

THE EU'S NORTHERN DIMENSION AND THE EMP-ENP: INSTITUTIONAL FRAMEWORKS AND DECISION- MAKING PROCESSES COMPARED

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Introduction

The EU's last enlargement, the launching of an emerging European Neighbourhood Policy (ENP) and the drafting of a new strategic partnership with the Mediterranean and the Middle East have tremendously modified the regional context in which, almost nine years ago, the Barcelona Declaration was adopted.

Notwithstanding the obvious political and socio-economic differences among the countries involved, a comprehensive European Neighbourhood Policy might reinforce the effectiveness of the existing regional structures, instruments and policies. The ENP is, *inter alia*, expected to reinforce regional and sub-regional co-operation mechanisms in the EU's eastern and southern peripheries.³

In Northern Europe, it has been argued that '*in the near future a major overhaul of the EU's Mediterranean Dimension objectives and structure will take place and will be surely influenced by the results obtained in other European sub-regions such as the Baltic Sea area.*'⁴ For this purpose, the present study contains a

³ 'Wider Europe - Neighbourhood : a new Framework for Relations with our Eastern and Southern Neighbours', COM (2003) 104 final, Brussels, 11 March 2003, p.8.

⁴ N. Catellani, 'Outlining the Northern Dimension: toward regional co-operation in Northern Europe', in: *The European Union's Northern Dimension*, Laboratoria CeSPI, Rome, 2000, p.3, available at: http://www.cespi.it/Laboratorio/Lab_1=2000.pdf.

comparative analysis of the institutional framework and decision-making procedures of the EU's Northern and Southern Dimension.

Since the end of the Cold War and after the establishment of the WTO, the proliferation of (sub-) regional arrangements, stretching from the Barents Sea in the North to the Mediterranean in the South is obvious. The promotion of (sub)regional co-operation among close neighbours, within the framework of the so-called "new regionalism", is now a priority in the EU's various external policies. In fact, the EU has been directly involved in a number of initiatives (as member or observer) or has, sometimes for many years, promoted the development of various regional economic groupings such as:

- i) In the Northern periphery: the Northern Dimension (ND), the Barents Euro-Artic Council (BEAC), the Council of Baltic Sea States (CBBS);
- ii) In the Central and Eastern periphery: the Central European Initiative (CEI), the South East Europe Co-operation Process (SEECP), the Black Sea Economic Co-operation (BSEC);
- iii) In the Southern periphery: the Euro-Mediterranean Partnership (EMP), The Arab Maghreb Union (AMU), the Agadir Process, the Great Arab Free Trade Area GAFTA, the Gulf Co-operation Council (GCC)...

These (sub)-regional co-operation initiatives and regional economic groupings are very diverse in terms of nature, membership, scope and institutional organisation. Nevertheless, they all share the common objectives of stability (co-operation on trans-national and soft security issues⁵) and prosperity (development of sub-regional trade, infrastructures and cross-border co-operation).

For the EU, these (sub)-regional arrangements form an interesting forum for interaction with its closest neighbours, complementary to the traditional bilateral relations. For the partner countries, on the

⁵ e.g. drug trafficking, terrorism, illegal immigration, fight against trans-national organised crime.

other hand, the EU involvement creates an additional political and financial incentive for co-operation.

Notwithstanding the actual and potential advantages of this regional approach, important limitations cannot be neglected. Apart from political frictions between certain partner countries, institutional weaknesses and problems of effective implementation have been identified as the main obstacles for effective co-operation.⁶ The central question is, therefore, how a comprehensive ENP can give new impetus to the Barcelona process. In this regard, a comparative analysis between the two major regional co-operation frameworks in Europe, the Northern Dimension in the North and the EMP in the South, might be useful. This paper tries to assess the strengths and weaknesses of both policies in order to draw some conclusions for the future ENP. Specific attention is devoted to the respective decision-making processes and institutional arrangements.

PART I: THE REGIONAL CO-OPERATION IN THE BALTIC SEA REGION

Section 1: The Main Regional Organisations in the Baltic Sea Region

The end of the Cold War, the unification of Germany and the disintegration of the Soviet Union fundamentally altered the context for regional co-operation in the Baltic Sea region. Whereas such co-operation was virtually non-existent during the Cold War period, numerous bodies and organisations with diverse institutional structures and policy objectives have been established ever since. Significantly, the EC/EU has played an active role in the creation of two main regional organisations in the Baltic Sea area: the Council of Baltic Sea States (CBSS) and the Barents Euro-Arctic Council (BEAC).

⁶ A. Bjurner, 'European Security at the End of the Twentieth Century: the Subregional Contribution', in: A. Cottey (ed.), *Subregional Co-operation in the New Europe. Building Security, Prosperity and Solidarity from the Barents to the Black Sea*, Houndmills, Macmillan, 1999, pp.10-15.

The CBSS was established in March 1992 at a conference of Foreign Ministers of Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Norway, Poland, Russia, Sweden and a member of the European Commission. Iceland joined the organisation in 1995. According to its Terms of Reference *‘the purpose of the Council will be to serve as a forum for guidance and overall co-ordination among the participating states.’*⁷ The envisaged co-operation is of a traditional intergovernmental nature, focusing primarily on issues such as institution-building, economic and technical co-operation, humanitarian matters and health, protection of the environment and energy co-operation, co-operation in the field of culture, education, tourism and information and, finally, transport and communication.⁸

Whereas the CBSS was a joint Danish-German initiative, Norway promoted the creation of a new organisation aimed at the normalisation of relations between the Nordic countries and Russia. In this regard, a conference on co-operation in the Barents Euro-Arctic Region took place in Kirkenes (Norway) on 11 January 1993, bringing together the Ministers of Foreign Affairs of Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and a member of the European Commission. The participants agreed to establish a Council of the Barents Euro-Arctic Region *‘to provide impetus to existing co-operation and consider new initiatives and proposals.’*⁹

Before analysing the institutional framework of both the CBSS and BEAC, it is worth exploring the legal basis for the European Commission’s engagement in these regional initiatives. According to Article 300 EC, the general provision for concluding international agreements, the Commission may *negotiate* an

⁷ Terms of Reference for the Council of Baltic Sea States, available at: <http://www.cbss.st>.

⁸ For a more detailed overview of the CBSS activities, see: C.E. Stalvant, ‘The Council of Baltic Sea States’, in: Cottey, o.c., pp.55-60.

⁹ Declaration on co-operation in the Barents Euro-Arctic Region. Conference of Foreign Ministers in Kirkenes, 11 January 1993, available at: <http://www.beac.st>. See also: P. Joenniemi, ‘The Barents Euro-Arctic Council’, in: Cottey, o.c., pp.23-45.

agreement upon a mandate given by the Council. The latter is responsible for the *conclusion* of the agreement because the Commission does not have the power to conclude international agreements producing legal effects.¹⁰ In the case of the CBSS and BEAC, the Commission acted without involvement of the Council, which excludes Article 300 EC as the legal basis for the Commission's action.¹¹ Alternatively, Article 302 EC, which provides the Commission with a right to maintain appropriate relations with the UN, its specialised agencies and other international organisations, cannot be applied because its scope is limited to administrative co-operation.¹² The Community's involvement in the CBSS and BEAC is clearly extending the level of administrative co-operation. Proceeding from the nature of the regional arrangements - not being based on traditional international agreements - and the shortcomings in the Community's external relations machinery, Anne Myrjord claims that '*the issue of legal basis was simply disregarded.*'¹³ Be that as it may, the European Commission's presence in the main regional organisations of the Baltic Sea area has added an important multilateral dimension to its bilateral relations with outsider states.

Apart from the CBSS and BEAC, of which the European Commission is a founding member, two other regional councils have been established without the active support of the European Community. First, the Nordic Council (NC) and Nordic Council of Ministers (NCM) founded in 1952 and 1972 respectively, bring together representatives of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden).¹⁴ Second, the Arctic Council,

¹⁰ See Case 327/91 *France vs. Commission* [1994] ECR I-3641.

¹¹ A. Myrjord, 'Governance Beyond the Union: EU Boundaries in the Barents Euro-Arctic Region', *EFA Rev.*, 2003, pp.42-243.

¹² S. Marchisio, 'EU's Membership in International Organisations', in: E. Cannizzarro, (ed.), *The European Union as an Actor in International Relations*, The Hague, Kluwer, 2002, p.259.

¹³ Myrjord, l.c., p.244.

¹⁴ The Nordic Council is the forum for interparliamentary co-operation, with 87 members representing the five countries and three autonomous territories. The Nordic Council of Ministers is the forum for governmental co-operation. For more information on the Nordic Council and Nordic Parliamentary Council, see: www.norden.org.

including Canada, Denmark, Finland, Iceland, Norway, Sweden, Russia and the USA, has been established through the Ottawa declaration of 1996 as ‘a forum for promoting co-operation, co-ordination and interaction between the Arctic governments, involving the indigenous peoples and other Arctic inhabitants on common issues, in particular issues of sustainable development and environmental protection.’¹⁵

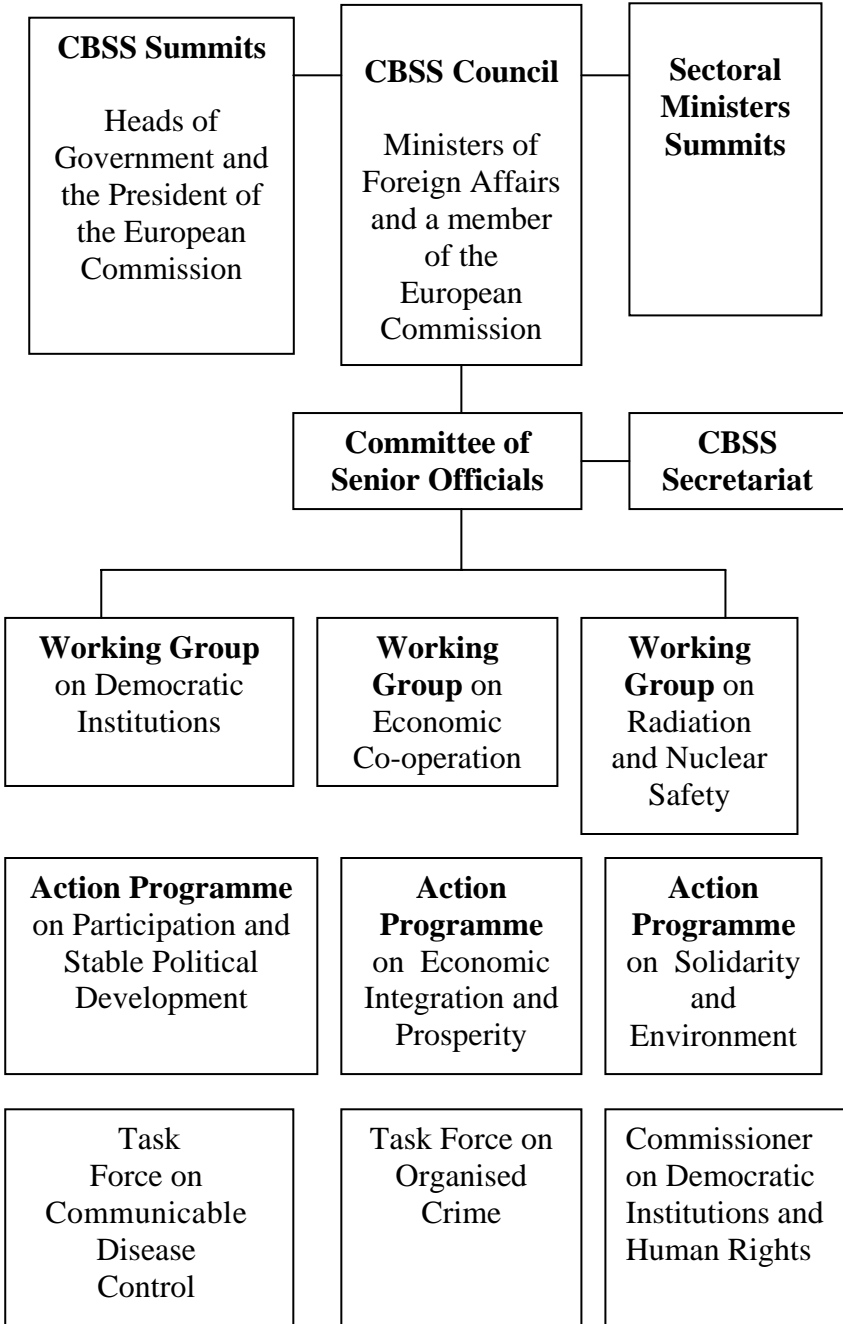
Most of the respective regional councils have set up working groups, committees of senior officials, ministerial and - in the case of the CBSS - heads of government meetings. The result is a complex institutional structure, including a dense network of regional and sub-regional bodies. The following organisational charts seek to summarise the institutional framework of the main regional organisations operating in the Baltic Sea area.

1. Council of Baltic Sea States (CBSS)

- *Foundation:* May 1992 (Copenhagen Declaration)
- *Members:* Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, Sweden and the European Commission
- *Observers:* France, Italy, Netherlands, Slovakia, Ukraine, United Kingdom and the United States of America
- *Special Participants:* Baltic Sea Parliamentary Co-operation (BSCP), Baltic Sea Seven Islands Co-operation Network (B7-Islands), Baltic Sea States Sub-regional Co-operation (BSSSC), Conference of Peripheral Maritime Regions of Europe – Baltic Sea Commission, Organisation for Economic Co-operation and Development (OECD), Union of Baltic Cities (UBC)
- *Strategic Partners:* Baltic Development Forum, Baltic Sea Chambers of Commerce Association (BCCA), Baltic Sea Forum - Pro Baltica, Baltic Sea NGO Forum, Baltic Sea Trade Union Network (BASTUN), The Helsinki Commission (HELCOM), Visions and Strategies around the Baltic Sea (VASAB)

¹⁵ Declaration on the establishment of the Arctic Council, available at: <http://www.arctic-council.org/establ.asp>.

