrated by EU Foreign Ministers in Vienna in December 1998. Paragraph 46 of the Cologne Conclusions of June 1999 reads *'The European Council takes note of the Presidency's interim report on human rights. It suggests that the question of the advisability of setting up a Union agency for human rights and democracy should be considered'*.

Two alternative models have been floated. The first model, a reporting and/or advisory agency, was put forward in the 'Comité des Sages' report. However, the Commission considers that the European Union does not lack for sources of advice and information. It can draw on reports from the United Nations, the Council of Europe and a variety of international NGOs. Furthermore there is no monopoly of wisdom when it comes to analysing human rights and democratisation problems, or their implications for the European Union's relations with a country. The real challenge for any institution is to use the information in a productive manner, and to have the political will to take difficult decisions. An additional advisory body would not overcome this challenge. The Commission does not therefore intend to pursue this suggestion, nor the related one which has been occasionally been made that the Commission should produce, or subcontract an organisation to produce, a world-wide overview of the human rights situation by country, as is done by the US State Department.

The second model which has been suggested is that of an 'implementing agency', which would be involved in identification of human rights and democratisation projects, allocation of grants and overseeing their implementation. The Commission's general approach to this issue is set out in its Communication on the externalisation of the management of Community programmes²³. It includes a proposal for a Council Regulation laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes. However, the Commission believes that establishing a separate agency outside the EuropeAid Co-operation Office to support human rights and democratisation in third

²² Communication on "Building an effective partnership with the United Nations in the field of Development and Humanitarian Affairs" – scheduled to be adopted 2.5.01.

²³ COM (2000) 788 final.

countries would undermine the EIDHR's essential purpose as a complement to the main EC assistance programmes and a support to the EU's specific CFSP objectives. The Commission will therefore focus on implementing the improved approach to human rights and democratisation policies outlined in this Communication and will not propose the creation of a new body.

6. CONCLUSIONS

This Communication has identified three areas in which the Commission can play a more effective role in the pursuit of the EU's human rights and democratisation objectives: through the promotion of **coherence and consistency** across EU and EC policies; through placing a higher priority on, and '**mainstreaming**', human rights and democratisation objectives in the European Union's relations with third countries, in particular through political dialogue and strategic use of its external assistance programmes; and through adopting a more focussed and **strategic approach** to the European Initiative for Democracy and Human Rights (EIDHR).

The Commission will promote coherence and consistency both between EU actions under the different Treaty pillars, and also between EC actions and those of Member States. The Commission's dialogue with third countries should be pursued in a consistent and coherent way and be based on internationally agreed human rights standards and instruments, in particular those of the UN. The Commission will also seek opportunities in other areas of Community policy, such as trade, immigration and the environment, to propose policies and initiatives which favour respect for human rights and democratisation, including through the promotion of Corporate Social Responsibility.

The Commission should ensure that all EC assistance instruments are mobilised in support of human rights and democratisation objectives. The Country Strategy Papers, which should highlight human rights, democratisation, the rule of law and good governance, will be the main instrument in establishing this coherence, including for the Commission's own dialogue with partner countries.

The Commission's future approach to the EIDHR will be based on the identification of a limited number of priority themes and a number of countries on which the Commission will particularly focus, to be reviewed annually, in consultation with the member states, Parliament and civil society. The management reforms already underway for the EIDHR will be continued, to achieve greater transparency, effectiveness and sustainable impact.

The Commission will pursue the new approaches and actions identified in consultation with the Council, European Parliament and civil society, as well as other donors and international organisations. The importance of dialogue and consultation with civil society when it comes to integrating human rights and democratisation into the European Union's activities, and in particular, EC development policies, cannot be overestimated. The Commission will seek to deepen this and make it more effective, *inter alia* through the NGO Human Rights Forum.

The European Union, should, on the one hand, work with governments through its dialogue and co-operation programmes. By including a crosscutting focus on governance issues in country strategies, it can promote internal reforms and respect for international human rights instruments. On the other hand it can support and build the capacity of civil society to demand change. The EU can also focus its support on special issues of concern, as well as optimising the potential of not only its assistance but all its policies to promote respect for certain rights.

The chief responsibility for democratisation and promoting respect for human rights lies with governments. But on the basis of the objectives it has set itself in this Communication, the Commission will regularly evaluate whether progress is being made, and the extent to which EU activity has contributed to that progress, and report on this. **A list of action points arising from the Communication is included in Annex 2.**

The Council, the European Parliament and the other partners with whom the Commission co-operates to promote respect for human rights and democratisation are invited to support the approach in this Communication, and to work with the Commission to implement it.

Annex 1

Dialogue arrangements with geographical regions

[taken from section 3.1.1]

Where institutionalised, the dialogue takes different forms. That with the accession countries is most advanced, and builds on the 'Copenhagen criteria' established for accession by the EU in 1993. In its Opinions on the Central and Eastern Europe countries' applications for accession to EU²⁴, the Commission analysed the situation relating to democracy, rule of law and to human rights (civil, political, economic and social). These opinions also covered the respect and protection of minorities, including their right to maintain their cultural identity, to equal treatment in social and economic life, and protection against hostility from the majority population (and even the police). In line with the Agenda 2000 approach, the Commission assesses progress towards meeting the accession criteria in the Regular Reports on each country (since 1998). This approach ensures coherence between the various EU instruments and institutions, as well as co-ordination with relevant international organisations such as the Council of Europe and the OSCE. Countries wishing to become members of the European Union are expected not only to subscribe to the principles of democracy, the rule of law, human rights (civil, political, social, economic and cultural rights) and the respect for and protection of minorities, but to put these into practice.

In order to help the candidate countries remedy the specific weaknesses identified in the Regular Reports, the Community establishes an Accession Partnership for each of the candidate countries. These Accession Partnerships identify priorities for each country to fulfil the accession criteria. They also indicate the financial assistance available from the Community in support of these priorities and the conditions attached to that assistance. This Pre-Accession Strategy, based on regular assessments of progress made by the candidate countries in meeting the Copenhagen accession criteria, and Accession Partnerships including targeted assistance, has led to positive developments in all candidate countries, particularly concerning the Copenhagen political criteria. As part of this approach, the development of civil society is also encouraged, in particular through ACCESS, a multi-country Phare programme running until 2002.

This overall approach has successfully promoted coherence between the EU's various instruments, as well as with other organisations such as the OSCE. It has led to positive developments in all candidate countries, including problems relating to minorities. Nonetheless, significant and widespread discrimination exists towards the Roma. This continues to require an intensified effort.

The Cotonou Agreement with the ACP States²⁵ is built on three interrelated components: political dialogue, trade and investment, and development co-operation. It gives high priority to fostering gender equality, supporting institutional development and improving capacity for good governance. Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are explicitly mentioned as integral parts of sustainable development.

²⁴ 15 July 1997 (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia).

²⁵ 20-year Agreement between the Community and its Members States and 77 countries of the African, Caribbean and Pacific Group signed on 23 June 2000 - EUR 13.5 billion for the initial five-year period.

Respect for human rights, democratic principles and the rule of law constitute the essential elements of the Agreement. A new procedure has been drawn up for cases of violation of those elements. The new procedure puts more emphasis on the responsibility of the State concerned and allows for greater flexibility in the consultation process. In cases of special urgency - serious violations of one of the essential elements – appropriate measures will be taken immediately.

A major innovation in the Cotonou Agreement lies in a mutual commitment to good governance, defined as the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. The negotiations between the EU and the ACP States on the 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, and call for measures to remedy the situation. A specific consultation procedure has been adopted to deal with such cases.

Dialogue is intended to play a key role in the new partnership. The Agreement explicitly states that regular joint assessments of developments concerning respect for human rights, democratic principles, the rule of law and good governance will take place at country level.

The opening of the ACP-EC partnership to non State actors is another breakthrough in the Cotonou Agreement. The new approach goes well beyond the experience gained until now as regards decentralised co-operation. It involves encouraging a genuine dialogue both on development policies and on ACP-EU co-operation. Civil society will furthermore be associated to the political dialogue, and to the assessment of policy performance in the context of the reviews of ACP-EC Country Support Strategies.