- *Institutional Framework:*



The CBSS consists of 12 Members and is open to third party participation, either under the status of ‘observer’ (for non-Member States) or ‘special participant’ (for partner organisations). In addition, the CBSS has established functional links with other organisations actively working to advance regional co-operation in the Baltic Sea area. These so-called ‘strategic partners’ are given the opportunity to voice their concerns and co-ordinate their efforts with the CBSS members and special participants on the occasion of annual co-ordination meetings. This institutionalised interaction between diverse sub-regional organisations, focusing either on specific matters or on a more limited geographic area, illustrates the CBSS’ self-perceived function as a ‘regional umbrella organisation’, co-ordinating the work of numerous permanent and temporary institutions and working groups.¹⁶

The chairmanship of the CBSS is based on an annually rotating Presidency between the Baltic Sea states. Due to the increasing workload, a troika system has been introduced (which implies that the chair will be assisted by the countries holding the previous and next Presidency). Since 1998, the CBSS also has a permanent secretariat in Stockholm, providing technical, organisational and analytical support. General political guidance is guaranteed by the biannual meetings of the Heads of Government of the Baltic Sea states and the annual meetings of the Ministers of Foreign Affairs. In addition, meetings of sectoral ministers can be organised. On a more operational level, activities are carried out through the Committee of Senior Officials (CSO). In accordance with its Terms of Reference, the CBSS has also established three specific Working Groups (on democratic institutions, economic co-operation and radiation and nuclear safety). To guarantee effective implementation, corresponding Action Programmes have been developed. Moreover, two Task Forces have been set up to tackle specific issues such as organised crime and communicable disease control. Finally, the CBSS has created a number of associate functions such as a Commissioner on Democratic Institutions and

¹⁶ ‘About the Council of Baltic Sea States,’ available at the website of the Estonian Ministry of Foreign Affairs, holding the CBSS Presidency 2003-2004, <http://www.vm.ee>

Human Rights and the Eurofaculty Governing Board¹⁷. It can therefore be concluded that the CBSS has a rather complex institutional structure, operating in wide-ranging policy sectors and creating functional links with other sub-regional institutions.

Significantly, the CBSS original Terms of Reference contained the provision that '[t]his new Council should not be seen as a new formalised institutional framework with a permanent secretariat'.¹⁸ After keeping a rather low profile during the first years of its existence, the CBSS has progressively reinforced its working methods and entered therefore into an "institutionalisation phase". In this regard, the first Heads of Government meeting held in Visby, Sweden, on 3-4 May 1996, has played a key role. Apart from the increased political weight attributed to the Baltic Sea regional co-operation, the involvement of the highest political leaders inspired the framing of a clear agenda and the introduction of new working methods.¹⁹ In the previous period, it was rather difficult to identify the main priorities of the CBSS. The Visby summit allowed the option of a comprehensive work programme and three action programmes. It can, therefore, be argued that the CBSS has developed into a rather mature regional organisation with a relatively high degree of institutionalisation in comparison to other regional organisations.

2. Barents Euro-Arctic Council (BEAC)

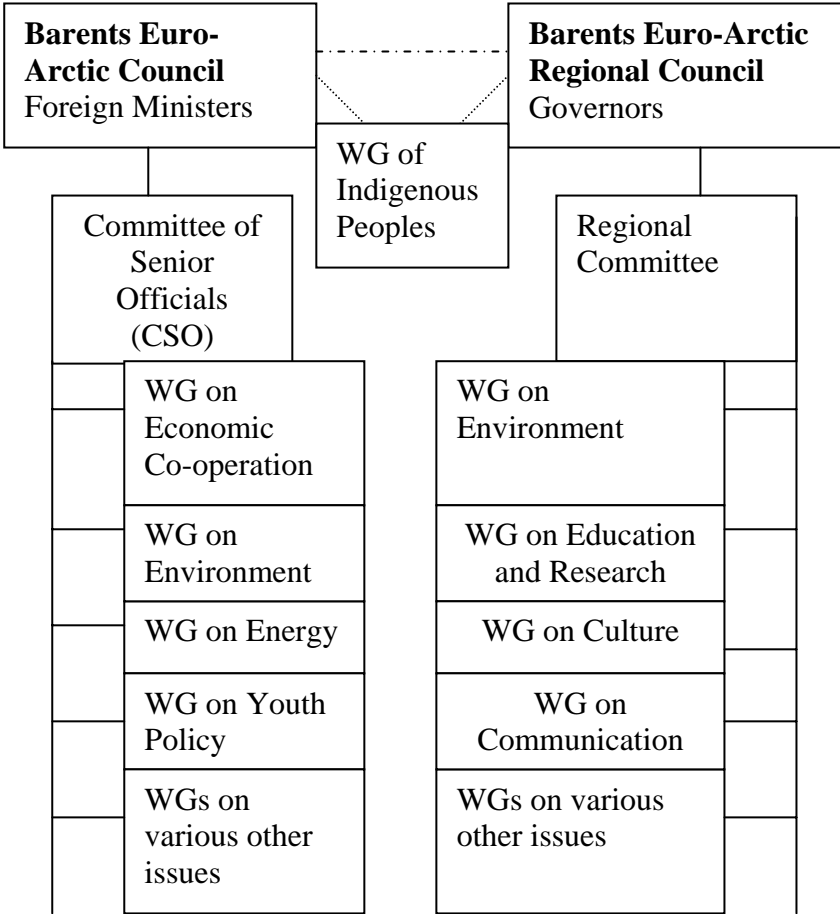
- *Foundation:* January 1993 (Kirkenes Declaration)
- *Members:* Denmark, Finland, Iceland, Norway, Russia, Sweden and the European Commission
- *Observers:* Canada, France, Germany, Italy, Japan, Netherlands, Poland, United Kingdom and the United States of America

¹⁷ Eurofaculty is a cooperative project between higher educational institutions in the region, supported by the CBSS.

¹⁸ Terms of Reference for the Council of Baltic Sea States, available at: <http://www.cbss.st>.

¹⁹ Stalvant, 'The Council of Baltic Sea States', in: Cottey, o.c., p.59.

- *Institutional Framework*



The institutional framework of regional co-operation in the Barents Euro-Arctic Region is characterised by a duality between central and regional authorities. On the one hand, the Barents Euro-Arctic Council (BEAC) brings together the Foreign Ministers of the participating countries, together with a member of the European Commission. On the other hand, the Barents Euro-Arctic Regional Council (BEARC) unites 13 counties and a representative of the

indigenous peoples.²⁰ This parallel structure allows for the participation of sub-regional entities, which adds an important bottom-up element to the Barents Euro-Arctic co-operation.²¹ Chairmanship of both the BEAC and BEARC is organised on the basis of a biannual rotating Presidency among the participating states and counties. The annual meeting of Foreign Ministers on the one hand and Governors on the other, lays down the general policy guidelines. In contrast to the CBSS no meetings at the level of Heads of State have been organised, nor is there any permanent secretariat. Each Presidency is responsible for the organisation of the ministerial meetings, whereas a Committee of Senior Officials deals with the permanent co-ordination of the activities. Both the BEAC and BEARC have established about ten different Working Groups, with the aim of implementing and specifying concrete projects and areas of co-operation.

3. Arctic Council

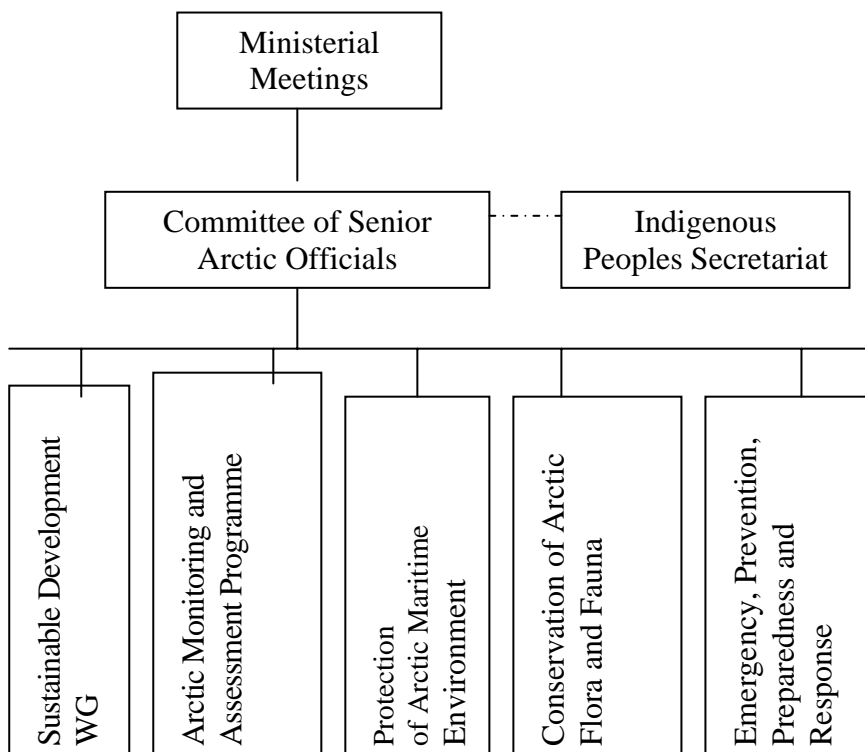
- *Foundation*: September 1996 (Ottawa Declaration)
- *Members*: Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the United States
- *Observers*: France, Germany, Netherlands, Poland, United Kingdom, together with 9 international organisations and 9 NGOs²²
- *Special Participants*: Aleut International Association, Arctic Athabaskan Council, Gwich' in Council International, Inuit Circumpolar Conference, Russian Association of Indigenous Peoples of the North, Saami Council
- Since the 2nd Arctic Council Ministerial Meeting in Barrow (October 2000), the European Commission takes part in the activities of the Arctic Council as an '*invited guest*'

²⁰ The BEARC includes the following counties: Kainuu, Lapland and Oulu (Finland); Finnmark, Nordland and Troms (Norway); Archangelsk, Karelia, Komi, Murmansk and Nenets (Russia); Norrbotten and Västerbotten (Sweden).

²¹ Joenniemi, o.c., pp.25-27.

²² The names of these IO's and NGO's are available at: <http://www.arctic-council.org>

- *Institutional Framework:*



The Arctic Council is an intergovernmental forum, bringing together representatives of the eight member countries and delegations of the Arctic indigenous communities. The latter, represented as ‘permanent participants’ participate in all aspects of the Council’s work. This unique feature of Arctic co-operation guarantees full consultation and involvement of the indigenous people. An Indigenous Peoples Secretariat provides participation and co-ordination of the indigenous organisations. Hence, similar to the CBSS and BEAC a top-down aspect has been included in this form of regional co-operation. Biannual ministerial meetings lay down the general framework for co-operation. A Committee of Senior Arctic Officials meets more frequently (twice a year) and is responsible for the overall co-ordination of the Arctic Council’s activities, which focus on five specific working groups and programmes.

In contrast to the CBSS and BEAC, the European Commission is not a founding member of the Arctic Council. However, since the 2nd Arctic Council Ministerial Meeting in Barrow (October 2000), the Commission participates as an ‘invited guest’. Finland has actively promoted the formal inclusion of the Commission in the work of the Arctic Council, particularly in the light of the Northern Dimension initiative (cf. *infra*).²³ Finnish ambassador Peter Stenlund, for instance, argued in favour of a ‘permanent observer status’ for the European Commission²⁴ but External Relations Commissioner Chris Patten clarified that the participation of the Commission in the Arctic Council meetings will be continued on the same basis.²⁵

4. Nordic Council (NC) and Nordic Council of Ministers (NCM)²⁶

Foundation: 1952 (NC) and 1971 (NCM)

Members: Denmark, Finland, Iceland, Norway and Sweden

Formal Partners: Aland, Faroe Islands and Greenland

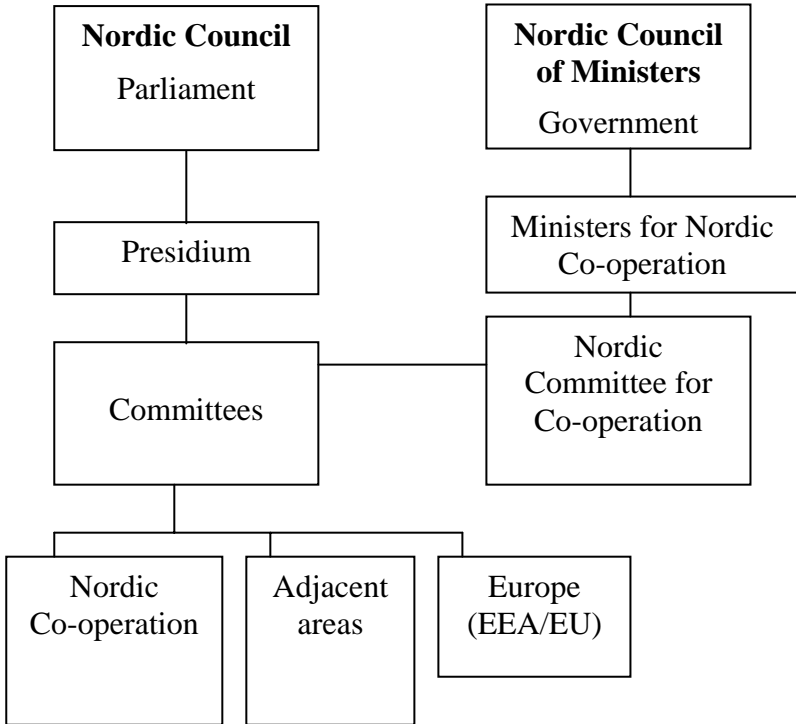
²³ See e.g. P. Lipponen, ‘The European Union Policy for a Northern Dimension from an Arctic Angle’, Speech at the Fourth Conference of Parliamentarians of the Arctic Region, Rovaniemi, 28 August 2000, available at: http://www.arctic-council.org/lip_rovaniemi.asp.

²⁴ P. Stenlund, ‘The Arctic Window of the Northern Dimension’, written contribution prepared for the 2nd Foreign Ministers’ Conference on the Northern Dimension, available at: <http://www.arctic-council.org/luxemburg.asp>.

²⁵ Statement by Mr. Jan-Erik Enestam, Minister at the Ministry for Foreign Affairs at the Conference on the Northern Dimension and the Arctic, Ilussat, Greenland, 27-29 August 2002, available at: [http://www.arctic-council.org/files/Enestam GRNLAN/Enestam GRNLAN.pdf](http://www.arctic-council.org/files/Enestam_GRNLAN/Enestam_GRNLAN.pdf).

²⁶ See: <http://www.norden.org>

Institutional Framework:



Whereas the CBSS, BEAC and Arctic Council were all established after the end of the Cold War, co-operation between the Nordic countries has a longer tradition. The Nordic Council, as a forum for inter-parliamentary co-operation, goes back to 1952. The Council has 87 members, elected to the national parliaments and nominated by their respective political parties. Plenary sessions are organised every year. The Council members elect a presidium and organise meetings in the framework of three permanent committees, dealing with Nordic co-operation, the adjacent areas and European integration. Since 1971 Nordic co-operation also includes regular meetings at governmental level. The Nordic Council of Ministers consists of Prime Ministers, which delegate responsibility to the Ministers for Nordic Co-operation and to the Nordic Committee for Co-operation. Ministers of different policy areas meet several times a year. Decisions are taken unanimously after preparation by the

various Committees of Senior Officials, which consist of civil servants from the member states.