In its Communication on the Follow up to the Rio Summit²⁶ which proposed an updated approach to EU-Latin America relations, the Commission identified the promotion and protection of human rights as the main priority in the political field, including the need for new 'positive' measures to strengthen respect for human rights, the rule of law and democratic political systems. These included a proposal for an EU-Latin America/Caribbean discussion forum for the promotion and protection of human rights, based on the good experience gained in Central America where a committee of independent experts was set up under the San José Dialogue to discuss human rights. The group has been tasked to submit a report with conclusions and proposals for action to the 2002 EU-Latin America Summit.

The Commission's recent Communication on 'Reinvigorating the Barcelona Process'²⁷ also called for greater prominence to be given to human rights, democracy, good governance and the rule of law in Europe's relations with Mediterranean countries. It stated that these issues should be regularly raised by the EU side in political dialogue, and also with partners in Troika meetings, Association Councils and Committees with the intention of identifying measures which governments should take to ensure satisfactory evolution in this area. This dialogue could lead to the establishment of joint working groups on human rights at official level; these groups would aim to agree on a number of concrete benchmarks and objective criteria to be reviewed within the various Association Councils. Where they have not already

²⁶ COM(2000) 670 final.

²⁷ COM(2000) 497 final.

done so, Mediterranean partners are encouraged to accede to the relevant international instruments, conventions etc on human rights.

With regional groupings in Asia, the EU has a political dialogue with the members of Association of South East Asian Nations (ASEAN), including annual Ministerial meetings, and meets with the SAARC at troika level. The political dimension of Asia-Europe Meetings (ASEM) also permits discussions on support for human rights, democracy and the rule of law. There are ad hoc political dialogues on a bilateral basis with individual Asian countries. However, our dialogue on human rights and democracy with Asian countries needs to be further strengthened, and the Communication on EU relations with Asia, to be adopted in 2001, will address this issue.

The European Union has pursued a specific Human Rights Dialogue with the Government of China since 1997 based on the Treaty provisions on human rights and democracy. The EU's evaluation of this was recently made public²⁸. Biannual meetings are held at official level, complemented by expert-level seminars and co-operation projects aimed at promoting *inter alia* the rights of women and local democracy. A dialogue between the European Union and the Democratic People's Republic of Korea (DPRK) focussing on human rights is under consideration.

The development of relations between the EU and the Western Balkans, (Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia (FRY) and the former Yugoslav Republic of Macedonia (FYRoM), is also subject to political and economic conditions. This conditionality applies to all five countries and is a central element of the EU's Regional Approach, now developed into the Stabilisation and Association Process, which offers the countries of the region the prospect of integration into EU structures. Paramount importance is attached to compliance with conditions related to human rights, minority protection, good governance and democratic principles. To support the participation of these countries in the Stabilisation and Association process, assistance under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) regulation is aimed at the creation of an institutional and legislative framework to underpin, *inter alia*, democracy, the rule of law and human and minority rights. Complementary activities are carried out under the EIDHR. On a regional scale, the Community works closely with the Stability Pact for South Eastern Europe. This was set up in 1999 to co-ordinate the efforts of the major donors to the Balkans and has a 'Working Table' devoted to the development of democracy and human rights.

²⁸ GAC conclusions, 22.1.2001.

The EU has concluded Partnership and Co-operation Agreements (PCA) with most countries in the Tacis region. The PCA with Russia, signed in 1994, provides for increased and institutionalised political dialogue at all levels. This was followed by the EU's Common Strategy on Russia of 1999 that defines certain priority areas such as consolidation of democracy, rule of law and public institutions. On the same occasion a Common Strategy was adopted for Ukraine. This notably states: "The EU will undertake efforts to foster democracy, good governance, human rights and the rule of law"²⁹. Progress in development of a PCA with Belarus was stalled in 1997 due to the deteriorating human rights situation, and the EU has adopted a step-by-step approach requiring notably the reestablishment of democratic institutions in Belarus. In the Caucasus and Central Asia, PCAs have been signed with Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan. EC support to promote the development of human rights and democracy in the NIS is provided from Tacis and the EIDHR.

²⁹ European Council Common Strategy on Ukraine (1999/877/CFSP) of 11.12.99, OJ L 331/1 of 23.12.1999, Part III, Specific Initiatives, Point 50.

ANNEX 2

ACTION POINTS

I. Promote greater consistency and coherence between European Community, other European Union and Member State activities

- Commission to work for a transparent approach to human rights and democratisation which is coherent and consistent between countries and regions and avoids double standards and makes use of all available instruments.
- Commission to promote coherence between Council Working Groups with a policy interest in human rights and democratisation and Committees involved in external assistance.
- Commission to intensify existing dialogue with the Council and the European Parliament to include discussion of both policy and programming priorities relating to human rights and democratisation (including the EIDHR).
- Commission to work with the Human Rights and Democracy Committee and, where appropriate, other Committees to evaluate actions undertaken, and to promote the exchange of best practice and lessons learned.
- Commission delegations in third countries to systematically include EC and bilateral human rights and democratisation assistance in their co-ordination of overall EU assistance, and to promote a two-way exchange of information to maximise coherence and complementarity.
- Commission to promote coherence and highlight inconsistencies where they arise between Council Working Groups with a policy interest in human rights and democratisation and Committees involved in external assistance.
- Commission to ensure that the formulation of all Community policies avoids negative human rights effects and maximise the positive impact. To enable this, the Commission will develop a methodology, drawing on international experience, including that used to promote gender equality.
- Commission to include the human rights dimension in the Green Paper on Corporate Social Responsibility to be adopted in June 2001.

II. Mainstreaming human rights and democratisation through dialogue, assistance and other policies

a) Dialogue

- The Commission's dialogue with third countries will be pursued in a coherent and consistent way and be based on internationally agreed human rights standards and instruments, in particular those of the UN.
- Commission to include human rights and democratisation in its dialogues with third countries where this is not already the case, and to press for inclusion in other political dialogue formats (Troika etc). Dialogue should include thematic issues such as the death penalty, torture and racism and xenophobia, not least in order to build coalitions and support for EU positions in international fora, including the UN.

- Commission to draw on developments in benchmarking and indicators in the field of human rights, democratisation and governance, as appropriate to provide a framework for dialogues with partner countries so as to promote coherence and consistency. The Commission will particularly draw on internationally accepted benchmarks such as those established by the ILO, the UN and the Council of Europe. Commission to use the dialogue to seek the joint establishment of certain goals.
- Commission will use the dialogue with partner countries on CSPs and assistance programmes to identify how human rights and democratisation can be mainstreamed and reinforced through EC programmes, including the ratification of the fundamental Human Rights Instruments and their effective implementation, as well as follow up to UN recommendations.
- Dialogue between Commission and civil society organisations to be widened and deepened, using appropriate tools, including the internet, and to include all actors with an interest, in addition to human rights NGOs. Commission to make greater use of the Internet to promote dialogue with civil society.
- Commission to continue its effort to associate civil society with the political dialogue in all regions, in line with the approach already adopted with ACP countries and Mercosur, including the facilitation of dialogue and exchanges of views on policy and co-operation at local level with civil society and Member States.
- Commission will evaluate the impact of its dialogue and related activities, and how far they have achieved their objectives, and provide an assessment to the European Parliament and Member States.
- Commission to evaluate the NGO Human Rights Fora held so far, and consult NGOs, Member States and the European Parliament on the way forward. On the basis of this consultation, the Commission will make recommendations to the Council on the Forum including how it can contribute to the implementation of this Communication.