5. Conclusions

A concise overview of the different regional organisations in the Baltic Sea region reveals a clear overlap in terms of membership and geographic coverage.²⁷

Organisation	CBSS	BEAC	Arctic Council	NC/NCM
Foundation	1992	1993	1996	1952/1971
Initiative	Germany-Denmark	Norway	Finland	
Members	Denmark Estonia Finland Germany Iceland Latvia Lithuania Norway Poland Russia Sweden <i>Eur. Comm.</i>	Denmark Finland Iceland Norway Russia Sweden <i>Eur. Comm.</i>	Canada Denmark Finland Iceland Norway Russia Sweden USA	Denmark Finland Iceland Norway Sweden

²⁷ See also: A. Mariussen, H. Aalbu and M. Brandt, 'Regional Organisations in the North', Nordregio 2004, available at: <http://www.nordregio.se/pdf/wp20008.pdf>.

Observers	France Italy Netherlands Slovakia Ukraine UK USA	Canada France Germany Italy Japan Netherlands Poland UK USA	France Germany Netherlands Poland UK 9 IOs 9 NGOs	
Special Participants	BSCP, B7, BSSSC, OECD, UBC		AIA, AAC, ICC, RAIPN, Saami Council	
Strategic Partners	BDF, BCCA, Pro Baltica, Baltic NGO Forum, BASTUN, HELCOM, VASAB		<i>Eur. Comm.</i>	Aland, Faroe Islands, Greenland

The Nordic states (Denmark, Finland, Iceland, Norway, Sweden) constitute the core countries, belonging to all four organisations. The NC/NCM co-operation has the longest tradition and can be distinguished from the post-Cold War organisations (CBSS, BEAC, AC) to which Russia is a key Member State. It has even been argued that these organisations' primary function is to provide for 'confidence building measures' between Russia and other countries of the Baltic Sea area. Noteworthy is also the role of the European Commission in the CBSS and BEAC. The legal basis of the Commission's involvement is, however, not very clear (cf. *supra*) and might explain the perceived reluctance to play a more active role in the Arctic Council. The latter organisation has a North American agenda, due to the membership of the USA and Canada. Remarkable is the institutional involvement of indigenous peoples' representatives in the AC and BEAC. In combination with the institutional links with sub-regional entities in the CBSS, it can

therefore be concluded that the post-Cold War organisations in the Baltic Sea region are essentially decentralised and provide for channels of bottom-up communication.

The CBSS is clearly the most institutionalised regional organisation, with a permanent secretariat and meetings at the highest political level. Significantly, this level of institutionalisation was not originally envisaged. Despite institutional and political problems in the formative years, largely due to tensions in the relation between Russia and the Baltic states, the CBSS has gradually developed into a rather mature regional organisation. The CBSS might, therefore, be a potential source of inspiration for the Euro-Mediterranean Partnership. Of course, the role of the EU and its Member States is more limited in the CBSS. Whereas the EMP brings together all EU Member States and the Mediterranean partners, membership of the CBSS is restricted to those countries bordering the Baltic Sea. Moreover, the CBSS is not the result of an EU-led initiative, notwithstanding the involvement of the European Commission from the very beginning. A comparison between the EMP and the CBSS should therefore take into account the development of the EU's Northern Dimension policy as the over-arching framework for co-operation in the Baltic Sea area.

Section 2: EU policy towards the Nordic/Baltic Sea region

1. The Baltic Sea Region Initiative

Apart from its participation in the CBSS and BEAC, the EC/EU has gradually developed a more consistent strategy for the Baltic Sea region. In the light of the EU accession of Finland and Sweden and the opening of negotiations for Europe agreements with the Baltic states, the European Commission adopted its 'Communication for a Union Approach towards the Baltic Sea Region' in October 1994.²⁸ The EU's approach aimed at the intensification of:

²⁸ Commission Communication 'Orientations For a Union Approach towards the Baltic Sea Region', SEC (94) 1747, Brussels, 25 October 1994.

- i) political co-operation - mainly in order to tackle the problem of Russian-speaking minorities in the Baltic states, especially Latvia and Estonia;
- ii) economic co-operation - on the basis of trade liberalisation, technical assistance and investment promotion;
- iii) regional co-operation - focusing on the CBSS as ‘an important complement to the Union’s bilateral relations in the region’. In this regard, the Commission envisaged playing an active role, ‘as a full member’, in the work of the CBSS.

The Commission Communication foresaw the financing of regional projects on the basis of the Union’s financial instruments (structural funds, PHARE and TACIS), without additional funding.

On the request of the Council, the Commission subsequently presented a report ‘on the current state of and perspectives for co-operation in the Baltic Sea region’.²⁹ According to this document, the Baltic Sea states received, from various sources, a total of 4,534 million ECU in the period 1990-1994. Simultaneously, the Commission indicated that ‘*as a member of the CBSS*’ it would prepare a long-term based Baltic Sea Region Initiative.³⁰ This comprehensive document, prepared in close collaboration with all partner countries around the Baltic Sea, was presented at the first Heads of Government meeting of the CBSS in Visby (Sweden), in May 1996, and endorsed by the June 1996 Florence European Council. The Commission proposed the establishment of a framework for regional co-operation, aiming at a better co-ordination of the divergent assistance programmes. Clearly, the CBSS was regarded as the key forum for monitoring the various programmes.³¹

²⁹ Commission Report on the current state of and perspectives for co-operation in the Baltic Sea region, COM (95) 603, Brussels, 29 November 1995.

³⁰ Ibid.

³¹ Commission Communication ‘The Baltic Sea Region Initiative’, SEC (96) 608 final, Brussels, 10 April 1996.

The European Parliament welcomed the Commission's initiative as '*a summary of and a starting point for regional policies*', but regretted that the document '*did not represent truly new initiatives*.'³² Hence, it invited the Commission to '*use its membership of the CBSS to take new initiatives in order to promote stability and sustainable development in the region*'. Significantly, the EP also asked the Commission to participate in the work of the Arctic Council - of which it is not a member - and to co-ordinate this work with its activities in the CBSS and BEAC.³³ The Committee of the Regions (CoR) also stressed the necessary involvement of regional and sub-regional organisations in the development of a general EU policy for the Baltic Sea region. Moreover, the CoR maintained that the rules '*governing the various programmes in the Baltic Sea region have not been tailored to structural conditions in the Baltic Sea region*.'³⁴ In order to achieve optimal results, it has therefore stressed the need for more effective co-ordination.

In this context, and in the light of the CoR's earlier opinion on 'the Northern Dimension of the European Union and Cross-border Co-operation on the Border between the European Union and the Russian Federation and in the Barents Region'³⁵, the Finnish Prime Minister Paavo Lipponen called for a 'policy for the Northern Dimension' inspired by the Barcelona process. In a speech delivered in September 1997, Lipponen explicitly referred to the EU's involvement in the Mediterranean region as an example of '*a many-faceted and in many ways effective policy*'.³⁶ Proceeding

³² European Parliament Resolution on the Commission Communication on the Baltic Sea Region Initiative, OJ 1997, C200/166.

³³ Ibid.

³⁴ Opinion of the Committee of the Regions on 'Current and future EU policy on the Baltic Sea Region with specific reference to local and regional aspects', OJ 1997, C42/6.

³⁵ Opinion of the Committee of the Regions on 'The Northern Dimension of the European Union and Cross-Border Co-operation on the border between the European Union and the Russian Federation and in the Barents Region', OJ 1996, C337/7.

³⁶ P. Lipponen, 'The European Union Needs a Policy for the Northern Dimension', Speech at the Barents Region Today conference, Rovaniemi, 15 Sept. 1997; Appendix in: L. Heinninen, J. Käkönen, (eds.), *The New North of*

from this implicit call for a better balance of the Union's commitments in Southern and Northern Europe, he claimed the necessity of a comprehensive and co-ordinated EU approach. Significantly, the new policy framework would not require additional institutional arrangements or financial contributions. According to some observers, this characteristic facilitated the smooth acceptance of the Northern Dimension in the EU's institutional framework.³⁷ Barely three months after Lipponen's speech, the December 1997 Luxembourg European Council requested the Commission to present an interim report on the subject at a European Council meeting in 1998.

The Commission's response, presented at the December 1998 Vienna European Council, laid down the foundations and guidelines of the EU's Northern Dimension policy. According to this document, which largely reflected the initial Finnish proposals, the Northern Dimension '*should not be seen as a new regional initiative*'.³⁸ It is rather a policy framework, providing for 'added value', 'synergies' and 'coherence' in the existing policies and actions. Taking into account the observation that no new mechanisms, institutions or funding had been envisaged, it has been argued that the Commission's outline of the Northern Dimension 'is similar to the previous documents',³⁹ tended to remain a vague declaration without concrete proposals for the realisation of the ambitious goals.⁴⁰

Europe. Perspectives on the Northern Dimension, Tampere Peace Research Institute, Research Report, 1998, 80, pp.125-132.

³⁷ H. Ojanen, 'The EU and its Northern Dimension': An Actor in Search of a Policy or a Policy in Search of an Actor?, *EFA Rev.* 5, 2000, 3, p.364; D. Arter, 'Small State Influence within the EU: The case of Finland's Northern Dimension Initiative', *JCMS*, 38, 2000, 5, p.685.

³⁸ European Commission Communication, 'A Northern Dimension for the policies of the Union', COM (98) 589 final, Brussels, 25 November 1998.

³⁹ M. Davis, 'The European Union and the Baltic Sea Region: Problems and Prospects for Stability', in: L. Hedegaard, D. Lindström, (eds.), *The NEBI Yearbook 2000*, Berlin, Springer, 2000, p.220.

⁴⁰ H. Haukkala, 'Succeeding Without Success? The Northern Dimension of the European Union', in: T. Forsberg, H. Vogt, (ed.), *Northern Dimensions Yearbook 2001*, Helsinki, Finnish Institute of International Relations, 2001, p.37.

2. The EU's Northern Dimension

2.1 *An innovative approach for regional co-operation?*

In spite of these sceptical reactions, the Northern Dimension contains some important innovations in comparison to the EU's classical foreign policy instruments. First, the ND is based on a 'partner-oriented approach', which encourages active participation of the non-EU Member States Russia, Norway, Iceland and, initially, the candidate countries Poland, Estonia, Latvia and Lithuania. The fact that these partner countries have become involved in the process from the very beginning and participated in the Foreign Ministers' conferences on the Northern Dimension is rather unusual in the EU context.⁴¹ In other words, the partner countries are expected to be not only policy-takers but also policy-makers. Second, the ND entails a 'multilevel approach', including co-operation between governments, EU institutions and regional bodies. The European Commission referred to the CBSS and BEAC as organisations expected 'to play a useful role in addressing the problems facing the region.'⁴² The May 1999 General Affairs Council adopted a more ambitious approach, giving the regional bodies a role in the implementation of the Northern Dimension.⁴³ Clearly, a division of labour between on the one hand the EU (responsible for the development of general policy guidelines) and on the other hand the (sub-)regional organisations (responsible for policy implementation and bottom-up communication) can be identified. Nicola Catellani speaks about a three-level structure.⁴⁴ At the highest level, the EU's Northern

⁴¹ L. Heininen, 'Ideas and Outcomes: Finding a Concrete Form for the Northern Dimension Initiative', in: H. Ojanen, (ed.), *The Northern Dimension: Fuel for the EU?*, Helsinki, FIIA, 2001, p.42.

⁴² European Commission Communication, 'A Northern Dimension for the policies of the Union', COM (98) 589 final, Brussels, 25 November 1998, p.5.

⁴³ General Affairs Council, Implementation of a Northern Dimension for the policies of the European Union, 31 May 1999, Brussels, 9034/99.

⁴⁴ N. Catellani, 'The Emergence of Multilevel Institutional Structures at the Borders of the European Union', Paper for the Conference of Multilevel Governance, University of Sheffield, June 2001, available at: <http://www.shef.ac.uk/~perc/mlgc/papers/catellani.pdf>.

Dimension lays down the general framework for co-operation in Northern Europe, including priorities, target areas and policy instruments. Regional organisations such as the CBSS, BEAC and the Arctic Council operate as an interface between the EU level, where instruments are shaped, and the sub-regional level, where instruments are applied. This ‘multilevel co-operation’ should allow for a more efficient use of the resources and the creation of synergies between existing programmes. The Northern Dimension therefore introduces a form of network governance⁴⁵ or vertical co-ordination between divergent regional organisations and institutions. Responsibility for tasks that are not directly connected with strategic decision-making would then be attributed to the Member States and external partners, in close co-operation with the European Commission. This ‘subsidiarity’ in foreign policy-making forms an interesting mindset of the Northern Dimension concept.⁴⁶ In addition, the Northern Dimension aims at horizontal co-ordination among various EU instruments and institutions. This implies on the one hand synchronisation of the EU’s financial programmes (PHARE, TACIS and INTERREG), and on the other hand enhanced co-operation between the European Commission’s Directorates-General. Last but not least, the Northern Dimension cuts across the Union’s pillar structure: the instruments stem from the first, the objectives from the second and the problems from the third.⁴⁷

⁴⁵ Elisabeth Johansson defines *network governance*, as ‘a theoretical model where a set of actors - at supranational, national or sub-state level - are willing to coordinate their policy spaces and scarce resources with each other, in order to realise synergies through shared policy and economic projects, and hence create an area of governance.’ E. Johansson, ‘Northern Europe - network governance and a possibility for synergy among the EU, NATO, the OSCE and regional organisation?’, in: T. Pohjola, J. Rainio, (eds.), *The New North of Europe. UPI Policy Memos*, Helsinki, UPI, 2002, p.41.

⁴⁶ M.S. Finlenborg, S. Gänzle, E. Johansson, ‘An Alternative Theoretical Approach to EU Foreign Policy. Network Governance and the Case of the Northern Dimension Initiative’, *Co-operation and Conflict*, 37, 2002, 4, p.395.

⁴⁷ Ojanen l.c., p. 374.

2.2 *From Words to Action: Overcoming Institutional Barriers*

The innovative aspects of the ND provide a promising new conceptual framework for regional co-operation in the EU's peripheries. However, the transformation from an abstract idea to operational policies faced a number of practical and institutional burdens. The implementation phase started with the adoption of a first Action Plan for the Northern Dimension (2000-2003), endorsed by the June 2000 Feira European Council. Again, this document was criticised for its lack of substance. According to Marius Vahl, 'it does not propose any significant new initiatives whereby it could justifiably be said that it fulfils the promise of providing enhanced coherence and co-ordination among the numerous policy instruments and assistance programmes that was the primary operational goal of the initiative.'⁴⁸ The following Swedish Presidency, therefore, aimed to give the Northern Dimension a more concrete content. Notwithstanding these positive intentions, the establishment of a format for structured implementation of the Northern Dimension Action Plan turned out to be a very difficult operation. In general terms, obstacles to effective implementation can be identified both with regard to the aimed at horizontal and vertical co-ordination.

A first challenge has been to link financing from different sources: PHARE for the candidate countries, INTERREG for the EU Member States and TACIS for Russia. The co-ordination between these funding mechanisms and the different contractual relations with the partner countries interferes with the organisational structure of the EU. Whereas TACIS and PHARE are administered by the Commission's Directorates-General for External Relations and Enlargement, the INTERREG initiative has been conceived in the framework of the structural funds within the responsibility of the DG for Regional Policy. This bureaucratic division of labour, with different units responsible for different parts of the relevant ND instruments, obstructs the smooth implementation of specific cross-border programmes. Differences in terms of the programming

⁴⁸ M. Vahl, *A Northern Dimension Model for Relations between the European Union and its 'Near Abroad'*, Brussels, CEPS, 2001, p. 3.

period, stated objectives, administrative structures, budget lines and the absence of cross-funding opportunities all inhibit an efficient co-ordination of the different instruments and initiatives.⁴⁹

Second, the system of rotating EU presidencies reflects a varying attention to the Northern Dimension, depending on the strategic priorities of the Member State holding the Presidency. Whereas the Northern Dimension was high of the agenda of the Finnish (1999), Swedish (2001) and Danish (2002) presidencies, the Northern Dimension was not even mentioned in the 2003 programme of the Greek and Italian presidencies.⁵⁰

Third, the envisaged 'partner-oriented' and 'multilevel' approach appears to be watered-down in practice. Whereas the Council guidelines initially defined the regional bodies as implementing actors, the first Action Plan reduced their role to that of advisors or consultants.⁵¹ The Commission's unclear legal mandate in regional organisations such as the CBSS and BEAC might explain this perceived reluctance to delegate responsibilities to the (sub) regional level. The rather limited impact of non-EU actors brought Cattelani to the conclusion that '*there seems little difference between the way the ND is implemented and the rather distinct top-down approach permeating most of the EU's policies.*'⁵²

Apparently, the EU's ambitious statements have raised high expectations. The ND has been presented as '*a new approach to neighbourhood relations*'⁵³ and a '*model for regional co-*

⁴⁹ N. Catellani, 'The Multilevel Implementation of the Northern Dimension', in: H. Ojanen, (ed.), o.c., pp.61-63.

⁵⁰ The European Parliament expressed its concern over the absence of references to the Northern Dimension in the programmes of the Greek and Italian presidencies and called on both presidencies 'to give full support to the ND process.' European Parliament resolution on the Northern Dimension - New Action Plan 2004-2006, OJ 2004, C38E/312.

⁵¹ Myrjord, l.c., p.250.

⁵² N. Cattelani, *Short and Long-Term Dynamics in the EU's Northern Dimension*, COPRI Working Papers, 2001, 41, p.16.

⁵³ N. Cattelani, *The EU's Northern Dimension: Testing a New Approach to Neighbourhood Relations?*, Research Report, Swedish Institute of International Affairs, 2003, p.35.

operation'⁵⁴. This, however, may be overestimating the EU's foreign policy capacity, which is affected by institutional obstacles and problems of inter-pillar coherence.⁵⁵ Notwithstanding the obvious 'expectations-capability gap', the European Commission has assumed a leading role in the implementation of the Action Plan and the further development of the Northern Dimension Initiative. The Commission has, for instance, issued a 'guide to bringing INTERREG and TACIS funding together'.⁵⁶ Moreover, the Commission has initiated active co-operation - together with the regional actors and in particular the CBSS - in fields like environment and information technology (IT). The result, a Northern Dimension Environmental Partnership (NDEP) and a Northern Dimension Action Plan (NDAP), makes the Northern Dimension more visible and concrete. The NDEP includes the establishment of a Support Fund, bringing together financial contributions from different sources, and a Steering Group, responsible for the identification of priority projects.⁵⁷ This financing and co-ordination approach has been considered as 'a useful model for other Northern Dimension sectors'.⁵⁸ Finally, the actors involved in the ND process have gradually developed a format for monitoring the implementation of its policies without the creation of new, permanent institutional arrangements.⁵⁹ The monitoring procedures include:

⁵⁴ M. Vahl, *A Northern Dimension Model for Relations between the European Union and its 'Near Abroad'*, Brussels, CEPS, 2001, p.25.

⁵⁵ E. Johansson, 'EU Foreign Policy and Subregionalisation in North-Eastern Europe', in: H.Hubel, (ed.), *EU Enlargement and Beyond: The Baltic States and Russia*, Berlin, Berlin Verlag, 2002, p.383.

⁵⁶ Available at:

http://www.europa.eu.int/comm/regional_policy/interreg3/documents/tacis_en.pdf.

⁵⁷ See: <http://www.ndep.org>.

⁵⁸ European Commission Working Document, The Second Northern Dimension Action Plan, 2004-06, COM (2003) 343 final, Brussels, 10 June 2003, p.3.

⁵⁹ The June 2001 Göteborg European Council endorsed the policy guidance and follow-up procedures included in the 'Full Report on Northern Dimension policies' as prepared by the Swedish EU Presidency and the Commission on the basis of the conclusions of the Foreign Ministers' Conference in Luxembourg of 9 April 2001. Presidency Conclusions Göteborg European Council (15-16 June 2001), *Bull. EU*, 2001, 6, I.64.

- i) Annual Progress Reports, prepared by the Commission in consultation with relevant Council bodies and presented to the European Council at the end of each year (beginning in 2002). The Progress Reports focus on the effectiveness of the co-ordination efforts of the Northern Dimension;
- ii) Annual Meetings of Senior Officials monitor the progress in executing the Action Plan;
- iii) Foreign Ministers' conferences, taking place at regular intervals, provide political guidance and consider possible actions;
- iv) Biannual meetings of the so-called 'High Level Forum', bringing together governmental and non-governmental partners seek the active engagement of the business community, organised civil society and international financial institutions.

Remarkably, no specific role has been attributed to the regional organisations. The 'full report on Northern Dimension Policies' only vaguely states that '*the experience and know-how of the regional bodies could be used further to develop and implement specific initiatives in the ND region*'.⁶⁰ The perceived reluctance on the part of the EU institutions to delegate far-reaching responsibilities to the regional level did not prevent the active contribution of the regional organisations to the drafting of the second Northern Dimension Action Plan (2004-2006).⁶¹ The new Action Plan, endorsed by the October 2003 Brussels European Council, mentioned five broad priority sectors⁶² and announced special attention for regions with specific needs, such as Kaliningrad and the Arctic region.⁶³ It is obvious that the implementation of the Action Plan will take place in a new political

⁶⁰ Council of the European Union, Full Report on Northern Dimension Policies, 9804/01, Brussels, 12 June 2001, p.13.

⁶¹ For an overview of these contributions, see:

http://www.europa.eu.int/comm/external_relations/north_dim/ndap/docsap2.htm.

⁶² economy, business and infrastructure; human resources, education, scientific research and health; environment, nuclear safety and natural resources; cross-border co-operation and regional development; justice and home affairs.

⁶³ The Action Plan is available at: http://www.europa.eu.int/comm/external_relations/north_dim/ndap/ap2.htm.

framework after the accession of the Baltic Sea states Poland, Estonia, Latvia and Lithuania. In addition, the European Commission's proposals for the development of a European Neighbourhood Policy create an additional legal framework for the framing of the Northern Dimension policy.

3. Future of the Northern Dimension: Impact of EU enlargement and the ENP

The EU enlargement of 1 May 2004 and the emerging ENP significantly affect the Northern Dimension process. The accession of Poland, Estonia, Latvia and Lithuania implies that only three external partners remain (Russia, Iceland and Norway). Taking into account the highly developed relationship between the EU and the EEA-members Iceland and Norway, it can be argued that the ND will be, more than ever, oriented towards Russia. From the outset, the ND initiative focused on '*a reinforcement of the positive interdependence between Russia and the Baltic Sea region and the European Union*'.⁶⁴ The other implicit objective, i.e. facilitating the enlargement process through the involvement of the candidate countries in concrete co-operative projects, has become obsolete.⁶⁵ Hence, the post-enlargement Northern Dimension Policy tends to become the regional pillar of the EU-Russia Partnership, in addition to the Union's unilateral Common Strategy and the bilateral Partnership and Co-operation Agreement (PCA).

In comparison to the Euro-Mediterranean Association Agreements (EMAAs) the PCA is based on a different legal basis. Whereas the EMAAs establish 'an association involving reciprocal rights and obligations, common action and special procedure' (Art. 310 EC), the legal basis of the PCA does not fundamentally differ from the previous Trade and Co-operation Agreements (TCAs) (Arts. 133

⁶⁴ European Commission Communication 'A Northern Dimension for the Policies of the Union', COM (98) 589 final, Brussels, 25 Nov. 1998, p.2.

⁶⁵ N. Catellani, 'The EU's Northern Dimension after the enlargement', in: E. Barbe, E. Johansson, (eds.), *Beyond Enlargement: the New Members and New Frontiers of the Enlarged European Union*, Barcelona, Institut Universitari d'Estudis Europeus, 2003, p.160.

and 308 EC).⁶⁶ In comparison to the Euro-Mediterranean Association Councils, the Co-operation Council cannot take legally binding decisions. Furthermore, their content is less comprehensive. For instance, the establishment of a Free Trade Area regarding industrial products is one of the objectives of the EMAAs. The PCA with Russia, on the other hand, provides only for a so-called 'evolutionary clause', mentioned in Article 3, to the effect that a future establishment of a Free Trade Area between the parties may be considered '*as circumstances allow*'.⁶⁷ On the other hand, the PCAs main asset lies in the opportunities provided for dialogue at the highest political level. In accordance with Article 7 of the PCA with Russia, joint EU-Russia summits take place twice a year. On the EU side, the Head of Government of the EU Member State holding the EU Presidency, the President of the European Commission, the Commissioner for External Relations and the High Representative for Common Foreign and Security are present whereas Russia is represented by the President and Ministers responsible for areas related to EU relations.⁶⁸ In addition, there are annual meetings of the Co-operation Council at Ministerial level and various meetings of the Co-operation Committee and specialised sub-committees. Initiatives within the Northern Dimension framework are discussed in the respective PCA bodies. Notwithstanding initial criticism on the vagueness of

⁶⁶ Originally, the PCA was exclusively based on Articles 133 and 235 EC but as a consequence of Opinion 1/94 of the ECJ, the Commission was obliged to widen the legal basis. As a result, the PCA is now based on a variety of treaty provisions (Art. 54,2; 57,2; 66; 73c,2; 75; 84,2; 99, 100; 133; 228,2 and 228,3; 235). On this evolution, see: M. Maresceau, '*From Europe Agreements to Accession Negotiations*', in: M. Ganino, G. Venturine, (eds.), *L'Europa di domani: verso l'allargamento dell'Unione*, Milano, 2002, p.18; and C. Flaesch-Mougin, '*Quel partenariat pour la Fédération de Russie: Union européenne, Communautés, Etats membres*', in: J. Raux, V. Korovkine, (red.), *Le partenariat entre l'Union européenne et la Fédération de Russie*, Rennes, Apogée, 1998, pp.64-68.

⁶⁷ A first examination of these circumstances was scheduled in 1998 but came to nothing because the EU had declared that negotiations on this topic could start only after Russia's accession to the WTO. As a result, the idea of a free trade area was postponed indefinitely.

⁶⁸ M. Maresceau, '*EU Enlargement and Common Strategies on Russia and Ukraine*', in: C. Hillion, (ed.), *EU Enlargement: a Legal Approach*, Oxford, Hart, 2004, p.194.

the Northern Dimension concept⁶⁹, the establishment of a Northern Dimension Environmental Partnership to tackle the most pressing environmental problems in North-West Russia has demonstrated the potential added value of this regional approach. It can be expected that the importance of such cross-border initiatives will only expand after enlargement.

EU enlargement has another interesting side effect in terms of the ND co-ordination objectives: due to the termination of the Europe Agreements and the PHARE assistance programme in the Baltic Sea region, a simplification of the complex legal framework has taken place. Estonia, Latvia, Lithuania and Poland have now become eligible for INTERREG funding. Consequently, co-ordination efforts will be limited to two financial instruments: INTERREG and TACIS. Apart from the Commission's 'guide to bringing INTERREG and TACIS funding together' (cf. *supra*), further steps towards a more effective co-ordination have been proposed in the framework of the emerging ENP. In its Communication 'Paving the way for a new Neighbourhood Instrument', the European Commission acknowledged the existing problems and presented a 'two-step approach' towards the establishment of a single instrument for cross-border co-operation.⁷⁰ In an initial phase, between 2004 and 2006, the INTERREG programmes on the external border of the EU will be brought together with the TACIS Cross-Border Co-operation (CBC) programmes operating on the Russian side of the border. In a second phase, for the period after 2006, the Commission envisages the creation of a single Neighbourhood Instrument. Whereas the July 2003 Communication set out three possible options for the development of this instrument⁷¹, the May 2004 ENP Strategy Paper clearly preferred a new Regulation based on a

⁶⁹ M. Ruuda, 'Russia attacking EU Northern Dimension Programme', *EU Observer*, 24 October 2001.

⁷⁰ European Commission Communication 'Paving the way for a new Neighbourhood Instrument', COM (2003) 393final, Brussels, 1 July 2003, pp.7-12.

⁷¹ *Ibid.*, p.12. The three options include: (1) expanding the content and scope of an existing co-operation instrument; (2) creating a single new regulation; (3) focusing further on co-ordination between already existing instruments.

single budget line and a single management mechanism.⁷² This option reflects the call for ‘*a single common fund within with INTERREG, PHARE, TACIS and their CBC components would operate*’, made in a 1999 European Parliament resolution on the Northern Dimension.⁷³ This example illustrates the interaction between the ND experiences and the emerging ENP. The inclusion of references to ‘ownership’ in the ENP Strategy Paper also echoes the partner-oriented and multilevel approach of the ND initiative. The Commission, for instance, refers to the added value of regional fora and concludes that ‘*the importance of local ownership is one of the most pertinent lessons that can be drawn from the Northern Dimension.*’⁷⁴ The question is, however, whether the experiences from the ND can be useful for the Euro-Mediterranean Partnership.

PART II: THE EURO-MEDITERRANEAN PARTNERSHIP: INSTITUTIONAL FRAMEWORK AND DECISION- MAKING PROCESS

The aim of the present Part is to recapitulate the main features of the institutional system and then the decision-making processes of the Euro-Mediterranean Partnership having in mind what was previously said regarding the regional organisations operating in the Baltic Sea area. At the end of the Part an overview of the various decision-making levels of the unilateral EU Mediterranean Policy will also be provided.

Section 1: The Euro-Mediterranean Institutional Dimension

1. The Foundations and Membership of the EMP

The innovation of the Euro-Mediterranean Partnership was to introduce a multilateral or regional dimension complementing and

⁷² European Commission Communication ‘European Neighbourhood Policy. Strategy Paper’, COM (2004) 373 final, Brussels, 12 May 2004, p.26.

⁷³ European Parliament Resolution on the Communication from the Commission - A Northern Dimension for the policies of the Union, A4-209/99, OJ 1999, C279/32.

⁷⁴ European Commission Communication ‘European Neighbourhood Policy. Strategy Paper’, COM (2004) 373 final, Brussels, 12 May 2004, p.21.

reinforcing the bilateral dimension (i.e the bilateral agreements) of the Euro-Mediterranean relationships.

1.1. The Barcelona Declaration: the Non-Legally-Binding Founding Act of the EMP

The 1995 Barcelona Declaration, the founding act of the Euro-Mediterranean Partnership, is only a framework political declaration. Indeed, the Declaration has no legal basis and was not even signed by the 27 participants. According to a glossary of the European Commission, the Barcelona Declaration is nevertheless the "*main policy document adopted by 15 European Union Member States, 12 Mediterranean Partners (...) and the European Commission (...). The document outlines three areas of partnership relations (and) sets out the political framework and goals which should be achieved by the implementation of activities*"⁷⁵. It must be said that, on the EU side, political legitimisation was however previously granted by the conclusions of the Corfu, Essen (1994) and Cannes (1995) European Councils where the decisions to establish the Euro-Mediterranean Partnership were adopted, together with the Draft Barcelona Declaration that was submitted for discussion to the twelve Mediterranean Partners.

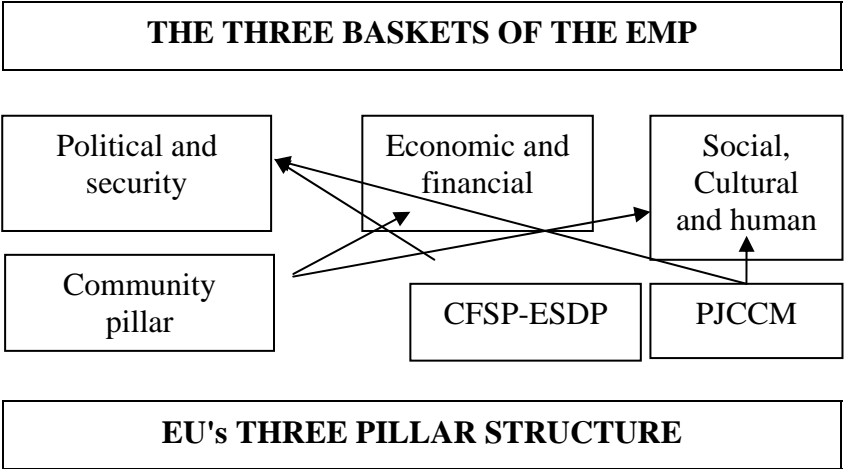
The Declaration itself is composed of three well-known baskets:

- i) Political & security partnership: establishing a common area of peace and stability;
- ii) Economic & financial partnership: creating an area of shared prosperity;
- iii) Partnership in social, cultural and human affairs: developing human resources, promoting understanding between cultures and exchanges between civil societies.

It must be stressed that the structure and the philosophy (a spirit of partnership) of the Barcelona Declaration was influenced by the 1975 Helsinki Final Act of the Conference for Security and Co-

⁷⁵ Euromed Information Note 'Euro-Mediterranean Partnership and MEDA Regional Activities', June 2002, p. 87.

operation in Europe (now the OSCE). Therefore, the three baskets of EMP do not fit into the EU's three-pillar structure.



Interrelationships between the three baskets of the EMP and the EU's three pillars are the rule. Even if the Constitutional Treaty will abolish the pillar structure established by the Maastricht Treaty, the inter-governmental co-operation system (CFSP-ESDP⁷⁶ and PJCCM⁷⁷) and the Community method (community pillar) will be maintained thus preserving a kind of "hidden pillar structure" that will continue to influence the relationships between the EU's unilateral Mediterranean Policy and the EMP.

1.2 The EMP Membership: Members and Special Guests

In Barcelona, the "Council of the European Union, represented by its President, Mr Javier Solana, Minister for Foreign Affairs of Spain" and the "European Commission, represented by Mr Manuel Marin, Vice-President" were considered as participants together with the 15 Foreign Ministers of the Member States (MS) and the 11 Foreign Ministers of the Mediterranean Partners (MP) together with Yasser Arafat, the only President that attended the Barcelona

⁷⁶ Common Foreign and Security Policy (CFSP) - European Security and Defence Policy (ESDP).

⁷⁷ Police and Judicial Co-operation in Criminal Matters (PJCCM).

conference⁷⁸. Originally there were therefore 27 (15+12) "Members of the EMP". One should stress that despite several attempts, no Euro-Mediterranean Conference at the level of Heads of State or Government has been held so far (contrary to the Council of Baltic Sea States (CBSS) for example).

The association of potential "special guests" or "observers" created, in the months preceding the Barcelona conference, some intense debates⁷⁹. Apart from the participants above mentioned, two other categories were finally introduced:

- the "special guests of the Presidency" (observers): Gulf Cooperation Countries (GCC), Arab League (AL), Mauritania;
- the "diplomatic guests of the Presidency" (tribune of ambassadors): United States, Russia and some south-eastern European countries (Albania, Slovenia...).

The "diplomatic guests of the Presidency" category was clearly created in Barcelona in order, on the one hand, to circumscribe the diplomatic problems created by the clear exclusion of the United States from the institutional picture of the Barcelona process⁸⁰ and, on the other hand, to associate potential members of the EMP (Mediterranean Partners or Member States) as well as countries

⁷⁸ See the Barcelona declaration adopted at the Euro-Mediterranean Conference - 27-28/11/95,

http://europa.eu.int/comm/external_relations/euromed/bd.htm

⁷⁹ Avis de la section des relations des relations extérieures de la politique commerciale et du développement du Comité économique et social sur le "Partenariat euroméditerranéen". Rapporteur : M. Mériano. EXT/130. 16 août 1995, 33p., rapport de la Commission des affaires étrangères, de la sécurité et de la politique de défense du Parlement européen sur "La politique méditerranéenne de l'Union européenne dans la perspective de la Conférence de Barcelone", présenté par M. Sakellariou; A4 - 0232/95 du 3 octobre 1995, p.7.

⁸⁰ It should be added that the Barcelona Declaration stressed that "*this Euro-Mediterranean initiative is not intended to replace the other activities and initiatives undertaken in the interests of the peace, stability and development of the region, but that it will contribute to their success. The participants support the realization of a just, comprehensive and lasting peace settlement in the Middle East*". A clear reference to the action of the US within the Middle East peace process.

such as Russia or Ukraine considered as being unavoidable regional partners given their direct access to the Mediterranean Sea via the Black Sea.

At the Stuttgart Euro-Mediterranean Ministerial Conference in 1999, some important modifications were therefore introduced with regard to those two categories:

- Like the Gulf Co-operation Countries, the Arab League and Mauritania; Libya and the Arab Maghreb Union (AMU) were granted the status of "special guests",
- Twenty other countries were granted the status of "diplomatic guests": Albania, Andorra Bulgaria, Croatia, Czech republic, Estonia, Holy See, Hungary, Island, Latvia, Lithuania, Monaco, Norway, Poland, Romania, Russian Federation, Slovenia, Slovakia, Switzerland, Ukraine.

Regarding the specific status of Libya it must be recalled that, at the third Euro-Mediterranean Ministerial Conference held in Stuttgart in 1999, the 27 partners declared that "Libya, which participated as guest of the Presidency, will become a full member of the Barcelona Process as soon as the UN Security Council sanctions have been lifted and Libya has accepted the whole Barcelona *acquis*". Since the Stuttgart conference, Libya has been invited to participate, as an observer, in some of the meetings of the Barcelona Process. This notion of a "Barcelona *acquis*" is indeed very important because it demonstrates that:

- i) the partners managed to turn the Mediterranean basin into an area of dialogue;
- ii) the Partnership is a lasting process;
- iii) the Barcelona Declaration, which was originally a non-legally-binding political document, has generated political pre-conditions to be met in order to become a Mediterranean Partner of the EU (there is here a clear parallelism to be made with the Copenhagen political criteria for EU membership).

One of the major accomplishments of the Euro-Mediterranean Partnership is without doubt that the political dialogue between all the parties (including countries such as Israel and Syria) has continued within the Barcelona framework even during periods of crisis in the Middle East peace process (there was however an exception during the Marseilles conference when Syria and Lebanon boycotted the meeting because of the Israeli-Palestinian situation in the context of the second intifada).

The Arab Maghreb Union was also granted the status of special guest and is developing a strategy aiming at co-ordinating the views of the Maghreb countries within the EMP. "Mediterranean Arab countries" also co-ordinate their work within the EMP notably through a kind of rotating Presidency system.

EMP Membership

Pre-accession (Barcelona)			Post-accession		
Member States	Mediterranean Partner	Special guest	Member States	Mediterranean Partner	Special guest
Austria	Algeria	Libya	Austria	Algeria	Libya
Belgium	Cyprus	AMU	Belgium	Egypt	AMU
Denmark	Egypt	Arab league	Cyprus	Israel	Arab league
Germany	Israel		Czech Rep.	Jordan	
Greece	Jordan		Denmark	Lebanon	
Finland	Lebanon		Estonia	PT	
France	PT		Germany	Morocco	
Ireland	Malta		Greece	Syria	
Italy	Morocco		Finland	Tunisia	
Luxembourg	Syria		France	Turkey	
Portugal	Tunisia		Hungary		
Spain	Turkey		Ireland		

Sweden			Italy		
Netherlands			Latvia		
UK			Lithuania		
			Luxembourg		
			Malta		
			Poland		
			Portugal		
			Slovakia		
			Slovenia		
			Spain		
			Sweden		
			Netherlands		
			UK		
Total pre-accession			Total post-accession		
15	12		25	10	
27			35		

1.3. The post-accession situation or the new Euro-Mediterranean institutional equation

Since the 1st of May 2004, the EMP institutional framework has evolved tremendously. The impact of the largest-ever enlargement of the EEC/EU has indeed a multilevel impact on the Mediterranean policy of the EU and on the Euro-Mediterranean Partnership. Before the 1st May 2004 the situation was the following: 15 Member States of the EU on the one hand, 12 Mediterranean Partners (8 Arab partners, Cyprus, Malta, Israel and Turkey) on the other hand. The new situation is as follows: 25 Member States and 10 Mediterranean Partners (8 Arab partners, Israel and Turkey). The first consequence is the passage from the "15 + 12" Barcelona equation to the new "25 + 10" one. This new balance means an increase of 8 new members of the Euro-Mediterranean Partnership, as Malta and Cyprus are only transferred from one category to another. The North/South imbalance is therefore reinforced. However it is worth mentioning that then even before the last enlargement the EMP was anyway already not balanced as the Mediterranean Partners did not manage to develop a credible and efficient regional economic integration.

Moreover, Turkey is also to be considered within the "candidate country category", thus implying that the EMP will be limited to an Euro-Arab-Israeli relationship. Another consequence of the last (and future) enlargement(s) is that new observers or diplomatic guests such as Belarus⁸¹ and Moldova⁸² or, in the southern Caucasus States Armenia, Azerbaijan, and Georgia may join the EMP through the ENP membership.

2. The EMP Multilateral Institutional Framework

Enlargement has already affected the composition and membership of the various types of conferences, fora, platforms, networks...playing a role within the framework of the three Barcelona baskets, the multilateral dimension of the EMP.

⁸¹ At present the EU does not have any formal relations with Belarus. A Partnership and Co-operation Agreement had been signed in 1995 but its implementation has been suspended due to the autocratic regime of A. Lukashenko.

⁸² The Russian Federation and Ukraine are already "diplomatic guests", see *infra*.

2.1 The Euro-Mediterranean Ministerial Conferences

Two types of Ministerial Conferences must be considered while analysing the EMP's institutional structure: the "Foreign Ministers Conferences" and the "Sectoral Ministerial Conferences".

2.1.1 *The Euro-Mediterranean Foreign Ministers Conferences*

The Foreign Ministers Conference is, according to the European Commission, the "*top steering body of the Barcelona Process*". From 1995 until August 2004 six formal Foreign Ministers Conferences (Barcelona-type) and in between the formal meetings five ad hoc, mid-term or think-tank type of Foreign Ministers Conferences were held:

Formal Foreign Ministers Conferences

- 6th Euromed Foreign Ministers Conference (Naples 2-3/12/03)
- 5th Euromed Foreign Ministers Conference (Valencia 22-23/04/02)
- 4th Euromed Foreign Ministers Conference (Marseilles, 15-16/11/00)
- 3rd Euromed Foreign Ministers Conference (Stuttgart, 15-16/04/99)
- 2nd Euromed Foreign Ministers Conference (Malta, 16/04/97)
- 1st Euromed Foreign Ministers Conference (Barcelona 28/11/95)

Mid-term, ad hoc or think-tank Foreign Ministers Conferences

- Euro-Mediterranean Mid-Term Meeting of Foreign Ministers (Dublin 5-6/05/04)
- Euro-Mediterranean Mid-Term Meeting of Foreign Ministers (Crete, 26-27/05/03)
- Euromed Foreign Ministers Conference (Brussels, 5-6/11/01)
- Euro-Mediterranean think-tank type meeting (Lisbon 25-26/05/2000)
- Euromed *ad hoc* ministerial meeting (Palermo, 4-5/06/98)

The reason for the establishment of ad hoc, think-tank and mid-term Foreign Ministers Conferences is due to the fact that the formal conferences are only taking place, on average, every 15/18 months. In-between meetings were thus necessary to maintain a

consistent follow-up of the Barcelona process but also in order to face crisis situations in a less formal way than the Formal Foreign Ministers Conferences, although at a higher level than the Senior Official Meetings (see *infra*).

2.1.2 *The Euro-Mediterranean Sectoral Ministerial Conferences*

The Euro-Mediterranean sectoral Ministerial Conferences, for their part, are essentially dealing with the second and third basket of the Barcelona process.

Sectoral Euro-Mediterranean Ministerial Conferences
Culture Bologna 22-23 April 1996; Culture (2nd) Rhodes 25-26 September 1998;
Industry Brussels 20-21 May 1996; (2nd) Klagenfurt 3-4 October 1998; (3rd) Limassol 21-22 June 2000; (4 th) Malaga 9-10 April 2002;
Information society Rome 30-31 May 1996;
Energy Trieste 7-9 June 1999;
Local water management Marseilles 25-26 November 1996; (2nd) Turin 18-19 October 1999;
Environment Helsinki 28 November 1997; (2 nd) Athens 8-10 July 2002;
Health Montpellier 3 December 1999;
Trade Brussels 29 May 2001; (2 nd) Toledo 19 March 2002.

Source: Euromed Information Note Euro-Mediterranean Partnership and MEDA Regional Activities, June 2002.

It is interesting to note that the industrial, cultural and local water management sectoral conferences were launched during the year following the adoption of the Barcelona Declaration whereas the first trade conference was only held in 2001. Since 2002 new sectoral conferences have taken place and it seems that this process will not end in the near future.

2.2. The Euro-Mediterranean Senior Officials Committee

The senior officials of the 35 partners conduct a political and security dialogue (first Barcelona basket) within the framework of regular meetings. It must be underlined that the Senior Officials Committee was designed to create a less formal Committee than the "Euro-Mediterranean Committee" in order to work on the elaboration of the Euro-Mediterranean Charter on Peace and Stability and to approve the "partnership-building measures" (*see infra*), even if, in practice, the same representatives of the Member States and of the MP may attend both meetings.

To give a concrete example, a Senior Officials meeting was held on 14 July 2004 in Brussels. The meeting started with a "*presentation by the new Dutch Presidency of its priorities as regards these issues*". Senior Officials then had "*exchange of views on the working methods*" of the EMP. In addition, the "*follow-up to recently held meetings were discussed (the informal working group meetings on Partnership Building Measures and the European Neighbourhood Policy, and the Workshop on the rights of the child)*"⁸³. This kind of meeting is of great importance in terms of confidence building. The participating Mediterranean partners are informed and can express their (sometimes contradictory) views and perceptions on the political and security issues. Although attended by diplomats or high-level civil servants, such gatherings might be not diplomatic at all in case of a difficult political context and intense debates may take place between for example Israeli and Palestinian representatives or Cypriots and Turkish representatives. That is the very reason why those issues are tackled in these informal gatherings rather than in the Euro-Mediterranean Committee of the Barcelona Process. To evaluate the output of those meetings with classic evaluation tools is however a difficult task. What is clear is that maintaining, since 1995, a dialogue on such issues between partners that are sometimes technically in a state of war is indeed the great success and a real Barcelona *acquis*. Moreover, joint meetings are also held between the Senior Officials Committee and the Euromesco network for example (*see infra*)

⁸³ Euromed Synopsis, Issue 278, 8 July 2004.

thus introducing a dialogue between some representatives of civil society and the Senior Officials. Usually, a Senior Officials Meeting precedes the Euromed Committee, as was the case for the meeting held on the 27-28 September 2004 in Brussels⁸⁴.

2.3. The Euro-Mediterranean sectoral working groups and expert committees

Several sectoral working groups and numerous expert committees of very different nature have been created over the years in the framework of the Barcelona process. There are for example working groups on rules of origin⁸⁵, on foreign direct investment, on industrial co-operation⁸⁶, on regional integration⁸⁷, on air transport, maritime transport⁸⁸, the GNSS (Global Navigation Satellite Systems) working group⁸⁹, the Network & Infrastructure working group⁹⁰.

There are also informal working group meetings such as the one on Partnership Building Measures (see *supra*). This proliferation

⁸⁴ Euromed Calendar, September 2004.

⁸⁵ Euromed Special feature Issue 22, 7 June 2001, 'The first Euro-Mediterranean Ministerial meeting on trade', p. 2, http://europa.eu.int/comm/external_relations/euromed/publication/special_feature22_en.pdf.

⁸⁶ See the conclusions of the fourth Euro-Mediterranean Conference of Ministers for Industry Malaga, 10 April 2002, 7800/02 (Presse 92).

⁸⁷ See the Presidency conclusions of the Palermo Euro-Mediterranean mid-term meeting of Foreign Ministers, Crete, 26 and 27 May 2003, point 29. See also European Commission: 'Implementation of the Palermo Action Plan on the free movement of industrial products EuroMed Quality Programme', Brussels, 17 June 2004, <http://www.cenorm.be/cenorm/news/events/fabregas1.pdf>.

⁸⁸ See the Presidency conclusions of the Palermo Euro-Mediterranean mid-term meeting of foreign Ministers, Crete, 26 and 27 May 2003, point 30.

⁸⁹ See Euromed Synopsis 181 and 'Euromed Working Group on Global Navigation Satellite Systems (GNSS)', Third meeting, Brussels, 7 July 2003, Official Report, available at: http://www.euromedtransport.org/downloads/wg2/pdf/wg2_official_report_eng.pdf.

⁹⁰ The meetings are generally co-chaired by the European Commission and the European Investment Bank. See Euromed synopsis Issue 182 16 May 2002, p. 2.

demonstrates the clear development of new institutions and bodies at all levels of the EMP.

2.4 The Euro-Mediterranean Partnership-Building Measures

Within the Political and Security Partnership, four "Partnership-Building Measures" (to be assimilated to the traditional "Confidence Building Measures") have been approved by the Senior Official Committee:

- The Euromesco network (foreign policy institute network);
- The Euro-Mediterranean Diplomats seminars⁹¹;
- The Co-operation among civil protection authorities on natural and man-made disasters;
- The Register of bilateral agreements;
- The Exchange of information on signature/ratification of international conventions.

New proposals are on the table notably in the field of civil protection⁹² but the main issue remains the adoption of the expected Euro-Mediterranean security charter that will, without doubt, generate important institutional consequences.

2.5. The Euro-Mediterranean Parliamentary Assembly and Fora

The Barcelona Declaration in a section V devoted to "Institutional contacts" invited the European Parliament to "*take the initiative with other parliaments concerning the future Euro-Mediterranean Parliamentary Dialogue, which could enable the elected representatives of the partners to exchange ideas on a wide range of issues*".

⁹¹ The XVIIth Seminar on Training of Euromed Diplomats, will be held on 3-6 December 2004 in Malta at the Mediterranean Academy of Diplomatic Studies, <http://www.euromed-seminars.org.mt>.

⁹² See Pedro Courela 'Civil Protection as a Euro-Mediterranean Project: the Case for Practical Co-operation', Euromesco Paper 34, August 2004, http://www.euromesco.net/euromesco/publi_artigo.asp?cod_artigo=106179.

The institutionalisation of the Euro-Mediterranean Parliamentary Assembly was however a very long process. A first report produced by the Foreign Affairs Standing Committee of the European Parliament was published in January 1997⁹³ reaffirming the role to be played by the EP in order to promote inter-parliamentary co-operation in the Mediterranean. A joint Euro-Mediterranean meeting that approved the creation of a Euro-Mediterranean Parliamentary Forum followed this first report.

The first parliamentary forum was held at the European Parliament in October 1998. Lebanon and Syria did not send delegations but were represented at diplomatic level. According to the Malta preparatory meeting of May 1998 it was decided to invite for this first constitutive forum *"43 Members of the European Parliament, 6 representatives, or more, for each of the 12 parliaments of the Mediterranean partners, 2 parliamentarians or more originating from a Member State of the EU"*. Libya, the Arab Inter-Parliamentary Union (AIPU) and the Parliamentary Association for Euro-Arab Co-operation (PAEAC) also participated as observers. Today the membership situation after the last enlargement is of course very different⁹⁴.

Five parliamentary fora have been held between 1998 and 2003:

Euro-Mediterranean Parliamentary Fora

Fifth parliamentary forum, Naples, 01/12/03

Fourth parliamentary forum, Bari, 17/06/03

Third extraordinary parliamentary forum, Brussels, 08/11/2001

Second parliamentary forum, Brussels, 08-09/02/2001

First parliamentary forum, Brussels 27-/10/98

⁹³ Report of the EP Committee on Foreign Affairs, Security and Defence, 29/01/1997, A4-0027/97, 7987/96 - C4-0414/96.

⁹⁴ See Vème Forum Parlementaire Euro-Méditerranéen, Naples, 2 décembre 2003, Liste des participants, <http://www.europarl.eu.int/meetdocs/delegations/NONE/20031201/Liste-participants%201%2012%2003.pdf>.

The sixth meeting was in fact the first Euro-Mediterranean Parliamentary Assembly (EMPA) inaugural session, held on 22 and 23 March in Athens. According to Euromed synopsis the EMPA adopted at this occasion its *"rules of procedure, elected its officers, and issued a formal declaration. The Assembly was attended by representatives of the European Parliament (EP), the Parliaments of most EU Member States, and all Mediterranean Partners, with observers from some acceding countries, as well as Libya, Mauritania, Romania and some Western Balkans countries. Those elected to the Bureau of Presidents were EP President Pat Cox, Speaker of the Egyptian Parliament Fathi Sorour, the President of the Tunisian Chamber of Deputies Fouad Mbazaa, and the Speaker of the Greek Parliament Anna Benaki. They will preside the Assembly for a period of one year each in the following order: Egypt, EP, Tunisia, and Greece. Officers were also elected to the three Assembly Committees"*⁹⁵.

In the final declaration adopted on this historic occasion, the participants expressed the hope that the *"governments of the EU Member States will realise that the foundations of a global and lasting partnership cannot be laid without concessions on both sides"* and stressed that the *"greater economic vulnerability does not lie on the European side and that the European partners should therefore adopt a more open approach towards trade, which is of major development importance for most of the Mediterranean peoples"*⁹⁶. In response, the Euro-Mediterranean Foreign Ministers Conference of Naples adopted the following statement: *"the Ministers welcomed the creation of a Euro-Mediterranean Parliamentary Assembly and agreed to include this new body, in a consultative capacity, in the framework of the Barcelona Process. They expressed their conviction that this step will provide the Process with further visibility and transparency, thereby bringing the*

⁹⁵ Euromed Synopsis, Issue 265, 25 March 2004, available at: <http://www.delsyr.cec.eu.int/en/euromed/Euromed%20Synopsis/Euromed%20Synopsis%20265%20EN.doc>.

⁹⁶ First Euro-Mediterranean Parliamentary Forum, Final Declaration, Brussels, point 8, 10/98, available at: <http://www.medea.be/index.html?page=&lang=&doc=282&PHPSESSID=ef4ecb08e0f7ba1238c5337c7029f93a>.

Partnership itself closer to the interests and expectations of public opinions in the region. In this context, the Ministers stressed that the Assembly will add to the depth of the Barcelona Process, ensuring complementarity with the existing institutions of the Partnership."⁹⁷

The expected output of the Euro-Mediterranean Parliamentary Assembly is, first of all, to establish a real Euro-Mediterranean inter-parliamentary dialogue and, second, to work as the "consultative and elected body of the EMP". The goals are ambitious. The first declarations and resolution (on migration) adopted by the parliamentary fora demonstrated that this Assembly might also become an important forum for new ideas and proposals and a good catalyst for improving the local ownership dimension of the process.

2.6 The Euromed Civil Fora and Networks

In the Barcelona Declaration the 27 partners recognised the "*essential contribution civil society can make in the process of development of the Euro-Mediterranean partnership and as an essential factor for greater understanding and closeness between peoples*". We will neither repeat the history of the Euromed Civil forum⁹⁸, the Trade Union forum, the Euro-Mediterranean Youth Platform or the Euromed Summit of Economic and Social Councils and similar institutions nor establish an exhaustive list of the numerous networks operating within or outside the Barcelona process.

It is however important to note that most of the networks listed in the table were given a legitimisation by the Euro-Mediterranean

⁹⁷ Euro-Mediterranean Foreign Ministers Conference of Naples, Naples, 2-3 December 2003, Presidency conclusions, point 30.

⁹⁸ See E. Lannon 'Parlements et société civile dans la sécurité euro-méditerranéenne', Euromesco Paper 19, November 2002, available at: http://www.euromesco.net/euromesco/publi_artigo.asp?cod_artigo=85860 and U. Julia Reinhardt 'Civil Society Co-operation in the Euro-Mediterranean Partnership: From Declarations to Practice', Euromesco Paper 15, May 2002, http://www.euromesco.net/euromesco/publi_artigo.asp?cod_artigo=76813.

Foreign Ministerial Conferences and a "Euromed label" has emerged.⁹⁹ As arenas of dialogue and proposals, all of these initiatives have contributed to the emergence of a Euro-Mediterranean civil society. Of course the degree of institutionalisation varies from one forum or network to another and numerous *ad-hoc* platforms have also been created during the last nine years. There is also sometimes competition between the various initiatives and more consistency is obviously needed. One of the aims of the creation of the new Anna Lindh Euro-Mediterranean Foundation for Dialogue between Cultures is precisely to build a network of the networks working in the framework of the third basket of the Barcelona process. It remains to be seen how effective such a network of the networks will be. In fact, independent NGOs or NGO platforms and networks such as the Euro-Mediterranean Human Rights Network (EMHRN), which have developed a proper lobby strategy *vis à vis* the EU's institutions and Member State governments, will certainly try to preserve their "non-governmental" and independent character.

Section 2: Decision - making within the framework of the EU's Mediterranean policy and the EMP

Decision-making within the framework of the EU's Mediterranean policy and the EMP must be analysed at three different levels: the bilateral, the multilateral and then finally the unilateral level.

1. The bilateral dimension: Decision-Making process within the Euro-Mediterranean Association Agreements

The new generation of Euro-Mediterranean Association Agreements (EMAAs) are an essential element of the implementation of the Euro-Mediterranean Partnership as this bilateral track is considered as being complementary to the multilateral one (the Barcelona process).

⁹⁹ See Euromed Report 80, 25 June 2004, p.15.

1.1 *The network of bilateral Euro-Mediterranean Agreements*

Today three different types of agreements compose the network of bilateral Euro-Mediterranean relationships:

- i) first of all the old Association Agreement concluded with Turkey (this candidate country is however included within the pre-accession strategy);
- ii) 8 new Euro-Mediterranean Association Agreements having the objective of establishing a FTA with Morocco, Algeria and Tunisia for the Maghreb and Egypt, Jordan and Lebanon for the Mashreq and finally with Israel (while negotiations with Syria are still under way);
- iii) the very specific "Euro-Mediterranean Interim Association Agreement on Trade and Co-operation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part". This agreement is not a mixed agreement; therefore no national ratifications were required for its implementation.

The provisions of the EMAAs vary from one Mediterranean Partner to the other but are based on a similar model with common objectives. To take the Euro-Tunisian agreement as an example, Article 1 states that "*The aims of this Agreement are to:*

- *provide an appropriate framework for political dialogue between the Parties, allowing the development of close relations in all areas they consider relevant to such dialogue*¹⁰⁰,
- *establish the conditions for the gradual liberalisation of trade in goods, services and capital,*

¹⁰⁰ One should note alongside the political dialogue the introduction of a Political conditionality within the new agreements. Article 2 of the Euro-Tunisian Agreement states that "*Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles which guide their domestic and international policies and constitute an essential element of the Agreement*".

- *promote trade and the expansion of harmonious economic and social relations between the Parties, notably through dialogue and co-operation, so as to foster the development and prosperity of Tunisia and its people,*
- *encourage integration of the Maghreb countries by promoting trade and co-operation between Tunisia and other countries of the region,*
- *promote economic, social, cultural and financial co-operation".*

What is important regarding the aims of the present study is to take into account the institutions established by this new generation of Euro-Mediterranean bilateral agreements.

1.2 The main EMEA's institutions and bodies: Association Councils, Committees and Sub-committees.

We will take the title VIII of the agreement concluded with Morocco ¹⁰¹ and devoted to the "Institutional, general and final provisions" as an illustration of the following comments on the institutions and bodies of the EMEA's: the Association Councils and the Committees and Sub-committees.

1.2.1 The Association Councils (Ministerial level)

An Association Council (AC) is established at ministerial level by every EMEA in order to examine "*any major issues arising*" within the framework of the Agreement and "*any other bilateral or international issues of mutual interest*" (Art. 78). The Association Council usually meets once a year to examine the implementation of the EMEA or "*when circumstances require, on the initiative of its Chairman*" (Art. 78). The Association Council is chaired in turn by a member of the Council of the European Union and a member of the partners (Art. 79 § 4).

¹⁰¹ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part OJ L 70, 18/03/2000, pp 2 - 204.

The Association Council consists of the members of the Council of the EU and members of the Commission of the European Communities, on the one hand, and of members of the Government of the partner on the other (Art. 79 § 1). What is really important for the purpose of this study is that the Association Council has, in order to attain the objectives of the Agreement, "*the power to take decisions in the cases provided for therein*". Therefore, the decisions taken are "*binding on the Parties, which shall take the measures necessary to implement the decisions taken*". This decision-making power is also accompanied by a "recommendation" power (Art. 80).

In sum the Association Council plays a key role within:

- the political dialogue (Art.5)¹⁰²;
- the implementation of the agreement (decisions adopted to amend the agreement...);
- the creation of working group or body for the implementation of the Agreement (Art. 84);
- the framework of the dispute settlement mechanism (Art. 86)¹⁰³.

¹⁰² Art. 5 " of the Moroccan EMAA : "*Political dialogue shall be established at regular intervals and whenever necessary notably: (a) at ministerial level, principally within the Association Council.*

¹⁰³ Art 86 of the EMAA concluded with Morocco : "*1. Either Party may refer to the Association Council any dispute relating to the application or interpretation of this Agreement.*

2. The Association Council may settle the dispute by means of a decision.

3. Each Party shall be bound to take the measures involved in carrying out the decision referred to in paragraph 2.

4. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

The Association Council shall appoint a third arbitrator. The arbitrators' decisions shall be taken by majority vote. Each party to the dispute shall take the steps required to implement the decision of the arbitrators".

1.2.2 *The Association Committees (Senior Official level)*

Bilateral Association Committees are established under the umbrella of the Association Councils by the EMAA's with responsibilities for the technical implementation of the agreement. The Association Committee meets at the level of Senior Officials (representatives of members of the Council of the European Union and of members of the Commission of the European Communities, on the one hand, and of representatives of the partner Governments on the other (Art. 82 § 1).

Association Committees are clearly "*subject to the powers*" of the Association Council (Art. 81 § 1) but the Association Council may "*delegate to the Association Committee, in full or in part, any of its powers*" (Art. 81 § 2). The Association Committee may notably have the power to take decisions for the "*management of the Agreement as well as in those areas in which the Council has delegated its powers to it*" (Art. 83). This decision-making power is however in practice mainly limited to day to day management.

1.2.3 *The Association Sub-committees*

Sub-committees have been established over the years with several partners. As, an example among others, "Justice and Security" committees have been created with Morocco, Tunisia, Jordan and Israel. In the case of Morocco this sub-committee n° 6 is composed of representatives of both sides and works under the guidance of the Association Committee.¹⁰⁴ It has a right of proposal *vis à vis* the Association Committee regarding: drug trafficking, judicial co-operation in civil and criminal matters, organised crime, and terrorism.

The institutionalisation of such sub-committees can reinforce the architecture of the bilateral component of the EMP.

¹⁰⁴ Decision 2003/208/CE of the Association Council EU - Morocco.

2. The multilateral dimension

2.1. *The Barcelona process*

The regional programmes, which account for approximately 14 per cent of the MEDA funds disbursements, cover a wide range of issues mainly relating to the second and third chapter of the Barcelona Declaration (see the list of sectoral ministerial meetings *infra*).

2.1.1 *The Euro-Mediterranean Committee for the Barcelona process (Euro-Mediterranean Committee)*

The Euro-Mediterranean Committee for the Barcelona Process follows the multilateral (regional) aspects of the EMP. It was established in 1995 by the Barcelona Declaration according to which: "*a Euro-Mediterranean Committee for the Barcelona process at senior-official level, consisting of the European Union troika and one representative of each Mediterranean partner, will hold regular meetings to prepare the meeting of the Ministers for Foreign Affairs, take stock of and evaluate the follow-up to the Barcelona process and all its components and update the work programme*"¹⁰⁵. Since 1997, Member States not represented at ambassadorial level in the troika have been invited, as observers, to join the Euro-Mediterranean Committee meetings in order to improve continuity of the work carried out and to preserve the so-called Barcelona *acquis* but also to avoid the risk of having a non-Mediterranean troika.

The Barcelona Declaration also clearly emphasised the role to be played by the Commission as "*appropriate preparatory and follow-up work for the meetings resulting from the Barcelona work programme and from the conclusions of the "Euro-Mediterranean Committee for the Barcelona process" will be undertaken by the Commission departments*". In other words, there is no proper permanent secretariat of the EMP such as in the CBSS as these tasks are under the Commission's responsibility.

¹⁰⁵ Barcelona Declaration, "Follow-up to the conference".

The Euro-Mediterranean Committee for the Barcelona Process meets usually every three months, to ensure overall guidance of the regional co-operation. The Commission also stressed that the Euro-Mediterranean Committee *"acts as an overall steering committee for the process with the right to agree on guidelines for activities to be financed in accordance with the MEDA Regional Indicative Programme; it also prepares for ministerial meetings, ad hoc conferences of ministers of various portfolios, and of senior officials, experts and representatives of civil society"*¹⁰⁶. To give a concrete example, the main points of the draft programme of the meeting of 15 July 2004 were the following:

- presentation of the priorities of the EU' s Dutch Presidency for the economic and financial, and social, cultural and human chapters of the Barcelona Process;
- the newly created Anna Lindh Euro-Mediterranean Foundation for Dialogue between Cultures will then be discussed, particularly the nomination of the Executive Director and the Advisory Committee, the drafting of the Foundation's Statute, and the establishment of the network of national networks, which is at an advanced stage of preparation;
- the European Commission will inform the Committee of preparations for the Euro-Mediterranean Ministerial Meetings on Trade and Industry scheduled to take place on 21 July in Istanbul, and on 4 October in Caserta, Italy respectively¹⁰⁷.

¹⁰⁶ Euromed Information notes, 'Euro-Mediterranean Partnership and MEDA Regional Activities', Brussels, June 2002, p. 92.

¹⁰⁷ Euromed synopsis, issue 278, 8 July 2004.

3. The unilateral dimension

3.1. The legal architecture of the Euro-Mediterranean co-operation

The legal architecture of the Euro-Mediterranean co-operation is based on six main political and legal instruments:

- i) the Barcelona Declaration and its work programme defining the general objectives of the regional and bilateral co-operation;
- ii) the provisions of the Euro-Mediterranean Association Agreements defining the bilateral contractual framework of the co-operation;
- iii) the MEDA I programme based on a regulation adopted by the Council of the EU in 1996 (regulation n° 1488/96¹⁰⁸) and the MEDA II programme based on a second regulation adopted by the Council in 2000 (regulation n° 2698/2000¹⁰⁹);
- iv) Country and Regional Strategy Papers: defining long term operational objectives;

¹⁰⁸ Council Regulation (EC) 1488/96 of 23 July 1996 on "financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership" OJ L 189, 30/07/1996, pp 1 - 9 as amended by Proposal for a Council Regulation (EC) amending Council Regulation (EC) 1488/96 (MEDA) as regards the procedure for adopting the appropriate measures where an essential element for the continuation of support measures for a Mediterranean Partner is lacking, OJ C 386 , 20/12/1997, p. 9.

¹⁰⁹ Council Regulation (EC) 2698/2000 of 27 November 2000 amending Regulation (EC) No 1488/96 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership, OJ L 311, 12/12/2000, pp. 1 - 8. See also for the Codified version the Proposal for a Council Regulation on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership COM (2004)77 final, 10/02/2004.

- v) National Indicative Programmes (NIPs) elaborated within the framework of a dialogue with the Mediterranean partner¹¹⁰;
- vi) Regional Indicative Programmes (RIPs) covering the multilateral activities of the EMP.

Even if the Mediterranean partners are, since the development of new instruments (such as the NIPs, RIPs...), more and more associated to the definition of the priorities and orientations of the co-operation and play an important role within the Euro-Mediterranean Committee (regional level) and in the Association Committees of the EMAAs (bilateral level) it must be stressed that, under the unilateral MEDA regulation, the power to decide whether to finance a project remains in the hands of the EU.

3.2. *The MEDA Programme: an autonomous EC instrument based on regulations adopted by the Council of Ministers*

MEDA is the main financial instrument of the EU for the implementation of the Euro-Mediterranean Partnership¹¹¹. It is a so-called autonomous EC measure as the whole programme is legally based on an "implementing financial regulation" adopted by the Council of the EU, contrary to the former financial protocols which were contractual agreements annexed to the former bilateral agreements and ratified by both parties.

The European Council of Cannes in June 1995 earmarked the global sum of 4,68 billion Euro as a reference amount for the EC financial support to the Mediterranean region as a whole for the period 1995-1999. The first legal basis of the MEDA I programme was the 1996 MEDA Regulation (Council Regulation no1488/96)

¹¹⁰ See Council Decision 96/706/EC of 6 December 1996 concerning the "adoption of the guidelines for the indicative programmes concerning financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean partnership (MEDA)", OJ L 325, 14/12/1996, pp. 20 - 26.

¹¹¹ The acronym MEDA means "financial and technical measures to accompany the reform of social and economic structures in the Mediterranean non-member countries".

for the period of 1996-2000 (in other words a first five-year programme). For MEDA I € 3.435 million was earmarked (i.e. more than 70 % of the global sum of 4,68 billion).

On November 2000 a new improved regulation (Nr.2698/2000) establishing the MEDA II programme for the period of 2000-2006 was adopted (this time MEDA II is a seven-year programme). The funding of the new programme amounts to €5,35 billion. The three main priorities of the MEDA programme are the following:

- economic transition,
- sustainable economic and social development;
- and regional and cross-border co-operation.

Over the period 1995-1999, MEDA-committed funds went to four main types of operations:

1. Support to structural adjustment (16%);
2. Support to economic transition and private sector development (30%);
3. Classical development projects (40%);
4. Regional projects (14%).

Note that 86 % of the funds are of bilateral nature.

Regarding the partners eligible for MEDA funding, it must be said that nine out of the twelve former Mediterranean Partners (i.e. before enlargement) were eligible for bilateral MEDA funds as set out in the National Indicative Programmes (NIPs): Algeria, Egypt, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia. Israel is not eligible to bilateral funding because of its level of development. Cyprus, Malta and Turkey benefited from a pre-accession strategy to prepare them for EU membership with separate funding arrangements but they were authorised, together with Israel, to participate in the regional co-operation programmes. After the last enlargement Turkey is the only Mediterranean partner in this in-between situation.

3.3. The "Med Committee" and the "Article 14 Committee"

Within the framework of the MEDA I regulation two Committees (The "Med Committee" and the "Article 14 Committee") were introduced by the Council in order to monitor the work of the Commission. This system known as comitology was established in 1987 and revised in 1999¹¹².

The first thing to emphasise is that the "Med Committee" is competent in regard to pure EC budget funds whereas the "Article 14 Committee" is competent to adopt decisions regarding the EIB's own resources.

3.3.1 The metamorphosis of the Med Committee

The MED Committee established by article 11 of the MEDA regulation gives its opinion on the "*Regional and National Financing Plans and on the National Indicative Programmes (NIPs) and Regional Indicative Programmes (RIP), as well as on the country and regional strategy papers. It also gives its opinion on individual projects if they are not included in the Financing Plans. Furthermore, the MED Committee approves projects financed under other EU budget lines for the Mediterranean region (e.g. peace process support programme, rehabilitation etc.)*"¹¹³. To give a concrete example the main points of the draft programme of the MED Committee meeting to be held on 14 July 2004 in Brussels were the following:

- "Opinions are expected to be given on the Strategy Paper and Indicative Programme under the New Neighbourhood Programme as regards Mediterranean Partners (2004-2006),

¹¹² The first Framework Decision establishing the rules and procedures to be followed was adopted by the Council in 1987 (Decision 87/373, OJ L 197, 13/07/1987, p. 33: The 1987 Decision was replaced in 1999 by Decision 99/468, OJ L 184, p. 23. This Decision streamlined the comitology structure by reducing the types of committee to three: advisory committees, management committees, and regulatory committees.

¹¹³ Euromed Information notes, 'Euro-Mediterranean Partnership and MEDA Regional Activities', Brussels, June 2002, p. 93.

- the National Financing Plan 2004 for Morocco, and the Regional Financing Plan 2004 (Part II).
- the Regional Plan comprises the MED-ENEC Programme on Energy efficiency in the construction sector in the Mediterranean, and the 'Neighbourhood Programme' aimed at speeding up electricity and gas reforms in Mediterranean Partners.

In addition, the Committee will be informed of the state of play of the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) by a European Investment Bank (EIB) representative"¹¹⁴.

The evaluation of the EMP made by the 27 at the Marseilles Euro-Mediterranean Foreign Ministers Conference in December 2000 was not very positive. In fact, regarding the MEDA programme, the Ministers "*regretted the complexity of procedures in the European Union as well as in partner countries and the slowness of disbursement of payments*". The European Commission also recognised the importance of the issue at stake: "*although the MEDA programme has a good record on commitments, disbursements have only reached 26% of the amount committed. Although it is natural that, in the early years of a programme, disbursement should be slow there is a clear need to improve the performance of the programme, both in the EU and in the partner countries*"¹¹⁵.

Originally, the Med committee was a "regulatory committee". In other words, it is the less flexible committee of the three main types of committee (regulatory/management/advisory) provided for in the comitology regulation. Given the strict rules of this type of Committee, the Member States decided to modify this situation within the framework of the MEDA II regulation by replacing this "Regulatory Committee" by a "Management Committee". The

¹¹⁴ Euromed synopsis, Issue 278, 8 July 2004.

¹¹⁵ Communication from the Commission to the Council and the European Parliament to prepare the fourth meeting of Euro-Mediterranean Foreign Ministers "reinvigorating the Barcelona process", COM(2000) 497 final, Brussels, 6 September 2000.

main idea was therefore to rationalise the decision-making process, to shorten the delays while at the same time increasing management capabilities in accordance with the new 1999 comitology regulation. The main problem was that under the regulatory procedure the Med Committee had to intervene twice within the project cycle: first of all, at the level of the examination of the indicative programmes, and then at individual project level (financial proposals amounting more than 2 Euro millions or for the so-called "global allocations" i.e. packages of small or micro-projects).

Regulatory Committee (MEDA I)	Management Committee (MEDA II)
i) a regulatory committee is generally composed of a higher grade of civil servant than a management committee. ii) the Council has most power as the Commission has to secure the support of a qualified majority of Member States	i) Member States are usually represented by civil servants, who deliver an opinion on the Commission's draft within an agreed time limit. ii) a management committee has the power to block the Commission's proposal by a qualified majority vote.

The Member States' powers have thus been, legally speaking (see *infra*), reduced while those of the Commission have been increased. It must be noticed that the European Parliament only plays a more significant role at the level of an advisory Committee and therefore originally proposed the establishment of the latter within the MEDA II regulation. The Member States did not follow the proposals made by the European Parliament and even adopted a kind of gentlemen's agreement in order to preserve what has been called a "*droit d'évocation*" by the Member States in case of sensitive subject-matters¹¹⁶ (meaning in other words an implicit right to block the adoption of the decision).

¹¹⁶ See General Affairs Council 2286, Brussels, 18 September 2000, p.5.

3.3.2 *The 'Article 14 Committee: the role of the European Investment Bank*

The "Article 14 Committee" consisting of the "*representatives of the Member States*", is set up at the European Investment Bank (EIB) and chaired by the representative of the Member State holding the chair of the Board of Governors of the EIB. Its secretariat is provided by the EIB and a representative of the Commission is taking part in its proceedings (Art. 14 §1).

It was necessary to introduce this specific Bank Committee as the EIB finances, through its own resources, important projects in the Mediterranean (mainly infrastructures and environmental projects via EIB subsidised loans) or through risk-capital facilities.

4. The EU's Mediterranean policy decision-making processes

The second component of the unilateral dimension of the decision-making process is the EU's Mediterranean policy, which must be distinguished from the EMP as such. It must however be stressed that the EU's Mediterranean policy has a fundamental impact on the EMP.

All of the European institutions are involved in the decision-making process of the EU's Mediterranean policy, although the role and powers differ considerably from one pillar to another. In the first pillar the community method applies, for example in the case of the Common Agricultural Policy (CAP), for the Common Commercial Policy (CCP) or regarding title IV devoted to "Visas, asylum and immigration". Within this pillar the European Commission and the European Parliament can play a very important role in the decision-making process and as a general rule qualified majority applies and decisions are subject to judicial control.

Within the second pillar, an intergovernmental method of co-operation is used for the CFSP and the ESDP. The same method applies to the third pillar: Police and Judicial Co-operation in

Criminal Matters (PJCCM). Here the European Council, the Council of Ministers, the COREPER, the High Representative for the CFSP and the numerous committees and working groups of the Council of Ministers play the major roles while the powers of the European Commission and the European Parliament are much more limited.

Interaction between the pillars is also possible. A good example of this situation is the sanctions adopted against Libya. After the adoption of various CFSP declarations condemning Libya for its involvement in the UTA and Lockerbie affairs, CFSP Common Positions were adopted to legalise the sanctions. But then, for the implementation of those sanctions, community instruments (regulations) were needed to manage the sanctions at the level of the Internal Market.

Apart from its involvement within the decision-making process (Co-decision, Assent, Co-operation and Consultation procedures) the European Parliament can also influence the evolution of the EU's Mediterranean policy through its supervisory powers¹¹⁷. The right to adopt a motion of censure (in case of fraud or mismanagement) on the Commission, the right of the MEPs to

¹¹⁷ Note also that "*the recently elected European Parliament (EP) on 14 September adopted a decision on the numerical strength of the interparliamentary delegations. In addition, Parliament on 15 September adopted a decision on the membership of the various EP delegations, including the 45-strong Delegation to the Euro-Mediterranean Parliamentary Assembly. The Delegation for relations with the Mashrak countries, the Delegation for relations with the Maghreb countries and the Arab Maghreb Union (including Libya), the Delegation for relations with Israel, and the Delegation for relations with the Palestinian Legislative Council will each have 20 full members as against 19, 23, 18 and 18 members respectively in the former Parliament. The Delegation to the EU-Turkey Joint Parliamentary Committee will comprise 25 full members. The Delegation to the Euro-Mediterranean Parliamentary Assembly held its constituent meeting on 15 September in Strasbourg. The Delegation to the EU-Turkey Joint Parliamentary Committee will hold its constituent meeting on 22 September in Brussels. All other delegations for relations with the Mediterranean region will hold theirs on 20 September in Brussels*", Euromed synopsis 283, 16 September 2004, http://europa.eu.int/comm/external_relations/euromed/synopsis/synopsis283_en.pdf.

address written and oral questions on any Euro-Mediterranean issues or the possibility to set up a committee of enquiry are useful tools in this regard.

Last but not least, the budgetary powers of the EP (shared with the Council) allow the European Parliament to adopt the annual budget, to monitor the way the budget is spent (through the "Parliament's Budgetary Control committee) and to grant the Commission a 'discharge' for the implementation of the budget.

Other institutions such as the Court of Justice (notably through its jurisprudence on Mediterranean workers) or the Court of Auditors (through its annual and specific Mediterranean reports) have played a very important role especially in the case of the "Med networks affairs" (Med-Urbs, Med-Campus...) that led to the resignation of the Santer Commission. The consultative bodies: the Economic and Social Committee (ECOSOC) and the Committee of the Regions (CoR) have also developed Mediterranean activities and adopted numerous reports on Euro-Mediterranean Affairs.

There is obviously today a new Euro-Mediterranean strategic equation. Among the ten new Member States three (Cyprus, Malta, Slovenia) have a Mediterranean identity and therefore a Mediterranean dimension. In other words, they have an important potential role to play within the framework of the Mediterranean Policy of the EU and within the EMP, notably at the level of the various decision-making frameworks above analysed.

A clear example of this new equation is the decision to be adopted (at the time of writing) by the European Council with regard to the start of the accession negotiations with Turkey. As a pure intergovernmental decision it will require unanimity of the 25 Member States, i.e. including Cyprus. As Greece seems to be clearly in favour of a yes vote it will be interesting to observe the behind the stage consultations that will certainly occur. Decision-making is not a simple arithmetical issue. Political priorities and

strategic interests must always, on a case by case basis, be taken into account.

PART III: LESSONS TO BE DRAWN FOR THE ENP AND GENERAL CONCLUSIONS

1. The EMP and regional co-operation in the Baltic Sea region

A comparison of the regional co-operation initiatives in the Baltic Sea region and the EMP reveals a number of interesting similarities but also many differences. Parallels include, for instance, the emergence of Euro-Mediterranean or Northern Dimension ‘labels’ or the active participation of civil society. Both policies also tackle cross-pillar problems and organise Foreign Ministers’ conferences, which lay down the general work programmes and political guidelines.

The Northern Dimension, however, is less centralised and only provides for a general policy framework. There is no autonomous Northern Dimension financial instrument, such as MEDA for the EMP. Moreover, it is - at least in theory-based on a multilevel governance model with a transfer of responsibilities to regional organisations and non-Member States. In practice, however, the European institutions play the most important role if they are full members of the regional initiative.

Whereas it can be argued that the EMP is much more institutionalised than the Northern Dimension, it is less institutionalised than the CBSS. For instance, the EMP does not provide for Heads of Government meetings and does not have a proper permanent secretariat. This observation might be related to the tensions in the Mediterranean region. Security issues are tackled within more informal structures. Further institutionalisation in the future is, however, not excluded, as the original Terms of Reference of the CBSS did not foresee the creation of permanent structures either.

The question is, of course, whether a further institutionalisation of the EMP is a good idea. The involvement of the highest political leaders can increase the importance of the Euro-Mediterranean dialogue, as is illustrated by the EU-Russia summits. On the other hand, sensitive security issues are better dealt with in the more informal Committees of Senior Officials because they risk to becoming over-politicised in a more institutionalised framework. In this regard, the question arises as to what extent the new European Neighbourhood Policy will contribute to the existing institutional arrangements.

2. The ENP in the framework of the ND/EMP experiences

The ENP is still in a process of ‘policy formation’. The Commission’s May 2004 Strategy Paper already answered a number of remaining questions, such as the option for the development of a new Neighbourhood Instrument and the prospective conclusion of new European Neighbourhood Agreements, but leaves open the concrete elaboration of these concepts. It is, therefore, interesting to take into account the lessons of the ND and EMP experiences with regard to the further development of this policy. The implementation of the ND, for instance clearly revealed the necessity of a single financial instrument to administer cross-border programmes. Moreover, the ambiguous legal basis of the Commission’s involvement in regional organisations such as the CBSS and BEAC illustrate the necessity of clear legal instruments for the ENP. The introduction of a specific title and article devoted to ‘the Union and its neighbours’ in the first part of the EU’s Constitutional Treaty (new Article I-57)¹¹⁸ is certainly a positive element in this regard. Still, however, the question remains whether it will be possible to create a viable multi-dimensional framework for such a diversity of

¹¹⁸ Treaty establishing a Constitution for Europe, provisionally consolidated version, CIG 87/04, Brussels, 6 August 2004. Previously, this provision was included in Article I-56, Title III. For a legal analysis, see: E. Lannon, P. Van Elsuwege, ‘The EU’s Emerging Neighbourhood Policy and its Potential Impact on the Euro-Mediterranean Partnership’, in: Peter G. Xuereb, (ed.), *Euro-Med Integration and the Ring of Friends. The Mediterranean’s European Challenge Vol.IV*, Malta, EDRC, 2003, pp.34-36.

neighbours. The envisaged European Neighbourhood Instrument, for instance, should be carefully designed in order to avoid any kind of discrimination among the neighbours.

A first reading of the Commission documents on the ENP reveals that this policy is intended to become a 'policy framework' aimed at the creation of more 'coherence', 'efficiency' and 'added value'. The echoes of the Northern Dimension are very clear. Comparable to the ND's 'partner-oriented approach', the ENP Strategy Paper refers to the concept of 'joint ownership' as the basis for future co-operation. The experiences of the ND and the EMP have demonstrated that, even if the partners might be associated to the decision-making processes at the bilateral level (within the Association Councils of the EMAs or the Co-operation Council of the PCA) or at multilateral level (through the Euromed committee for the Barcelona process or the Ministers of Foreign Affairs meetings of the Northern Dimension), the decision-making power remains exclusively in the hands of the Member States at the unilateral level (MEDA, TACIS, PHARE regulations¹¹⁹, CFSP-ESDP, CAP¹²⁰, CCP¹²¹).

A long-term institutionalisation of the ENP might be necessary but entails the risk of further excessive centralisation and should, therefore, preserve and reinforce the effective EMP institutional structures (as an *acquis* of the Barcelona Process). The objective of improving the existing forms of regional co-operation can, therefore, only succeed in close co-ordination with the partners involved. It must be made clear that the beneficiaries of the ENP are "not only policy-takers but also policy-makers". Thus the adoption of the future action plans by the various association councils is necessary to reinforce the principle of local ownership.

¹¹⁹ It must be noticed however that the Mediterranean Partners have been more and more associated to the definition of the priorities and general orientations of the programmes and that the Euromed Committee and the Association Councils have competences with regard to the implementation of MEDA.

¹²⁰ Common Agricultural Policy (CAP).

¹²¹ Common Commercial Policy (CCP).

In the future the institutionalisation of the ENP could follow the paths of the ND as a '*multilevel approach*', including co-operation between governments, between EU institutions and regional bodies and among civil societies. On the other hand, a rigid vertical co-operation between divergent regional organisations and institutions does not appear as the most appropriate for the Mediterranean partners. A subsequent division of labour between on the one hand the EU (responsible for the development of general policy guidelines) and on the other hand the (sub)-regional organisations (responsible for policy implementation and bottom-up communication) may generate many problems at Euro-Mediterranean level. The Mediterranean partners, as is the case today in the EMP, must be associated to the development of general policy guidelines. The key is, however, to reinforce the association of the partners with the decision-making processes. A simple consultation of the partners concerning the most important decisions (CFSP/ESDP-CAP-CCP) to be adopted at unilateral level by the 25 Member States could improve the efficiency of the system and give more substance to the "local-ownership" concept.