b) EC Assistance Programmes

- Commission to use the Country Strategy Paper as the basis for its action and its political dialogue, and to implement the guidelines for drawing them up systematically. This includes an analysis of the situation of human rights, democratisation and the rule of law; and of how the EC country assistance programmes and other EC instruments including the EIDHR can contribute to promoting human rights and democratisation.
- When deciding country allocations and in assessing partnership agreements, the Commission will extend the approach under EDF and MEDA to all co-operation programmes to take into account positive performance in implementing reforms in the area of human rights, democracy and the rule of law .
- Commission to develop a methodology of human rights impact assessments for co-operation projects and programmes to monitor and enhance the impact of individual projects and programmes on human rights. This will be done in consultation with other donors, and taking into account the Commission's experience in gender and environmental impact assessments. This assessment will take economic, cultural and social rights into account.
- Commission to adopt a participatory approach in programme design and to assess, monitor and enhance the impact of individual projects and programmes on human rights.

c) Training

- Training to be provided for Commission staff in Headquarters and delegations in human right and democratisation and mainstreaming.

III. A more strategic approach to the European Initiative for Democracy and Human Rights (EIDHR), and to joint co-operation projects with the UN and other international organisations

- Commission to adopt a medium/long-term strategy for the EIDHR which focuses on a limited number of themes and concentrates on certain focus countries. This strategy is to be adopted following consultation with the Council, European Parliament, international and civil society organisations/NGOs, and implemented from 2002 onwards.
- In implementing the EIDHR the Commission will ensure the promotion of gender equality, of children's rights and of the rights of indigenous peoples, through 'mainstreaming' them as cross-cutting issues in all projects.
- A regional dimension to projects, and the use of Information and Communication Technologies will be encouraged wherever appropriate or cost-effective.
- Priority themes will be reviewed each year in the drawing up of an annual programme. Focus countries will be identified annually on the basis of Country Strategy Papers/Accession Partnerships and consultation. Flexibility that allows the EU to respond to urgent and unforeseen needs will also be ensured.
- Commission will consult Member States, the European Parliament and NGOs in drawing up the annual programme.
- Enhanced measures to improve the management of the EIDHR and to make it more transparent, including publication of reports of actions funded, publication of guidelines for the selection of targeted projects, and development of better impact indicators for project evaluation.
- Commission to evaluate the operations financed by the Community under the Regulations 975 and 976/99, to be completed by 2002 and adoption of any appropriate proposals for the future in good time before the expiry of the Regulations 975/99 and 976/99 on 31 December 2004.
- Commission to explore with key international organisations involved in human rights and democratisation ways of deepening co-operation and making it more effective, including through the agreement of co-operation strategies and goals.
- Commission to examine the possibility of using the EIDHR to support UN mechanisms which fit EC priorities, as well as ad hoc projects.

Annex 3

LIST OF ABBREVIATIONS

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|--------------------|--|
| ACP Countries | African, Caribbean, Pacific Countries |
| ASEAN | Association of South East Asian Nations |
| ASEM | Asia-Europe Meeting |
| ALA | Asia and Latin America |
| CARDS | Community Assistance for Reconstruction, Development and Stabilisation |
| CFSP | Common Foreign and Security Policy |
| CSP | Country Strategy Paper |
| DPRK | Democratic People's Republic of Korea (North Korea) |
| EC | European Community |
| ECHO | European Community Humanitarian Office |
| EDF | European Development Fund |
| EP | European Parliament |
| EU | European Union |
| GAC | General Affairs Council |
| GSP | Generalised System of Preferences |
| ICRC | International Committee for the Red Cross |
| International IDEA | International Institute for Democracy and Electoral Assistance |
| ILO | International Labour Organisation |
| MEDA | Mediterranean Countries |
| MEP | Member of the European Parliament |
| NGO | Non Governmental Organisation |
| NIS | New Independent States |
| OECD | Organisation for Economic Co-operation and Development |
| ODIHR | Office for Democratic Institutions and Human Rights |
| OHCHR | (UN) Office of the High Commissioner for Human Rights |
| OSCE | Organisation for Security and Co-operation in Europe |
| PHARE | Action plan for co-ordinated aid to Poland and Hungary |
| SAARC | South Asia Association for Regional Co-operation |
| Tacis | Technical Assistance to the Commonwealth of Independent States |
| TEC | Treaty on the European Community |
| TEU | Treaty on the European Union |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |

