

100 days: Ferrero-Waldner, Mandelson and Michel

by John Quigley

After taking office on 22nd November 2004, the European Commission, led by the Portuguese José Manuel Barroso, will have spent almost exactly one hundred days in office by the end of February 2005. Across the external relations, trade and development portfolios, the record of individual Commissioners is mixed. Although it is very early in the lifetime of the 5 year mandate, some guiding principles have emerged and an initial assessment shows there is room for a great deal of improvement in meeting the priorities and needs of Asia.

As the three Commissioners most active in projecting the profile of the EU in third countries, they have a unique opportunity and responsibility to define the EU's global role and ambition. What, therefore, do the Austrian, Benita Ferrero-Waldner (External Relations, European Neighbourhood), the Briton, Peter Mandelson (Trade) and the Belgian, Louis Michel (Development and Humanitarian Aid), bring to their respective portfolios? How have they chosen to implement their mandate? And, what can we expect over the course of 2005? How they perform these functions sends a message to our partners in Asia about how Europe prioritises our interests and, also, what we expect from Asians in turn.

At the hearings in the European Parliament in early October, the Commissioners-designate outlined some of their interests and likely policy areas. Benita Ferrero-Waldner told Parliament that although the EU was a constant point of reference for other countries on "stability, democracy and human rights", the EU did not have the corresponding political stance in world affairs. The EU should pursue a "coherent policy on human rights and democracy" and she mentioned developing the potential of the EU Security Strategy and building on the results of the previous Commission in developing political relations with "Japan, China and India as well as many other countries in Asia".

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Peter Mandelson said he had two main aims. He saw his role as revitalising Europe's economic dynamism and, secondly, helping Europe to become an effective force for good in the world. As a principle, he would strive for "global prosperity and social justice through more open, rules based trade, for the benefit of all, especially the poorest". Key elements of his mandate would be to "complete the Doha round" and to build relationships with Asia. Saying the EU has an "inadequate forward agenda" across South-East Asia and with India, Mandelson pledged to meet their desire for 'more Europe'. Certainly, he seemed to win over Parliament's three largest political groups.

Louis Michel stressed the need for co-ordination in EU development policy between the EU and its Member States, in part through Country Strategy Papers and a harmonisation of the rules of co-operation assistance. When he spoke of coherence between the EU's different policies, Parliament began to listen more closely. He told MEPs that EU external assistance was inextricably linked to other foreign policy considerations. Mr Michel also announced his intention to review the 2000 Development Policy Statement, adopted by the Council and Commission as a general guideline to the priorities of the EU.

Since officially taking office on 22nd November, the output of the three Commissioners has been very different. Commissioner Ferrero-Waldner has opted to meet Asian representatives as they visit Brussels including, *inter alia*, the Prime Minister of Pakistan, Bangladesh's Minister of Finance, the Minister of Foreign Affairs of the Philippines and a representative of the Chinese Communist Party. The Commissioner attended the EU-China Summit in December, although it did take place in Europe. What is remarkable indeed is that the Commissioner for External Relations, as at the end of February, had not been to Asia although she has travelled to, *inter alia*, the United States, the Ukraine, Egypt, Israel, Palestine, Bulgaria and Morocco. It appears she takes the European Neighbourhood Policy part of her mandate very seriously. As the Commissioner responsible for the EuropeAid development office, Mrs Ferrero-Waldner promised, in December, that the office would be reliable and efficient and would make the EU a "byword for quality in development assistance - effective, fast and bringing concrete benefits".

During the three months in office as Trade Commissioner, Peter Mandelson has visited China and India, both to develop the EU's strategic relationship with China and to build a better agenda with India. Speaking in India in mid-January, he said Europe needs to raise its game in India to become "more present, more visible and more coherent". In China, Mr Mandelson said that Europe needs a clearer sense that Beijing is "assuming the responsibilities that accompany its new power within the global

community". Also in February, as part of the EU response to the December tsunami, the Commissioner was involved in the debate to bring forward the entry into force of the revised Generalised System of Preferences from July to April - discussed by Max van den Berg MEP elsewhere in this issue of *EurAsia Bulletin*.

As promised, Commissioner Michel launched a review of the EU's Development Policy Statement, promising consultations with development NGO's, the European Parliament and donors. One element of the review is where development policy fits into the overall scheme of the EU's external action. For Michel, development policy "has to be seen in the context of the common foreign and security policy (CFSP) and EU trade policy". He has suggested that his target is "coherence among objectives rather than a hierarchy". With Commission President Barroso, Mr Michel travelled to Sri Lanka and Indonesia in the immediate aftermath of the tsunami and attended the ASEAN Leaders' Meeting on 6th January.

Speaking in general terms, one of the issues that will have to be addressed appropriately in 2005 is the treatment of temporary and auxiliary staff in the Commission. The present situation is unsustainable. Recruiting university graduates to low grade posts while expecting them to perform administrator-level work, is bad management practice and is creating a reservoir of ill-will, suspicion and fear.

2005 will see political summits with China, India, Japan and South Korea. Commissioner Ferrero-Waldner could press for a response from these countries assessing the implications of the United Nations High Level Panel Report on Threats, Challenges and Change. Equally, as China prepares to publish details of its so-called 'anti-secession' law concerning Taiwan, the EU will have to consider whether it is morally right to maintain its one-China principle, effectively placing a democracy under the heel of an authoritarian regime. In March, Mrs Ferrero-Waldner will attend the EU-ASEAN Foreign Ministers Meeting in Jakarta, part of her first trip to Asia, which will also take in Sri Lanka. The question of the EU's relations with Burma is sure to pop up in Jakarta, especially as Burma stands ready to assume the chairmanship of ASEAN in 2006. Despite a raft of EU and international sanctions against the military junta, there is not enough progress in developing democracy.

The Commissioner for Trade will no doubt attend most of these Summits. However, the prospect of the World Trade Organisation (WTO) Ministerial Meeting that is due to take place in December in Hong Kong, already features large on his agenda and has been described as a crucial staging post of the Doha Development Round.

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The tsunami: ten weeks ago — ten years to come

by Jean-Louis Schiltz

It is very difficult to describe with words what all those travelling in South-East Asia immediately after the 26th December 2005 have seen: I had never experienced anything like that. The devastating tsunami that has affected 11 countries has left an arc of destruction reaching from Asia to the Horn of Africa; the catastrophe has been of unprecedented scale with more than 261,000 people dead or missing. Destruction has ravaged once beautiful and animated towns, countryside, beaches and houses. All has been reduced to nothing, death dominating and corpses lying lifeless at the sides of the roads.

The eyes of the children

What impressed upon me most was the desperation that could be seen in the eyes of those children who, barely dressed and with grief gushing out of their eyes, populated the miserable yet essential refugee camps that UNICEF and others had promptly set up. Emergency relief was coming in, distribution of aid had been quick, yet all those on the spot faced a tremendous task. Resources were stretched to the limit and diseases were a real threat. The European Union and its Member States have been and are united in co-ordinating their efforts with the United Nations to provide assistance and relief to the victims and their families. But yet, a lot was and still remains to be done.

Apocalyptic scenes

I left for South-East Asia on 1st January 2005. We travelled from Sri Lanka to Thailand and then to Indonesia. The monstrous wave had hit with treacherous force everywhere it could. On the coasts of Sri Lanka, we could see boats pushed onto houses and on the very verge of forests, palm trees carried through houses, pieces of cloths, coconut shells, paper, tiles, utensils carried in the terrible flow of water that invaded land and retired with an even more ravaging power.

Thailand's beauty and calm had also been mostly hit on the coasts: hotels, restaurants and bars crowded with the usual massive tourists' presence had been swallowed at once. In Phuket, the international information centre centralised all data concerning missing persons and bodies recovered. Pictures and papers hanging from the boards, forensic experts and diplomats running around like swarms made the tragedy very real. What water had stolen, man was

fighting to regain. We ended up the journey in Indonesia, the epitome of the apocalypse.

Banda Aceh was divided in three. The part of town that had been devoured by the wave was an open-sky mass grave, corpses lay as testimony of their horrendous destiny, nature and constructions had been totally erased from the face of earth. What was left was only a plagued land of wreckage, trash and human remains, for kilometres. The part of town that had not been completely destroyed hosted still standing but empty and crippled buildings, where water had stored bodies, cars, trees, walls, pipes *et cetera*. And then there was the area that had not been directly reached by the tsunami: refugee camps had transformed the outskirts of the city into a huge plastic and mud agglomeration. Banda Aceh was the very representation of despair.

Political response

The assistance and relief-efforts were immediate, as was the political response. It was a global response. The Special ASEAN Leader's Meeting on the Aftermath of Earthquake and Tsunami took place in the capital of Indonesia as early as 6th January. The Summit was the occasion for heads of state and governments to reassert solemnly their commitment to the unprecedented devastation, in need of a global response of the same kind. The accent was on the assistance to national governments in coping with the disaster; the aim was entailing efforts in emergency relief, rehabilitation, and reconstruction. Through the voice of the Luxembourg Prime Minister, Jean-Claude Juncker, the European Union, as the biggest donor, pledged more than €1.5bn in Djakarta.

The EU Presidency applauded in Jakarta the leading role of the United Nations in addressing the disaster and underlined the role of the organisation in assisting the affected countries' co-ordination of international assistance during the first emergency phase. Kofi Annan called the world's attention to the need to better co-ordinate and ensure that the promised contributions would be effective and sustainable. The Summit was a success. All those present agreed with that conclusion. The EU commended the leaders of the ASEAN countries for their readiness to build up an early warning system in the region and ensured its support to the setting-up of co-ordination mechanisms that would help a smooth transition from the emergency to the reconstruction phase.

EU response

The EU-response to the tsunami was an immediate one. The effort of solidarity by the people of Europe was enormous. The EU and the 25 Member States played a major role in the assistance and relief efforts. The Luxembourg Presidency was active in co-ordinating the initiatives of the EU in close co-



operation with the UN-agencies, in particular UN (OCHA), UNICEF and WHO. Following the ASEAN meeting of 6th January 2005, more than 60 EU-Ministers gathered in Brussels on 7th January 2005. Based on what Commissioner Michel and I had seen and discussed in the region, EU-Ministers focused on the measures designed to streamline initiatives taken by the EU in the follow-up of the tsunami. The key role of the United Nations in terms of co-ordination during the first phase was once more underlined.

Aid response

The highly encouraging responses in terms of contributions were formalised at the Donors Conference that took place at the United Nations in Geneva on 11th January 2005. In Geneva, I stressed the necessity of a long term effort. I also reconfirmed the European Union's determination of a long term commitment with regards to the reconstruction efforts. For the future, it is essential to ensure the predictability of aid. Aid has to continue coming in the next months and years. It has to be co-ordinated. It has to respect national priorities and government choices in the selection of actions and programs. This point was made very forcefully by the UN Under-Secretary-General Jan Egeland in Geneva and endorsed by all those present.

As early as 14th February 2005, at the Informal meeting of EU Development Ministers in Luxembourg, we were in a position to examine in very practical terms the monitoring and control of the tsunami-related actions. We reckon that the implementation of financial commitments for the humanitarian aid phase has been very successful, with a total of €320m of effective EU- and Member States funding as of mid-February. Accountability and monitoring will be the key for the future. It is essential that promises are met. It is also extremely important that financial promises are translated into firm commitments that do not come to the detriment of other projects and continents, like Africa for instance.

Lessons to be learned

A few basic principles have guided our action during the first phase after December 26th. They were:

- Immediate action was taken to respond rapidly to the most urgent needs.
- Although a great diversity of instruments and means were used to address those needs, the main focus was on humanitarian aid.
- The United Nations played a major role in terms of co-ordinating the efforts of virtually all those involved. The co-operation between UN (OCHA) and the EU was remarkable since day one of the emergency-phase.
- The continuity of the effort was at the centre of our preoccupations from the outset. The necessity of a

continued action that ensures a smooth transition from the first emergency-phase to the rehabilitation and reconstruction phase was always an issue of major concern to us.

The adequacy of the response of the international community and the European Union in particular lies with these principles. I continue to plead for a harmonious transition between the humanitarian, the first-aid phase and the subsequent reconstruction phase. For the latter, the Development Ministers of the EU invited the Commission to create a monitoring system based on a network of focal points, a sort of "tracking system" ready to operate during the reconstruction period.

UN (OCHA) has enhanced its financial tracking system for the first phase. As said above, accountability is the key for the future. This is now especially true for the second phase and it is our duty to make sure that rehabilitation and reconstruction projects are correctly monitored. It is critical that schools, houses and roads that have been washed away are actually rebuilt. And, it is even more critical to make sure that they are rebuilt in such a way that the needs and expectations of those affected are met.

On the European side, I would finally like to address the issue of the EU's rapid response capacity by reasserting the necessity of putting in place a sounder and stronger mean of communication as well as of information exchange. In this light, the creation of a humanitarian corps should be examined as a way of pooling additional means and not as duplication of already existing mechanisms. OCHA will continue to play its crucial role on the whole scale of rapid response capacity, in close co-ordination with the EU and on the basis of the agreements signed with the European Commission in 2004.

Ten years to come

Our efforts of solidarity and aid must be maintained not only for a period of weeks but for many years to come. It is crucial that we all together participate in a long-term plan of assistance. We have to help those that have lost everything but their lives and we will do so. We were all struck by the tsunami ten weeks ago. Dealing with the consequences of the tsunami will require our energy and action for the next ten years. The world can be assured that the European Union and its Member States will not turn their back on Asia and its people. ■

Mr Jean-Louis Schiltz is Luxembourg Minister for Development Co-operation and Humanitarian Aid. Luxembourg currently holds the Presidency of the European Council.



Early start to revised EU GSP regime for Tsunami

by Max van den Berg, MEP

Since its creation in 1971, the Generalised System of Preferences (GSP) has been a key instrument of the European development policy. Every year the EU donates 2.2 billion US dollars in the form of trade preferences to around 180 developing countries and territories, an amount that is actually superior to the official aid to development. The aim of this system is to help developing countries to reduce poverty by improving market access for their exports. Though not sufficient by itself, greater involvement in international trade is an important instrument to promote development that should not be neglected.

Through the general GSP system, beneficiary countries are granted tariff reductions and duty free access for roughly 7000 products. Moreover the current GSP also includes three special schemes: one for the protection of labour rights for countries that have ratified core ILO conventions, one for the protection of the environment for countries that do well in this field, and one to combat drug production and trafficking. These schemes, the so-called GSP+ offer extra tariff reductions. The inclusion of the Everything But Arms initiative that gives duty-free and quota-free access for all the exports of the least developed countries (LDC's), has made the GSP system even more inclusive.

Unfortunately, the system has not proved as effective as it should be. Notwithstanding the good intentions of the scheme, in practice too little countries benefit from the system. Utilisation rates of the GSP have remained very low, mostly due to too restrictive rules of origin. The GSP+ system was so complex that very few countries managed to comply with all the conditions. In fact, Sri Lanka and Moldova have been the only beneficiaries from the labour rights scheme and not a single country benefited from the environment scheme. The drug regime, which had several beneficiaries in Latin America and in Asia, was condemned by a WTO panel brought by India. The panel obliges the EU to change its system and make it WTO compatible by the 1st July 2005.

The WTO ruling is the main reason for introducing the new GSP+ system for vulnerable countries with special development needs. Instead of just ending the drugs regime and continuing the two other programs, the Commission has decided upon a total overhaul of the system. The proposal is to replace the three different GSP+ schemes with one uniform system that is based on sustainable development. Vulnerable countries that have ratified 27 international conventions on

sustainable development and good governance, among them several ILO Conventions as well as some UN Conventions, can benefit from the new system that accounts for around 7200 products that can enter the EU duty free.

Recently the EU has modified its proposal for the new GSP by changing the entry into force date to the 1st of April 2005, instead of the 1st July as was foreseen in the original proposal. This change was inspired by the will to help countries that were affected by the Tsunami disaster. The new GSP opens up the EU market for all fishery products, as well as for clothing and shoes. This will be especially beneficial to Asian countries. Thailand, for instance, will benefit from the reduced tariff for its shrimps, a product that has always been classified as highly sensitive. Indonesia and India will benefit from the new tariff cuts in the textiles and shoe sectors. Granting these preferences on an earlier date is meant as an additional form of reconstruction aid.

In principle, I agree with the idea to help Asian countries in this way. However, this should never be at the cost of other countries that are not ready in time to reap the benefits from the new scheme. As draftsman in the Development Committee of the European Parliament on the GSP scheme I already mentioned in my reaction to the first proposal that the timing is a problem.

To be a reliable instrument for development it's essential that the GSP instrument is predictable and therefore any new GSP resolution should be adopted at least 12 months before its entry into force. If the new regulation enters into force on July 2002, this implies a potential enormous damage for the countries currently benefiting from the GSP special arrangement to combat drug production and trafficking, such as the Andean Community and Central American countries. They will, in theory, qualify for benefiting from a similar regime but they will need more than just three months to prepare for it.

That is why I believe there should be a transition period until 1st January 2006 to make sure that every country has enough time to meet the new conditions. During this period the old preferences should still continue to apply if they result in a more preferential treatment. The Commission has indeed included such a transition period in its new proposal but this period only lasts until June 30th and not until December 2005 as I have requested in my report. Three months is simply too quick for these countries to adjust, and therefore I think the Commission should extend its proposed transition period.

Some countries, like for example El Salvador, face even more trouble with the new GSP. Due to constitutional reasons El Salvador is not able to ratify



ILO Convention 57 regarding the freedom of association and Convention 98 regarding collective negotiation. To ratify the Convention the constitution must be changed, being a long and difficult process. In my opinion, countries facing this kind of situation should be granted an extra period to solve their legal problems while already getting the preferences, provided they can prove that they already comply in practice with the elements of the Convention in question.

Another amendment that I have suggested is to increase the generosity of the system. In a first communication in July 2004, the Commission announced it considered changing several aspects of the system to improve the value of the offer. The first option was to increase the number of products that are covered by GSP. This was done in the new proposal by including new products such as fish and clothing. Second, products currently specified as sensitive could be transferred to the non-sensitive category, giving them a preferential margin of 100%. A last option would be to increase the preferential margins for sensitive products, currently 3,5 percentage points. In the actual proposal by the Commission only the first option was concretised. This is rather disappointing. That is why I have suggested increasing the preferential margin for sensitive products to 4 percent.

A very important subject that is still missing in the current proposal is the reform of the rules of origin. Rules of origin serve to avoid trade deflection by countries that are not intended as beneficiaries. However, the current rules of origin are in practice too stringent. A large proportion of developing country exports to the EU fail to gain preferential access because they are deemed "non-originating". This is not in line with the current situation. Most developing countries can only manage to produce competitively by sourcing components for their products from other, more efficient, producers. The current rules of origin forbid these imports. As a consequence, clothes produced in for instance Sri Lanka face massive taxes when sold in the EU because the fabric comes from China. These countries sometimes use only about 40 % of the preferences that they are officially granted.

Relaxing the rules of origin, as Canada has done in the past, so that for instance clothing imports are allowed to undergo just one stage of transformation rather than two stages, would be a possible option to overcome this problem. Another way to improve the rules of origin could be to allow so called regional cumulation or global cumulation, that makes it possible to include components from other countries in the same region or even from all over the world. The European Commission promised to present new guidelines for the rules of origin as soon as possible. Hopefully it takes this opportunity to change the rules for the better.

The last point that I would like to raise here is the current negotiations between the European Commission and ACP countries about the so called Economic Partnership Agreements (EPAs), free trade agreements that have their legal basis in the Cotonou Agreement. The reciprocal character of EPAs is highly contested because it is believed to be detrimental to development. For those countries that decide not to sign such an Agreement, GSP should provide a valuable alternative. The current GSP provides inferior terms of trade than is granted under Cotonou because its rules of origin are more stringent and it offers less favourable preferences. The improvements of these aspects, as discussed above, should make GSP a valuable safety net. On the other hand, when countries do agree on signing an EPA with the European Union, it should be made absolutely clear that these free trade agreements offer *at least* the same level of preferences as given under the GSP scheme. ■

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Response to the Tsunami Crisis: A view from the humanitarian community

by Harri Hiekkänen

The recent crisis that struck the South-East Asia and East Africa region left a devastating mark on the local communities. It will take years to rebuild the region and assist the people affected by the disaster. At the same time the response from the international community has been extraordinary. The general public - both in the affected countries and elsewhere - responded magnificently to the needs of the victims. In addition, governments and private companies have either released or pledged generous amounts of money and other aid to the region. For once, it seems that lack of money or other resources is not the most burning issue. The challenges of how to successfully carry out the operation lie elsewhere.

As aid efforts have now shifted focus from relief to longer term assistance, it is good to take a look at some of the issues that need to be taken into consideration in the rehabilitation phase of the operation. The task is challenging and requires meticulous planning and co-ordination from all partners - governments, development and relief agencies and other actors both locally and internationally. We need to put in place good programmes while involving local communities in the process. To rush in with hastily conceived plans - or worse, with no plans at all - would be irresponsible. A rigorous planning phase will ensure that the money collected is used wisely.

Needs-based approach and cultural sensitivity

As we plan, we should remember that the focus has to be on the needs of the beneficiaries. A needs-based approach is the starting point of every successful aid operation. This entails that before engaging in discussions of what we have to offer, we need to determine what the people actually need from us. This simple fact is unfortunately sometimes forgotten in complex humanitarian and development aid operations. The vulnerability and capacity analyses carried out by various aid organisations should be used as the foundation on which all assistance is based. The analyses should include input from the affected communities.

Linked to the needs-based approach are the issues of cost-efficiency and strengthening the local economy. It is usually much cheaper to use local resources as much as possible. Most goods needed in the operation - from

tents, tarpaulins, food and oil to more sophisticated items - are readily available in the region. Buying locally is not always possible right after the crisis has struck because of the urgency to get the aid operation started, however, as we are now entering the long-term development phase of the operation, everybody involved should look into this possibility. Commissioning manufacturers in the region to produce goods will boost the local economy and create jobs. This is usually also much more sustainable development than to import goods from elsewhere. Another factor to take into consideration is also that imported goods are not always appropriate for the affected communities.

It is also important to bear in mind that some of the tsunami-affected areas are the scene of long-term conflicts. Aid organisations have in recent years realised that despite all their efforts to deliver aid neutrally to everybody, solely based on the needs, the reality is not always that simple. Even successful needs-based delivery of aid can often fuel conflicts unpredictably. A sudden influx of outside assistance can exacerbate rivalries between warring parties. The international community must remain sensitive to this possibility.

Support to community resilience

Even though the focus on the vulnerabilities and needs of the beneficiaries is a good start, it is not enough. The objective of the rehabilitation phase is not only to return beneficiaries and communities to the situation they were in before the crisis struck but to go beyond and improve their living conditions. Markku Niskala, the Secretary General of the International Federation of Red Cross and Red Crescent Societies, speaks of the need “to boost people’s resilience” in the advent of natural disasters. By resilience Niskala means “beneficiaries’ ability to cope with crisis and bounce back stronger than before”. The aid efforts need to make the shift from short-term relief to longer-term support for the communities and enhance the communities’ own capacities in building this resilience.

For many international aid organisations, including the International Federation, enhancing community resilience is an important part of disaster risk reduction. Disaster risk reduction includes activities that take place *before* and *after* the disaster strikes. Building local communities’ capacities in disaster preparedness before the disaster strikes is the key to this approach.

Capacity building of local communities through disaster preparedness and risk reduction activities should be taken into account in the current interventions to assist tsunami victims. This is the most efficient way to ensure that communities have



sufficient means to face the future catastrophes, which will inevitably happen in this disaster-prone region. Large-scale early warning systems are very important but, at the same time, the coping mechanisms of local communities should also be supported. This means not only physical protection – for example, building stronger houses - but also training the local people and enhancing their capacities to prepare for the future. After years of talking, the humanitarian community and the world at large need to turn this rhetoric into reality. The EU should be at the forefront of this process.

Supporting disaster preparedness and risk reduction activities is an example of a resilience-building that is not only sustainable but also cost-efficient. Such grass-root activities are usually inexpensive. It has been suggested within the EU that 10% of all Official Development Assistance should go for disaster preparedness activities. In the EC level, DG ECHO, responsible for EC humanitarian aid, has already taken actions to take disaster preparedness into account. ECHO is currently committing 5% of its global budget to disaster preparedness. However, the development aid side of the EU is somewhat less advanced in this regard. Despite an inter-service task force that has been set up to tackle this issue, there are currently no clear funding channels or mechanisms that would allow for a quick disbursement of EC funding for disaster preparedness in the rehabilitation phase.

Conclusion

The tsunami operation is one of the biggest challenges the international aid community has ever faced. Aid should be focused on the needs of the beneficiaries and must involve the beneficiaries in the design and implementation of planned activities. Aid should also be sensitive to the local socio-political and cultural contexts. But most importantly, the world should use the tsunami operation as an opportunity to adopt a real culture of disaster preparedness and risk reduction. A significant proportion of the funds should be channelled to give local populations the means to protect themselves against future catastrophes. This will not happen overnight and needs the political will and the support of the decision makers. However, in the long run this is the most effective and sustainable way to help the people in need. ■

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Asia Pro Eco launches Tsunami Facility

by John Quigley

The European Commission is preparing to launch a new post-Tsunami development co-operation instrument, as part of its long-term approach to providing assistance to the affected countries and regions. The Commission Decision should be adopted in the first week of March, opening up funding for environmental projects between European and Asian partners to help address the needs of five of the six tsunami-affected countries. In line with existing EU sanctions against Burma, the governing military junta is ineligible for funding from EU development programmes.

This new instrument, approved by the Asia-Latin America Committee on 27th January, will be one of the first EU development co-operation initiatives to be put in place and become operational targeting assistance towards India, Sri Lanka, the Maldives, Thailand and Indonesia. The post-tsunami Decision forms part of the EuropeAid Asia Pro Eco programme, which offers EU funding for partnerships between Europe and Asia in the field of protection of the environment and, since December 2004, includes the urban environment. It is proposed that the instrument will have a budget for 2005 of €15m, which can be split into €14m for direct funding for projects with the remaining €1m allocated to management and evaluations.

At a Briefing Session on 15th February in Brussels, the Commission outlined some elements of the proposed tsunami instrument including details on the co-financing requirement between partners. The tsunami instrument, although drawing upon the results of Asia Pro Eco I, will have slightly different procedures, designed to make the application process easier for Asian partners and speed up the distribution of aid. These special procedures include eligibility for financing of up to 100% of projects, compared to the normal standard of 75% or 90% for least developed countries. Also, in an effort to boost participation by Asian partners, the requirement of having two EU partners and one Asian per project has been reduced to one EU and one Asian.

As part of the EU's overall reconstruction and rehabilitation plans for the affected countries, which amounts to some €450m from the Commission alone, the Asia Pro Eco tsunami facility will offer funding to projects in seven sectors including coastal zone management and implementation of international environmental agreements, sustainable transport, energy and waste and water management. Following the merger of Asia Urbs, a programme promoting

partnership between local governments for urban development, with Asia Pro Eco, the tsunami facility will also seek to fund projects for the urban and coastal environments. Speaking to *EurAsia Bulletin*, Ms Ceri Lewis, Asia Pro Eco Project Officer, said that as phase two involves coastal management as one of its themes, the Commission believes that the programme could be a useful tool to meet the mid to long term needs of the tsunami-affected areas.

Asia Pro Eco is one of several Asia-focussed development programmes managed by the European Commission's EuropeAid department, which comes under the responsibility of Commissioner for External Relations, Benita Ferrero-Waldner. The second phase of Asia Pro Eco was launched in December 2004 and, following the tsunami on December 26th, the Commission then proposed adding an instrument to phase two, for the year 2005. The programme operates under the development co-operation instrument known as the Asia-Latin America Regulation (ALA), the revision of which faltered in the European Parliament, after MEPs demanded its division into two separate geographic instruments. The Commission has proposed linking development co-operation policy with economic co-operation, but this proposal has not found support in the Parliament's Development Committee.

Through the ALA legal base, the Commission was able to devise and launch quickly the tsunami facility and although the overall budget is small, it is hoped that the facility will be able to build capacity and expertise in Asia by focussing on specific areas in the affected countries. Whatever projects are launched, they must be agreed with local administrations in the affected regions, in part to help with aid co-ordination and to avoid duplication.

The tsunami facility is being financed through a re-ordering of existing development co-operation money, rather than representing 'new' money. Of the €15m, some €10m will come from unspent money from the Erasmus Mundus budget line, an EU programme that promotes co-operation with third countries in higher education, and the remaining €5m is being redirected from the budget for 2006 of Asia Pro Eco itself.

The principle of redirecting money has been criticised in the European Parliament but it will be up to the Budget Committee to recommend additional financing for Asia Pro Eco for 2006, to help make up the shortfall. Speaking at meetings in Brussels reported elsewhere in this issue, Ambassadors from tsunami-affected countries have also lamented the tendency of the EU to 'take money from Peter to pay Paul'. Commission President, José Manuel Barroso, speaking at the meeting of EU Foreign Ministers in late January called on the Member States to deliver support for the long term to help achieve the goals for reconstruction and rehabilitation. ■

EIB Tsunami Facility unlikely

by John Quigley

Almost two months after the idea was first proposed, the prospect of the European Investment Bank (EIB) launching a loan facility to respond to the needs of the tsunami affected countries is clearly receding.

At the ASEAN leaders' Summit in Jakarta on 6th January, European Commission President, José Manuel Barroso, indicated he would propose an "Indian Ocean Tsunami Facility" with up to €1bn available in funding. This Facility would be a long-term lending instrument offering loans "at favourable terms" to help the affected countries finance their reconstruction costs. On 7th January, in Brussels, EU Foreign Ministers agreed to examine the proposal but, by the end of January, when Mr Barroso appeared before the General Affairs Council, the idea had been dropped from his presentation.

The President of the EIB, Philippe Maystadt issued a note of caution on 18th January in the European Parliament's Development Committee. Although not ruling out a Facility, he suggested that Economic and Finance Ministers (ECOFIN) would have to give careful consideration to the EIB's mandate for development lending and "how the constraint of common interest" for the EU might be resolved. ECOFIN had apparently discussed joint financing of projects and combinations of loans and grants. Loans could be repaid over thirty years, with interest rates close to zero, with a seven year grace period for capital repayments. Projects addressing water, sanitation and urban reconstruction (schools and hospitals) could be given priority.

The proposal for a Tsunami Facility is being discussed at a time when the development mandate of the Bank is under review. It seems the Bank may be unhappy with the dual role it is being asked to play and, for which, it may not have the appropriate structures. The Bank was originally established to provide loans inside the EU only. However, Commissioner for Development, Louis Michel, may have other ideas. As part of his review of the 2000 EU Development Policy Statement, Mr Michel has published an "Issues Paper". This consultation paper mentions a "more appropriate role for the EIB in the future of EU development policy". Michel proposes that the Bank could give greater consideration to the development dimension of its activities. A final decision on the proposed EIB Facility may be made at the forthcoming meeting of EU Development Ministers, who are scheduled to meet in late April. However, the Asian countries are concerned that their credit ratings may be affected and feel that there is sufficient monies available elsewhere, rather than take on the burden of more debt. ■

South-South tsunami relief

by Malcolm Subhan

The European response to the death and devastation wrought by the Indian Ocean tidal wave on December 26 was immediate and extremely generous. The generosity of people and companies virtually forced governments to increase official aid, to the point where some of them began competing with each other to see who would pledge the most emergency and long-term aid. The dramatic increase in official aid would not have been possible without politicians, of course. Britain's Treasury Minister, Gordon Brown, even raised the stakes with a debt relief plan for the countries hardest hit by the tsunami.

However, if European politicians were anxious to help Sri Lankan fishermen with fishing boats, to replace those destroyed by the tsunami, they were less keen to help Sri Lankans, including relatives perhaps of these same fishermen, seeking to emigrate to the European Union. Within four weeks of that outpouring of public generosity for the tsunami victims, Britain's Prime Minister, Tony Blair, and the leader of the Conservative Party, Michael Howard, were busy trying to outdo each other over controlling immigration into the UK. Both clearly felt that a policy aimed at keeping immigrants out was sure to win them votes in the forthcoming general elections.

What conclusions are Asians to draw from these very different responses by Europeans to Asians? Tragedy, as the Greeks pointed out, has a cathartic effect on the spectator, purifying the emotions. Television brought the tragedy into drawing rooms and played an important part in shaping people's responses. Images of grief-stricken, grieving Asian families aroused feelings of sympathy and prompted people to open hearts as well as purses. The fact that many of the families shown on TV clearly were living in conditions of near poverty even before disaster struck made the human tragedy even more unbearable.

People, including politicians, are moved to help the poor, especially the distant poor. Even so, it is a discouraging fact that even today the amount of public and official aid to developing countries is directly related to the level of their material impoverishment. Although nearly 50 years have passed since the then 6-nation European Economic Community launched its development aid programmes, reducing and eventually eradicating poverty is the main objective of development co-operation in both the EU Treaty and the European Constitution.

Of course poverty continues to characterise many developing countries, and income inequality is much greater, even after nearly a half century of political

independence and development aid. Of course the 25-nation European Union and its member states are the most generous of the world's richer countries when it comes to providing official development assistance. And many developing countries are to blame. When the Indian Ocean tsunami struck last December, the countries where the devastation was the greatest welcomed emergency aid from developed countries.

Initially, only India refused foreign aid, although it suggested it was open to long-term aid for rebuilding the infrastructure the tsunami destroyed. India's attempts to rely on its own resources for helping its own tsunami victims were met with surprise and disbelief. How could one of the world's poorest countries (in terms of per capita GDP, for example) refuse Western humanitarian aid? But there was worse from an Indian viewpoint.

Writing in *The Globalist*, an Indian specialist on long-term economic trends in Asia and the West, Ashutosh Sheshabalaya, wondered why the European media virtually ignored the help given by India to its immediate neighbour, Sri Lanka. He noted that the day after the ocean wave struck Sri Lanka, an Indian naval hospital had reached Trincomalee harbour. "The Indian relief mission involved over 20,000 military personnel and almost 35 warships, in an arc from the Maldives to Indonesia," he wrote. Did the media ignore India's relief efforts because they did not fit in "with Western stereotypes of India as a backward country?"

This focus on poverty in developing countries had unexpected consequences for an Indian journalist from Calcutta. On visiting Europe, he was astonished to discover that his city was largely ignored by Europeans. He thought that this was because Mother Theresa had exaggerated Calcutta's poverty in order to attract more funds from European donors. As a result, he found his earlier admiration for her much reduced.

What is needed is a recognition that developing countries, even the poorest among them, have much to offer developed countries, provided one is prepared to look beyond raw materials and cheap labour to the non-economic elements that represent their real strength. But there is hardly any attempt to look at relations with developing countries as based on an exchange between equals.

Take the "core principle" of the EU's development policy as outlined by the Development Commissioner's director for development policy, in a meeting with NGOs. It is "to serve developing countries' interests," as defined by DG Development. The focus will remain on areas in which the EU has comparative advantage, and on "cross-cutting issues such as gender, environment and HIV/AIDS." These are cross-cutting issues facing Europeans also, but help in dealing with them will clearly be one way. ■



EU arms embargo: A role for the United States?

by Dr Sebastian Bersick

It is probably the greatest recent success of China's diplomacy that a lifting of the European arms embargo against the People's Republic of China is perceived in Europe as a symbol of the EU's effort to deepen its relationship with China. This perception differs from the one on Capitol Hill, on Taiwan or in Japan. During a recent security forum on the rise of China and the question of arms supplies at the 'Centre for European Policy Studies' in Brussels an American participant emphasised that the concern of the US is that the EU should not do anything that improves China's military capability. But the EU has already officially declared its readiness to do so during the last EU-China summit in December last year. While the Chinese side underscored that it views maintaining the arms embargo as "political discrimination" which "was not acceptable and should be immediately removed" the EU "confirmed its political will to continue to work towards lifting the embargo". Though nobody in Brussels knows at the moment whether the embargo will be – as envisaged – lifted during the Luxembourg Presidency or later, Europeans are determined to do so.

This is why the US' political elite is afraid of Brussels. As President Bush's sentimental journey to Europe has demonstrated, the US administration gradually realises that a strategy of *divide et impera* towards the EU and its member countries does not deliver the expected results. The China factor disturbs power perceptions on both sides of the Atlantic. This is because the EU is willing to side with Beijing's strategic interests against the strategic interests of the USA. The lifting of the European arms embargo against China symbolises that the Europeans are willing to support the modernisation of China's People's Liberation Army. In the eyes of the overwhelming majority of the members of the US House of Representatives this decision places "European security policies in direct conflict with the US security interests and with the security interests of United States friends and allies in the Asia and Pacific Region". To those observers a lift of the embargo provides evidence that Europe will sell more weapons to China once the new Code of Conduct is in place.

In fact, the real question is not the lifting of the arms embargo itself but that EU member countries and especially France are determined to sell even more weapons to China and to continue to violate the Code of Conduct once the arms embargo is lifted and a new legally non-binding Code of Conduct has been agreed upon. This development is neither in the interest of the USA nor in the interest of EU member countries who want to abide to the Code of Conduct. Against this

background the EU and the USA share the common interest to start co-operation on China affairs.

President Bush's statement in Brussels that the EU has to sell the lifting of the arms embargo to the House of Representatives indicates what a bumpy and risky journey lies ahead. The costs of negative reciprocity through acts of retaliation by US legislators can neither be in the interest of the US nor of the EU member countries. Nevertheless the clash of US and EU interests over the lift of the embargo is only the first of a series if Americans and Europeans don't agree on the only sensible conclusion, that is, to co-operate multilaterally on China affairs – at least if need be.

The solution to the resulting dilemma lies with the Americans. The USA needs to align itself to the criteria and principles contained in the 'European Union Code of Conduct on Arms Exports', just like, for example, Canada has already done. The advantage for the USA would be that it would gain leverage on the compliance of the Code of Conduct. This would strengthen the European arms export regime. According to a German ambassador out of 25 EU member countries only France has opposed to make the Code of Conduct legally binding. As an aligned member, the USA could put pressure on the French government, for instance when the latter circulates – as it is asked to by the operative provisions of the Code – through diplomatic channels details of why the export of military equipment has been refused. As an aligned member of the Code of Conduct the USA will be able to exert peer pressure on the Europeans not to violate the legally non-binding regime. In the process of the implementation of the Code of Conduct and the compliance to the regime all involved governments can make use of the opportunity to work for its effectiveness by making the Code of Conduct a legally binding instrument. The USA can bring in the critical mass for such a policy change on the European side.

The law-makers on Capitol Hill should consider that an escalation of transatlantic issues because of the end of the arms embargo can be circumvented by using a multilateral approach as an answer to the EU's unilateral behaviour. The Bush administration would help the EU to enforce the guiding principle of the EU's Common Foreign and Security Policy, that is, effective multilateralism, instead of having to accept EU's unilateralism in China affairs.

This solution to the problem would not only serve all transatlantic state interests that are involved but it would moreover send an important signal to the Chinese government in Beijing: The US and the EU have started to co-operate on Chinese affairs. The US and a majority of EU member countries share the common interest of not violating the Code of Conduct by selling military equipment, dual use material or related technology to China. ■

Asylum, Immigration, Justice and Home Affairs

Managing legal economic migration

As part of the Hague Programme adopted at the European Council meeting in November 2004, the European Commission has published a Green Paper on an EU approach to managing economic migration, on 11th January. Although the Commission began this debate back in 1999 following the Tampere European Council, there did not seem to be sufficient support in Council either to address legal ways for third country nationals to migrate to the EU or to address the prospect of a declining native European workforce.

Now, EU governments seem more concerned to address these issues, particularly in the context of the Lisbon Strategy on making the European economy more competitive. Although the Member States would retain the right to limit the numbers of legal migrants entering their territory, the Green Paper proposes establishing an EU-wide common framework on admission procedures. Three possible options for EU rules are identified including a common approach that provides for the entry of any third country national, a sector-by-sector policy targeting seasonal workers, intra-corporate transfers or specially skilled migrants or, thirdly, a fast-track procedure allowing a group of Member States to request access for specific labour or skills gaps.

In terms of the admission system, the Green paper poses a question to the Member States relating to whether the EU could adopt a system granting admission only for a specific job vacancy or a more flexible system that might fulfil medium and long term labour needs. It is the current practice of some Member State that once a job vacancy has been published and not filled after a certain time, then the employer can advertise abroad. However, on an EU level, this would require complex co-ordination to monitor the number of migrants entering the twenty five Member States. Another consideration would be whether the EU will offer a combined work and residence permit, or not.

Green Papers set out possible future policy options and allow for consultation with civil society and independent experts. Economic migration will be the subject of a conference during Summer 2005 leading to a "policy plan" on legal migration admission procedures "before the end of 2005". The conference could address issues relating to the impact EU procedures would have in countries of origin and the various legal, economic or social rights migrants would obtain while working in the EU. An early reaction from EU Ministers followed a debate in the Justice and Home Affairs Council meeting of 24th February. It seems that while there may be some support for the Commission's proposals, more work needs to be done

clearly establishing the division of competences between the Member States and the EU. The Council did agree on a joint proposal from Franco Frattini, Commissioner for Justice, Freedom and Security, and Nicolas Schmidt, Luxembourg Minister for Immigration, on an early warning and information system, that will communicate national decisions in the area of migration or asylum to other Member States.

Political Relations

Taiwan-China direct flights

The Presidency of the European Council, the Luxembourg government, adopted a Declaration on 4th February, on the establishment of cross-strait direct flights over the Chinese Lunar New Year. Taiwan and China initiated direct flights in the 2005 holiday period, building upon the flights that took place last year. In the 2004 holiday period, Beijing permitted flights from Taiwan to land in China, via Hong Kong. Mainland Chinese could not travel to Taiwan. The Declaration welcomed the flights as a measure to lower tensions and to help find a "mutually acceptable basis for a resumption of peaceful dialogue".

Cambodia

The Luxembourg Presidency of the Council, on 10th February, adopted a Declaration on the suspension of parliamentary immunity for several opposition politicians in Cambodia. Amidst disquiet about the general political situation in Cambodia and, in particular, the practice of suspending parliamentary immunity primarily of opposition politicians, the EU "expresses concern" about the unedifying recourse to the judicial system by political leaders. This has led to the suspension of parliamentary immunity for three opposition politicians and the arrest of one representative. The Declaration criticises this practice and suggests it will not help either the development of parliamentary democracy in Cambodia or assist in national reconciliation. The EU calls on the leaders of political parties to work together "in a spirit of responsibility and concord" in the interest of all Cambodians.

Death penalty in Tibet

On 1st February, the Luxembourg Presidency adopted a Declaration on the commuting of the death penalty for Tenzin Deleg Rinpoche. In December 2004, China agreed to commute the death sentence imposed on Tenzin Deleg Rinpoche in 2002 to life imprisonment. This comes two years after the execution of his assistant Lobsang Dhondup in 2003. The Declaration welcomed the Chinese decision but stated the EU's concern about the nature of the trial in the first place. The EU questions the "impartiality of the trial" and the nature of the sentence originally handed down. Tenzin



Deleg Rinpoche is a Buddhist Lama arrested and convicted in the People's Court in Sichuan Province for sedition and conspiracy to cause explosions. His plight was the subject of two European Parliament Resolutions adopted in November and December 2004.

Upheaval in Nepal

The assumption of direct power by the Nepalese King on 1st February brought a swift response from the EU and other international donors. On 3rd February, the Luxembourg Presidency issued a Declaration expressing "deep concern" about King Gyanendra's decision to suspend multi-party democracy and assume executive powers. The Declaration sets out some guiding principles for the EU's policy towards Nepal including an operational multi-party democracy, broad-based government and talks to end the Maoist insurgency. The talks should address "frequent and systematic violations" of human rights by both the Maoists and the Nepalese security forces. The EU states that a military solution to the conflict is unlikely and would, more probably, prolong the suffering of the Nepalese people.

The European Parliament adopted a Resolution, by urgency procedure, on 24th February, condemning the "seizure of power" by King Gyanendra and the general repression that followed. This included the arrests of former and serving politicians, journalists, trade unionists and human rights defenders. In a departure from previous Resolutions on Nepal, Parliament did not call for the appointment of an EU Special Representative, an ambassador under the EU's Common Foreign and Security Policy, who reports to the High Representative, Javier Solana, in the Council of Ministers. Instead, the Resolution suggests that a "neutral third party", which could be either the United Nations or Solana himself, could convene any negotiations.

Echoing a recent call related to the Maldives, this Resolution calls for economic sanctions to be applied against Nepal until democracy is restored. These smart sanctions would be imposed "against the ruling government and military elites". The Resolution calls for the suspension of military assistance and for a review of the how EU aid to Nepal is spent. It is suggested that the EU should also offer technical and financial assistance to the Nepalese National Human Rights Commission to facilitate the deployment of human rights observers.

For the moment, EU development co-operation programmes in Nepal remain operational but the worsening security situation may make it increasingly difficult to justify the continued presence of international aid personnel. In the event of the European Commission recommending the suspension of development aid, the EU humanitarian aid office -

ECHO- would continue to provide relief. This issue was raised in a further Presidency Declaration, on 25th February, which questioned the ability of donors to provide assistance in light of the new political situation. Any worsening of the conflict could "make it more difficult to deliver effective assistance and sustain development programmes". The EU will assess current and planned development activities in terms of effectiveness under the current political and security conditions, but the Declaration did not offer a timetable when this might be completed.

EU-Asia Trade

EU-Japan, Korea trade ties

The European Commission adopted a Report, on 15th February, on the implementation of Council Regulation EC/382/2001 concerning the implementation of projects and programmes promoting co-operation and commercial relations between the EU and the industrialised countries of North America, the Far East and Australasia. The Report covers the years since the start of the programme in 2001 up to 2003. To implement Agreements, Political Declarations and Action Plans, the EU supported co-operation activities with the Japan and Korea, *inter alia*, in the education, cultural, environment, transport and energy sectors. The 2001 Regulation also supported European companies exporting to Japan and Korea, to promote trade relations through executive training programmes and trade missions. Over the three years, the Regulation spent an average of €16m *per annum*. The Regulation expires in December 2005.

Food imports from Iran

On 26th January, the European Commission adopted a Decision imposing special conditions on the import of pistachios and certain products derived from pistachios originating in or consigned from Iran. Following advice from the Scientific Committee for food, the Commission has adopted safeguard measures on imports of pistachios from Iran. The Committee identified a "potent genotoxic carcinogen" called Aflatoxin B1 in the imports, which contributes to liver cancer. While not banning outright the import of pistachios from Iran, the Commission Decision requires that imports be subject to sampling and will require a health certificate, valid for a period of four months, which includes transportation and storage time. Despite improvements in hygiene practices in Iran relating to production, handling, processing and storage, checks carried out in 2003 and 2004 revealed consignments that exceeded the maximum level of aflatoxins. All costs relating to sampling and analysis of consignments entering the EU will be borne by the Importer or food business operator. EU Member States will have to submit quarterly reports to the Commission on the results of checks carried on Iranian



exports. The Commission Decision enters into force on 1st February.

Anti-dumping duties on Indian exports

The European Commission adopted a proposal for a Council Regulation, on 11th February 2005, terminating the partial interim review of anti-dumping measures on imports of polyethylene terephthalate (PET) film originating, *inter alia*, in India. In 2001, the Council imposed definitive duties on a range of Indian companies exporting PET to the EU ranging from 0% for one company, Jindal Poly Films limited, to 62.2% for other companies. After three major EU producers of PET filed a complaint, the Commission began an investigation in February 2004 launching a partial interim review of the exporting practices of Jindal Poly Films during the period January to December 2003.

The three EU producers, Du Pont Teijin Films, Mitsubishi Polyester Films GmbH and Nuroll SpA, suggested that the Indian company was offering PET at special prices to different purchasers and that this, in effect, amounted to dumping in the EU. The Commission review rejected all the claims made by the EU producers, in particular, that the Indian exporter was engaging in price differentiation, increasing production capacity to dump PET on the EU market and that prices differed over time. The Commission therefore proposes that the Council of Ministers maintain the 0% rate for Jindal Poly Films and that the partial interim review be wound up. PET can be used in the manufacture of food and drinks containers.

Market access for Vietnam

As part of Vietnam's application process for membership of the World Trade Organisation (WTO), on 4th January, the European Commission adopted a proposal for a Council Decision concerning the conclusion of an Agreement between the government of the Socialist Republic of Vietnam and the European Community on market access. This bilateral Agreement was initialled in December 2004 between representatives of the Commission and the Vietnamese government and certain terms of the Agreement have become operational since 1st January 2005. The Agreement will be the subject of a European Parliament report, in due course.

In exchange for a range of concessions on the part of Vietnam over several years, the EU agrees to suspend all textile and clothing quotas on Vietnamese exports to the EU similar to the benefits enjoyed by existing WTO members. In any event, the Commission does not believe the Agreement will have a major effect on the European textile sector, saying a "significant negative impact" in the EU is not expected.

Beginning on 1st January, under the Agreement, Vietnam agrees to apply a tariff rate of 5% for yarns, 65% for wines and spirits, allow EU investors access to the cement, telecommunications, computer and engineering sectors and to four EU pharmaceutical firms. Other commitments range across 2005 and into 2006 relating to commercial activities by European companies operating in Vietnam or about to start operations.

Security and Defence Policy

EU CFSP Report 2003

The Committee on Foreign Affairs of the European Parliament met in Brussels, on 24th January, to debate the draft report prepared by the Chairman of the Committee, German Christian Democrat, Elmar Brok. Mr Brok is commenting upon the Annual Report for 2003 from the Council to Parliament on the main aspects and basic choices of the Common Foreign and Security policy (CFSP), including the financial implications for the general budget of the European Communities. In 2003, some of the main CFSP actions included the adoption of the EU Security Strategy, progress in developing the military capabilities for the EU's crisis management operations and the launching of two military operations (Operation Concordia in Macedonia and Operation Artemis in Democratic Republic of Congo).

Instead of commenting on these events or the report compiled by the Council, Brok suggests that Parliament should be consulted in advance rather than after the fact, in CFSP matters. Thus, his draft report examines the possible direction of the EU CFSP in 2005 as a measure to increase the democratic accountability of CFSP issues. Some of the issues that will arise in 2005 include the European External Action Service, the debate on the EU Foreign Minister in the context of the signing of the Constitutional Treaty and discussion about the future Financial Perspectives for 2007-13. The report recommends that the Foreign Affairs Committee and the Civil Liberties Committee should establish a joint working group on terrorism, to assist the Council and Commission. This draft report follows the own initiative procedure and will lead to a non-legislative Resolution.

Terrorist Financing

The European Central Bank issued an Opinion, on 4th February, on a proposal for a Council and European Parliament Directive on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing. After the terrorist attacks in the United States in September 2001, the European Central Bank issued a statement advocating the adoption of a legal framework for the EU to help prevent the use of the financial system and EU internal



market for terrorist activities. By June 2003, the Financial Action Task Force on Money Laundering, which operates under the auspices of the Organisation for European Co-operation and Development (OECD), had adopted a revised version of a policy document known as the Forty Recommendations, which addresses countering money laundering. The revised scope of these Recommendations then included measures to combat terrorist financing. The Commission proposal for a Directive takes account of these revised Recommendations and would provide a consistent legal framework across the EU.

In general, the Opinion of the European Central Bank welcomes the proposed directive. The Bank notes that while the bulk of the proposal relates to internal EU procedures, not least to ensure harmonisation in the internal market, the highest risk of money laundering and terrorist financing occurs in “cross-frontier banking relationships”. Taking the United States policy as a model, the ECB recommends that the EU should exempt Central Banks of approved third countries from “enhanced customer due diligence” requirements for accounts they maintain in the EU in the Euro currency. This would take account of the fact that the Euro is used as an international reserve currency by third country Central Banks and monetary authorities. The Financial Action Task Force maintains a list of third countries that do not co-operate with the Forty Recommendations. This list includes, *inter alia*, Burma. The Philippines and Indonesia were removed from the list in early February at a meeting in Paris where China was welcomed as an observer, for the first time. The ECB suggests that the proposal should include a requirement that central banks should assess themselves on whether they constitute a risk of money laundering although their Opinion maintains that, “in practice, they represent a very low risk of money laundering”.

External Assistance and Development

Tsunami Aid

Responding to the December 2004 tsunami across the Indian Ocean, the EU’s humanitarian aid office - ECHO - adopted a Decision, on 16th February, granting €80m in aid to “The people of Asia affected by the earthquake and tsunami of 26th December 2004”. Granting aid to Indonesia, Sri Lanka, India, the Maldives and Thailand, the Decision makes no reference to Burma, which despite EU sanctions remains eligible for EU humanitarian aid. This Decision gives effect to the allocation of €100m by the Council of Ministers from the Emergency Aid Reserve, from the EU humanitarian aid budget line.

The Decision outlines the particular needs of the different regions affected on a country by country basis. No aid is allocated to Burma as, following an EU

needs assessment mission, it was concluded that there was no urgent need for assistance. The Decision provides €56.6m in aid to relief and short-term rehabilitation measures in the five countries targeting health, water, sanitation, shelter, food, livelihood support and protection. A further €15m is granted to Indonesia, Sri Lanka, the Maldives and Thailand to ensure “efficient co-ordination of aid provided”. Under the auspices of the United Nations, the EU is granting €2m to establish an early warning and disaster preparedness system for all of Asia. The fourth objective of the Decision targets individual regions including Jakarta and Banda Aceh in Indonesia and Colombo, Sri Lanka with €0.6m for technical assistance on the implementation of projects. The remaining €5.9m will be placed in a reserve fund. Working through a range of international relief NGO’s, ECHO will provide the funding over an 18 month period until June 2005.

EU fishing vessels to Asia

As part of the EU response to the tsunami disaster, the European Commission, on 10th February, adopted a “proposal for a Council Regulation amending Regulation EC/2792/1999 as regards a specific action for transfers of vessels to countries hit by the tsunami in 2004”. The 1999 Regulation governs the scrapping of EU fishing vessels. In light of the destruction of fishing vessels in tsunami-affected countries, the damage to port facilities, shipyards, the processing industry and aquaculture sites, the Commission proposes transferring vessels with the following features. To be eligible under the scheme, the EU vessels must be less than 12 metres in length, between 5-20 years old and be sent to Asia before June 2006. Vessels would be transferred to those areas identified by the United Nations Food and Agriculture Organisation (FAO). Under the terms of the 1999 Regulation, fishing vessel owners are paid a premium to scrap surplus vessels. Where vessels are transferred to Asia the same premium would be paid, with a possible 20% extra for those vessels that equipped and seaworthy.

In a legislative Resolution adopted on 24th February, the European Parliament approved the Commission proposal but added the requirement that EU humanitarian aid should be used to help rebuild the fisheries sector in the affected countries and that other types of aid, including technical assistance and skills transfer, should be considered. Subsequently, on 28th February, the Agriculture and Fisheries Council reached Political Agreement on the Commission proposal, short of approving it but indicating that the legislative measure will be adopted shortly.



Guiding EU tsunami relief

Caroline Horekens writes: The tsunami waves that struck the shores of numerous countries across the Indian Ocean on 26 December 2004 caused tragic loss of life and massive destruction. The tsunami has had enormous humanitarian, social and economic impact throughout the region and the medium and long-term consequences of this natural disaster are far-reaching.

Response from the people and governments of the European Union has been generous and unprecedented. The EU humanitarian aid office (ECHO) was one of the first to respond, providing €6m in aid only hours after the tsunami hit. The EU, along with international organizations and NGO's, have since been active in providing relief, reconstruction and development in the tsunami-affected areas. To date, more than €400m has been pledged by the EU and over €700m has been pledged across Europe, from both government and private sources.

On 18th January and 15th February, Nirj Deva (British-PPE-ED), in collaboration with the European Institute for Asian Studies (EIAS), convened Round-Table meetings at the European Parliament to assess the progress of relief efforts in the tsunami-affected areas. Providing a forum for Ambassadors from the tsunami-affected areas, Ambassadors from donor countries, representatives of the European Union and international institutions and representatives from NGO's, these meetings offered the possibility of examining ways and means of overcoming the challenges of effective reconstruction and development. In particular, the Round-Tables addressed the constraints that local and international NGO's face in effectively providing aid to the affected populations and reconstructing the devastated areas.

Ambassadors from the affected regions expressed their gratitude for the generous support and assistance emanating from the international community as a whole and the EU in particular. However, although the first phase of the crisis - immediate humanitarian assistance and relief - had been provided and countries were now entering the phase of reconstruction and development, the situation across the region remained bleak. Thousands of people across the region have lost their livelihoods, children have lost their schools, homeless and internally displaced people (IDPs) are left in overcrowded and insoluble camps and the sick and wounded await proper care. NGO representatives, on their part, expressed gratitude for the generous donations that had rained in from the public but highlighted the fact that they too faced obstacles in providing aid to the tsunami effected regions. Time and co-ordination were needed to ensure the adequate long-term support to rebuild shattered communities and provide them the means to regain their livelihood. The Round-Tables have fostered much needed and effective

discussions between major stakeholders and actors and is scheduled to meet again in March.

Development Ministers' Informal Council

On 14th-15th February, EU Development Ministers met in Luxembourg at the invitation of the President in Office, Development Minister Jean-Louis Schiltz. One of the interesting points raised during this two-day meeting was an adaptation of the idea of the United States to reward developing countries with a proven track record in good governance or the rule of law, more than other third countries. The US government proposed this idea as part of its Millennium Challenge Account in January 2004. Although the Informal Council did not reach agreement on this issue, there seems to have been some acceptance that "well-governed countries" should be able to take advantage of a "fast-track process" in development co-operation. The EU would encourage such countries to "advance more quickly" but exact details were not spelled out. In the Issues Paper on the future of EU Development Policy, prepared by Commissioner for Development, Louis Michel, a related idea is proposed. Referring to the objectives of the Millennium Development Goals and developing a more predictable aid financing mechanism, the Issues Paper suggests that this type of aid might only be available to those poor countries that "perform well". Those better performing third countries would be eligible to receive EU aid over a three to five year timeframe, rather than annually.

Luxembourg Development Minister

Speaking before the European Parliament's Committee on Development Co-operation, on 19th January, the Luxembourg Minister for Development Co-operation and Humanitarian aid, Jean-Louis Schiltz, received an appreciative but critical reception from several members, particularly on issues relating to the Millennium Development Goals. Minister Schiltz said that fighting poverty was at the top of the agenda for the Luxembourg Presidency but with a greater emphasis than hithertofore on the social effects of poverty. The issue of efforts to meet the Millennium Development Goals, he said, would take on a greater significance in 2005, with an interim report on EU efforts to be presented to the Development Council in April. This will address also efforts to improve the EU's profile, as the largest donor to the MDG's. The international donor community is broadly on track towards meeting the MDG targets, although perhaps not in Africa. Referring to the review of the Development Policy Statement, launched by the Commissioner for Development and Humanitarian Aid, Louis Michel, the Minister said a review was essential, in light of the fact that the EU Statement does not include a reference to the MDG's. The review will be based upon a broad consultation process to include



the European Parliament and civil society organisations.

Members of the Committee referred to the poor visibility enjoyed by the EU in its development work, which often led the EU to be criticised unjustly. In fact, the EU's reduced visibility is due in part to the excellent partnership the EU has with other donors, the UN and relief NGO's. Referring to the link between relief, rehabilitation and development (LRRD), it was noted that the gap between relief and development instruments had not been sufficiently addressed by the EU. The Committee called upon the Minister, in alliance with Louis Michel, to propose a measure to ensure disaster victims do suffer from a lack of co-ordination by donors.

Hunger and poverty

The European Parliament adopted a Resolution, on 24th February, on "Action against hunger and poverty". Criticising the world's efforts to meet the Millennium Development Goals (MDG's) as "feeble", the Resolution condemns the EU for not directing enough attention to the needs of least developed countries in development co-operation policy. Although the MDG's will require an estimated doubling of current levels of international aid, the EU should consider meeting these goals as only a "half-way house to ending absolute poverty".

The Resolution contains criticisms of the European Commission and the national governments in equal measure and suggests several possible course of action for both. Referring to EU levels of aid, Parliament wants the Commission and the Member States to propose new and additional funds both to meet the 0.7% target and to use the higher spending to "spearhead global initiatives". While EU development spending should be targeted towards the MDG's, some of the principles of EU aid should include "sustained political commitment", transparency and accountability, good governance and partnership between donors and third country governments. For existing aid spending, parliament is calling for an end to tied aid, a harmonisation of operational procedures amongst donors and implementing aid to meet "countries own priorities".

Four out of the twenty-five EU Member States have reached the UN target of allocating 0.7% of Gross National Product to aid namely Denmark, Luxembourg, the Netherlands and Sweden. Five other Member States have set themselves timetables ranging between 2010 and 2013 of meeting this goal including Belgium, Finland, France, Spain and the United Kingdom. The Resolution was adopted by urgency procedure and thus does not have any legislative standing.

EIB lending in developing countries

The European Parliament's Committee on Development Co-operation, on 18th January, debated the own initiative draft report on the impact of EU lending activities in developing countries, being prepared by Gabriele Zimmer (German-GUE/NGL). The report examines the role of the European Investment Bank lending in developing countries, which takes place mainly in Africa. The EIB lends to a much lesser extent in Asia. EIB President, Philippe Maystadt, told the Committee that, under its mandate for external loans, the Bank only lends about 7% of its funds outside the EU and that the lending must demonstrate a clear economic interest for the EU. If the Member States want to the EIB to lend in developing countries to a much greater extent, then the mandate and loan procedures of the Bank would have to be reformed substantially, he said. To make a more efficient contribution to development in third countries, the EU should co-ordinate the various instruments, including loans, trade and subsidies. Max van den Berg, (Dutch-PSE) said if the Bank is to play a role in lending to developing countries, then it should look at the success of micro-credit lending in Asia, which can have a considerable impact on job creation. Louis Michel's Issues paper on the future of EU Development Policy refers briefly to the role played by the EIB in development lending saying the external lending mandate poses a "growing challenge" not least because the Bank's structures are geared more towards lending inside the EU - its original mandate.

Aid to uprooted people

The Council adopted a Regulation of the European Parliament and Council, on 12th January, amending Regulation EC/2130/2001 on operations to aid uprooted people in Asian and Latin American developing countries. The 2001 Regulation expired in December 2004, following the failure of the Council and Parliament to agree on a revision of the general legislative instrument covering EU development co-operation with third countries. As *EurAsia Bulletin* reported at the time, following the 2002 proposal from the Commission, Parliament was unlikely to support a proposal that ignored its previous requests. Although the Commission has subsequently published a further proposal, linking development co-operation to economic co-operation with third countries, the current Regulation extends the 2001 Regulation for 2005 and 2006 and offers a budget of €141m for the two years. The current Financial Perspective of the EU ends in December 2006. The 2001 Regulation is also amended to entrust the evaluation and administration of operations to aid uprooted people to the Commission itself. ■

John Quigley



Parliament to reject proposal on development co-operation

by John Quigley

The European Parliament's Committee on Development Co-operation is recommending the rejection of the European Commission's proposal for a new instrument linking development and economic co-operation with third countries. By insisting on the withdrawal of the complete text, rather than trying to amend it, Parliament may provoke a bitter debate between the two EU institutions. This follows the disaster that befell a previous proposal from the Commission on a development instrument - the revision of the Asia-Latin America Regulation, which was introduced by the then Commissioner for External Relations, Chris Patten, in 2002.

In the Development Committee draft report, prepared by Gay Mitchell (Irish-PPE-ED), the Commission's proposal is roundly criticised in no uncertain terms. The draft legislative resolution rejects the Commission proposal and calls for a totally new proposal to be prepared declaring the current document to be unamendable. It seems hard to believe that the Commission could be so out of touch with concerns expressed in the Parliament that it could seek to conflate the development and economic co-operation portfolios into one overarching instrument that would try to deal with developing and developed countries.

The Commission adopted its proposal for a Parliament and Council Regulation "establishing a financing instrument for development co-operation and economic co-operation" in September 2004 and forwarded it to Parliament under the co-decision legislative procedure. This proposal was launched as part of the framework for the reform of the delivery of the EU's external assistance, a process that has been underway since May 2000, when the Commission published a Communication on the reform of external assistance. For much of this time, the Commission has sought to reduce the number of development budget lines in order to simplify the delivery of external aid.

The new instrument, if adopted, would enter into force in 2007, coinciding with the start of the EU's new Financial Perspectives, with a budget of €42.5bn for six different sectors, with some €20bn targeting Asia until 2013, when the Perspectives would end. The six sectors include Pre-accession aid, the European Neighbourhood, development & economic co-operation, stability (non-proliferation and terrorism) and, finally, humanitarian aid.

Citing far reaching political and budgetary consequences for the future of EU development policy,

if the instrument is adopted, Parliament's draft report says the proposal is "so far out of step with policies favoured by Parliament that it is unamendable". In particular, Parliament is concerned that merging two distinct areas of co-operation with third countries would place development in a subordinate position. Also, the proposal would limit the power of oversight of the Parliament on spending, where funds for specific policy objectives would be determined by the Commission's programming documents.

During the debate in the Development Committee of 19th January, there was general criticism that the Commission proposal was too broad, too general and lacked a central unifying theme. Regrettably, the development and economic co-operation proposal fails to identify efforts to meet the MDG's as a central objective. There is also a distinction between reducing and eradicating poverty. The current Statement on EU Development Policy, agreed by the Council and Commission in 2000, was adopted before the announcement of the Millennium Development Goals (MDG's), in September 2000. Now, Louis Michel, Commissioner for Development and Humanitarian Aid, wants to revise the 2000 Statement and has launched a process of consultation with Parliament and civil society organisations.

The Michel Paper raises several points that provoked the ire of the Committee and the wider development community. In particular, Michel's belief that development policy must exist in a "turbulent context where [there are] new priorities" has raised questions about the prospect of an end to the traditional independence of development policy from other portfolios, including the trade and security sectors. EuroStep, a network of EU development NGO's, based in Brussels, criticised the proposed instrument as lacking "an explicit focus on development in its own right" giving it little or no relevance to developing countries. The consultation period ends in March and will lead to a Communication by the end of April.

Mr Mitchell has stated that the attempt to merge two distinct policy areas, each with their own objectives could have "detrimental consequences for development co-operation. Calling for "forward thinking proposals" from the Commission, he suggests that the Commission should wait until the revision of the 2000 Statement is complete and that this should form a central part of the revised Commission proposal.

Under the co-decision procedure, the legislative proposal can have up to three readings before being adopted into law. However, Parliaments emphatic preliminary statement does not make for easy reading. Gay Mitchell's report is scheduled to be voted in Committee in mid March and debated in plenary in April. The outcome of that debate would be discussed in the Foreign Ministers Council set for 24th April. ■

ASEAN+3, the 'East Asian Community' and the EU

by Dr Georg Wiessala

Over the last few decades, the potential of inter-regional co-operation between the European Union (EU) and the Association of South East Asian Nations (ASEAN) was routinely hailed as a 'cornerstone' of wider Asia-EU foreign and economic policy interaction. The European Commission, in particular, made this point, frequently and forcefully, in the majority of its policy papers concerning Asia, ASEAN or individual Asian partners. And beyond the political rhetoric there do, indeed, exist many traditional commonalities between the two regional bodies. The universal need for more regional security and stability comes to mind, emphasised by both the presence of terrorism and the new politics of fear in East and West.

Furthermore, there are long-standing parallel processes of enlargement, inside both the EU and ASEAN, aiming at providing the respective body of membership with increased economic opportunity and global reach. In addition to this, there is little doubt that the ASEAN countries form the principal pivot around which a plethora of EU inter-regional co-operation initiatives revolve, covering areas as diverse as educational exchange, disaster management, environmental co-operation or the progressive internationalisation of business strategies. As the catastrophic dimensions of the Indian Ocean Tsunami unfolded in 2004-5, the ambitions, as well as the practicalities and limitations of some of these co-operation initiatives, were tested and dramatically thrust into the foreground.

However, in terms of comparative regionalism and foreign policy analysis, the picture allows for a more discriminating analysis. ASEAN does not share the EU's more 'integrative' ambitions, let alone its avowedly supra-national components. It does not strive towards 'Copenhagen-style' membership criteria; neither is it in a position to advance the twin processes of 'constitutionalisation' and 'institutionalisation', currently so evident inside the EU. Two points are worth suggesting in this context. Firstly, there is little doubt that the thorny issue of Burma in ASEAN is associated with a significant degree of medium-to long-term decline in the overall EU-ASEAN dialogue. However, it is, arguably, exactly this deterioration of the multilateral dimension in EU-Asia dialogue, which provides the catalyst for a parallel reinforcement of EU bilateral ties with individual Asian partners (and ASEAN members), such as the Republic of Indonesia, Thailand, Vietnam and others. EU-ASEAN links thus appear as a good example of the 'enabling' and the 'inhibitory' potential of EU-Asian inter-regional dialogue.

Secondly, ASEAN's transformation from a practical political necessity, through the traumatic events of the financial and social crisis of 1997-8, to a wider, outwardly-directed, dynamism, appears to be accelerating. What is more, many observers increasingly detect signs of this process being complemented by a re-construction of the group's identity, agenda and its sense of purpose and community. ASEAN's long-standing method of 'diplomatic accommodation through non-interference', for example, seems to run a gradual course of readjustment, as the July 2003 *Phnom Penh Communiqué* on Burma demonstrates. These changes are conditioned by a variety of factors. EU trade, foreign and human rights policies *vis-à-vis* Asia may play a part in this transformation, as does ASEAN's unique approach to a more open form of regionalism.

These paradigm shifts also throw into relief a wider diversification of ASEAN's functional co-operation with North-East Asia, by means of the ASEAN+3 mechanism, inaugurated in 1997. The threefold political need to absorb, to some degree, the rise of China, to deal with the historical ballast in the China-Japan relationship, and to re-define Japan's security role, both regionally and globally, underpins the formation of what has been called an emerging East Asian Community (EAC). In spite of the historical shadows of an East Asian Co-Prosperty Sphere, which this notion may conjure up in some quarters, the contemporary concept is in fact very persuasive. The idea of an EAC gains in authority by the persistence of a number of 'non-traditional' security challenges across the wider region, such as, arms proliferation, cross-border crime, trafficking of people and drugs and rising poverty. These cross-cutting issues, plus the volume of intra-regional trade and the economic weight of East Asia, are gradually substituting the previous 'zero-sum' ASEAN-China game of contest and conflict with what may yet amount to a more unified East Asian policy convergence in the economic, cultural and foreign fields.

There is one last aspect that can not be overlooked: at the same time as ASEAN is taking steps towards reforming itself, reaffirming its relevance and adaptability, the grouping is also working to temper the serious global implications of United States' unilateralism and to shift significantly the 'triadic' parameters in the power triangle between the US, the EU and Asia. Almost as a 'by-product' of this, ASEAN is also attracting significantly more interest from an EU for which, more often than not, the policy focus - arms embargo or not - lies squarely on China, despite the many protestations regarding the centrality of ASEAN for the dialogue. ■

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China-Taiwan economic exchanges growing fast

by Duncan Freeman

Relations between mainland China and Taiwan have risen to the surface of media attention in recent months. Although not the result of a crisis on the Taiwan Strait, the attention is nevertheless derived from the ongoing difficulties surrounding the relations between the two sides, and is the product of the moves in Europe to lift the European embargo on arms sales to China. As we know these moves have been attacked by the US as posing a threat to the balance of power on the Taiwan Strait, and for presenting a threat to US forces should they ever have to intervene there.

Much of the discussion of the relations across the Taiwan Strait focuses on the political and military developments. While these aspects are undoubtedly very important, the economic relationship between the two is rarely given the prominence it deserves. Although not without its own difficulties, and often hidden by political rhetoric and posturing, the economic relationship between has shown a dynamism which other aspects of the relationship have not.

Both investment and trade across the Taiwan Strait have grown enormously in recent years. In fact, it would not be far off the mark to say that the business relationship between the two has become one of the most dynamic in Asia. Both investment and trade have increased enormously over the past decade, despite periods of political and even military tension.

The complete picture on trade between mainland China and Taiwan is difficult to ascertain with real certainty. This is largely the result of restrictions placed on trade and investment on the Taiwan side, which force businesses there to conduct their affairs by circuitous routes. Limits on both the amounts of investment and the sectors in which investment can be made in the mainland mean that investment is often directed through third countries, often tax havens. What is in effect a ban by Taiwan on imports from the Mainland and direct transport links means that trade between the two is highly distorted, and shows a huge surplus in favour of Taiwan. Nevertheless, there are indicators of just how important the relationship has become.

The statistics from China and Taiwan for cross straits investment show significant disparities. The figures from Taiwan generally, though not always, show much smaller investment flows than those from the Mainland. Given the restrictions in place in Taiwan, and the incentive these give for investors to hide the destination of their investment, it is probable that the Mainland figure is the more accurate. Both sets of statistics show a similar pattern – generally rapid increases in investment in the early to mid 1990s which peaked in 1997, a subsequent decline in the wake of the financial crisis in Asia followed by a more recent recovery. For 2002, both sets of figures show a significant jump in investment which interestingly enough is much larger in the Taiwan statistics than those from the Mainland, although trend in the figures for 2003 diverge, with those from the Mainland showing a decline in investment and those from Taiwan showing an increase.

Taiwan Investment in Mainland – Mainland Statistics Unit: US\$ million												
1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
466	1051	3139	3391	3162	3475	3289	2980	2599	2297	2980	3970	3377

Source: Ministry of Commerce

Taiwan Investment in Mainland – Taiwan Statistics Unit: US\$ million												
1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
174	246	3168	962	1093	1229	4334	2035	1253	2607	2784	6723	7699

Source: Taiwan Statistical Data Book

If we take the Mainland figures as giving a truer picture, then it can be seen that Taiwan investment across the straits is huge. According to Taiwan figures it is spread across a broad range of industries, with electronics and electronic appliances accounting for the largest share, but with food and beverage processing, metals and metal products, plastics, garments, textiles and footwear, non-metallic minerals, chemicals, precision instruments and transport equipment all having significant amounts of investment. Some industries have been shifted almost wholesale from Taiwan to the Mainland, which has led to concern in some quarters on the island.

This concern is based on fears of the hollowing out of Taiwan's industry and the implications that it has for the long term performance of the economy, including employment. There are concerns especially for some high-technology sectors such as semi-conductors that are strategic, but which have been moving to the Mainland, and it is in these areas in particular that the Taiwan government has sought to regulate investment. The Taiwan business community has on the other hand tended to be an advocate of greater opening to trade and investment in the Mainland. On the Mainland Taiwanese investment has tended to flow to Guangdong and the Shanghai region. In both areas there are now high concentrations of Taiwanese companies focused in specific business sectors.



Trade has tended to follow investment. As Taiwan investors have moved operations to the Mainland, so the trade between the two has increased. Mainland figures show huge increases in imports from Taiwan, although officially trade in the opposite direction remains small. Because of the restrictions, almost all trade is conducted through third parties, usually Hong Kong.

Cross Straits Trade		Unit: US\$ million					
	1999	2000	2001	2002	2003	2004	
Imports	19,527	25,494	27,339	38,061	49,362	64,779	
Exports	3,950	5,039	4,999	6,586	9,004	1,355	

Source: PRC Customs

The flows of trade and investment have their human dimension, as it believed that about 1 million Taiwan businessmen and their families now live on the Mainland. The direct flights across the Strait that were arranged during the recent Lunar New Year holiday are an indication that economic and human considerations can on occasion outweigh political barriers. Following these flights, Beijing has offered to open direct cargo charter flights. It is difficult to make any predictions regarding the future path of relations between Mainland China and Taiwan.

There are many factors, not least domestic Taiwan politics, Beijing's policy toward Taiwan and the stance of the USA which can determine the outcome. In recent years the outlook has generally been considered pessimistic. The focus on political relations and military confrontation across the Strait has tended to obscure the dynamism of the economic exchanges. It is far from certain that the growing economic ties between the two will overcome political confrontation, but it is nevertheless a factor that should be taken into account. The important question will be the extent to which economic exchanges continue to be isolated from political confrontation. Not only are the sides becoming increasingly interdependent, but the relationship is also evolving into an important element in global trade and investment. Apart from for the sake of the inhabitants on either side of the Strait, it thus becomes increasingly in the interests of other parties to ensure that the relationship does not descend into a crisis. ■

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The Commissioner said Hong Kong may be an opportunity to consolidate a major reform of the EU Common Agricultural Policy and move away from trade distorting subsidies. The issue of granting China market economy status (MES) has fallen off the front page but, if as seems likely, the arms embargo issue is settled, then MES will surely resurface later this year, possibly even in time for the EU-China Summit.

For Commissioner Michel, hopefully 2005 will not be seen in retrospect as his *annus horribilis*. The review of the 2000 Statement has already brought a backlash from the European Parliament and seems tied to the proposal for a Regulation linking development co-operation and economic co-operation. Parliament seems set to reject the Commission proposal, which may have been too hastily presented, at the end of the term of the last Commission. In September, the UN High Level Event will report on progress made by donors towards meeting the Millennium Development Goals. Reports suggest the developed world is substantially under-funding the MDG's and unless remedial action is taken, most developing countries will not meet the targets set for 2015.

Thinking for the long term, one important role for the Commission could be in establishing a Committee of Strategic Partners. According to the 2003 EU Security

Strategy, Europe should develop strategic partnerships with, *inter alia*, China, India and Japan. The Committee would meet at the level of senior politicians, but not heads of State or government, to discuss issues of common interest and could be a forum to gauge the views of our Asian partners, before the EU takes policy decisions of regionally-strategic importance. An example could be the EU arms embargo against China - see Dr Sebastian Bersick elsewhere in this issue. Another concern the Committee could address is why the EU's three strategic partners in Asia have not signed the Rome Statute that establishes the International Criminal Court, as Dr Ilaria Bottigliero explains elsewhere in this issue.

If the activities of the Commission bear out the EU's priorities in its relationship with Asia then the EU is most concerned about trade and economic matters, somewhat concerned about development co-operation and lukewarm about the political relationship. As the EU acquires ever more ambitions to strut the global stage, it will find that the relationship between these three portfolios becomes harder to define. One might expect that the political agenda would establish the framework for the EU-Asia relationship, leaving the development and trade sectors to fill in the details. The Commission, the Council and the Parliament must question themselves on which policy area should lead the EU's interaction with Asia. ■

Post-Tsunami relief: What can the EU do?

by John Quigley

On 19th January, the European Institute for Asian Studies (EIAS) in conjunction with the European Economic and Social Committee (EcoSoc) held a round-table on "Post-Tsunami relief, reconstruction and development: What can the EU do?". The meeting, chaired by Malcolm Subhan, Vice-Chairman, EIAS, sought to address the immediate effects of the December 26th tsunami that devastated broad swathes of parts of several countries across the Indian Ocean and outlined possible response options for the EU. A representative from the Committee of the EU-India Round Table of the EcoSoc, Mr Sharma, made an opening address suggesting a role for civil society in helping to find a solution to the crisis, possibly following the model of the EU-India Round Table, the only bilateral civil society exchange the EU has with an Asian country.

Adequacy of assistance, economic and political impact of the tsunami

EIAS Director, Dr Willem van der Geest, presented a preliminary overview of the human and economic effect of the tsunami, as at 17th January. Across the seven affected countries, just under 170,000 people have died with a further 21,000 still unaccounted for and upwards of 1.7m people now internally displaced. Substantial amounts of money have been pledged by private citizens (€920m), some individual Member States (€851m) and the EU (€473m). This compares with pledges of €377m from Japan, €321m from Australia and €263m from the United States. Specific measures will be required from international donors to take account of the loss of life, the loss of habitat, the loss of livelihood and the loss of economic and social infrastructure. The response of donors will be spread across immediate relief operation offering support to survivors, to rehabilitation and reconstruction operations that must be linked to development co-operation objectives.

In order to ensure an effective long term approach, the EU should ensure that aid is targeted and distributed fairly and efficiently to the affected regions. In the EU, funds released for tsunami relief operations should be additional monies rather than drawn down from existing development budget lines. The affected region should consider how they could strengthen regional and inter-regional co-operation to help lessen the affects of a similar disaster. The region will need assistance to ensure that the impact on growth and development would remain limited and marginal in

economic terms. In Sri Lanka and Indonesia, both of which have ongoing conflict resolution concerns, track-two dialogues could be one way of involving the GAM of Indonesia and the Tamil Tigers of Sri Lanka in relief operations, possibly with EU or third party assistance, to facilitate resolution of the internal conflicts. While the Asian Development Bank has stated that the economic effect of the tsunami will be limited, the human cost to the affected region is enormous.

H.E. Abdurrachman Mattalitti, Embassy of Indonesia to the EU, said that, according to the latest reports, an estimated 150,000 people had died as a result of the December 26th tsunami, leaving up to 700,000 displaced people. In the affected areas in Indonesia, some 50% of school buildings were destroyed. The government had initiated a Plan of Action to deal with the consequences of the disaster, focussing on three phases. The first phase, immediate relief, would continue from the last days of December until the end of January, providing basic food items, clothes and sanitation facilities. The second phase, rehabilitation, would commence in February and continue until February 2006, with an emphasis on rebuilding schools, hospitals and government buildings. The third phase, reconstruction, would have a 5-10 year timeframe and would focus on repairing and building infrastructure, including public housing.

Although the tsunami devastated particular areas of Indonesia, overall, the impact on Gross National Product (GNP) should be limited. Vital liquefied natural gas (LNG) plants are unaffected and tourism remains strong in other parts of the country. The sectors most affected include fishermen and farmers. Welcoming the prospect of EU aid, H.E. Mattalitti said the government's preliminary assessment showed some US\$4-5bn will be needed to implement the three phases of the Plan of Action.

The tsunami had particular implications for Indonesia in security and political terms. There would have to be a secure and peaceful environment for delivering aid and to facilitate recovery tasks. Some security concerns arise from the Acehenese independence movement, who might hinder domestic and foreign aid workers. Equally, the government hopes to seize the opportunity presented by the crisis to find a peaceful solution to the claims for independence and has welcomed the declaration of a ceasefire by the rebels. The presence of foreign military forces in Indonesia was welcome, H.E. Mattalitti said, as part of the relief plan for the delivery of supplies and aid. By the end of March, the government hopes to be in a position to take over the bulk of relief operations thus reducing the burden on foreign troops and aid workers.

H.E. C R Jayasinghe, Embassy of Sri Lanka to the EU, expressed his thanks to the people of the EU for their



solidarity with the affected Asian countries, at this time of tragedy. An estimated 40,000 people had died and a further one-in-twenty Sri Lankans are homeless. The tsunami caused substantial damage to the coastal region, with some 80% of the country affected. Sri Lankan GNP will be severely affected due to the substantial destruction caused to the fishing industry, leaving 100,000's unemployed. In the South-West of Sri Lanka, traditionally the most economically prosperous area, vital infrastructure including the rail network and power generation facilities have been badly damaged.

The government has proposed a three-phase recovery plan starting with relief operation over the next three months. This includes providing adequate temporary housing, maintaining law and order, identifying the dead and protecting the vulnerable such as women and children. The government is keen to stabilise the situation in the refugee camps, to improve sanitation, health and cooking facilities. These camps may be in place for up to 6 months. In the medium and long term phases, the emphasis will be on rebuilding and reconstruction. The government is considering whether it will be sustainable to rebuild directly on the coast or if it will be necessary to move inland. Moving inland would affect the access of many to traditional livelihoods, such as fishing.

An initial assessment shows that emergency and humanitarian aid provided to Sri Lanka was well targeted and effective. The government acknowledged the assistance provided by other South Asian countries, particularly the use of naval forces. The EU's humanitarian aid office, ECHO, has done an excellent job, H.E. Jayasinghe said. There were some shortcomings but the aid was timely and well targeted. The EU will continue to have an important role to play as the relief phase moves towards reconstruction. Internationally, the decision of the Paris Club of debtor nations to place a moratorium on debt repayments is welcome but the government has to assess whether, in the long run, this will benefit Sri Lanka. There is a question mark of whether the moratorium might affect Sri Lanka's credit rating. If this were the case, then a debt write-off would be preferable.

In mid January, the Director General of the World Trade Organisation (WTO), Dr Supachai Panitchpakdi, called on WTO members to do everything possible to help the affected countries. The EU is planning to introduce a revised Generalised System of Preferences (GSP) in July, perhaps this date could be brought forward. The EU might also consider relaxing the rules of origin requirements under GSP as a measure to promote regional co-operation. Sri Lanka is keen to develop links with EU civil society organisations, schools and hospitals that have launched initiatives to help our affected communities. The three year old ceasefire of the Tamil Tigers is still in place. President

Kumaratunga has invited the Tamil Tigers to assist in relief operations and both parties are involved in negotiations at the moment.

Speaking from the floor, one participant noted that Commissioner for Trade, Peter Mandelson, had stated recently that he was willing to examine what EU trade measures could assist the affected countries. The early introduction of the revised GSP might be the most practical solution, although both the European Parliament and the Council of Ministers would have to agree. Francesco Marchi, EURATEX, noted that the rules of origin issue was under discussion in the European Commission and any relaxation in the rule would benefit SAARC and ASEAN countries significantly. This would have major consequences beyond assisting tsunami-affected countries and, in general, it is not apparent that the textile of clothing industry in these countries has been damaged. The capacity to export to the EU remains undiminished.

David Fouquet, Asia-Europe Project, said the reaction of both the European public and of business was impressive, with companies such as Shell making their resources available for public use. However, in the long term, it will be difficult to maintain this level of solidarity. Mr Sharma, EcoSoc, noted there was significant goodwill in Europe towards the affected countries and peoples. One way to harness this solidarity would be to organise links with civil society, although this would require a political initiative, similar to the EU-India Summit that launched the civil society dialogue. Dick Gupwell, Secretary General, EIAS, commented that the initial assessments demonstrated that there appeared to be sufficient money available for relief operations. Would this be the same for development operations that will take place in the medium to long term. It must also be decided whether governments will use aid money to restore the old situation or whether a qualitative leap forward is possible by transforming the fishing industry, for example.

Short and long term impact: What can the EU do?

H.E. Don Pramudwinai, Embassy of Thailand to the EU, welcomed the unprecedented global response to the catastrophe caused by the tsunami. The media played an important role in highlighting the extent of the crisis. The worse hit area in Thailand, Phuket, was a popular tourist destination, regularly visited by Europeans. The official EU response, involving the main institutions and including the European Investment Bank, has been quite unprecedented. There is a question mark over the slow reaction of the EU civil and humanitarian aid response, where the EU was unable to match the capabilities of the United States in the Indian Ocean, for example. In general, the EU



suffers from lower visibility in such crises partly as a result of the lack of appropriate capabilities.

European Commission President, José Manuel Barroso, had discussed the early introduction of the revised GSP. It is hoped that the GSP can be brought forward from the scheduled introduction of 1st July. President Barroso had also discussed the possibility of sending surplus EU fishing boats to Asia, although it remains to be seen if they can be adapted to meet Asia's needs. The EU could have a role, in conjunction with the United Nations, in monitoring the nature of global pledges of assistance and ensuring that they are delivered. Only an estimated 10% of pledges following the Bam earthquake in Iran were delivered. The EU's role will have to be discussed at Council of Ministers level where, hopefully, the national governments can propose a substantive plan for the long term. In terms of institutional relations, the European Parliament needs to speed up its scrutiny of the revised GSP proposal. The Council could take the lead in improving the rapid reaction mechanism and could compile an inventory of assistance, to help monitor the situation in the coming six months and so that development co-operation will not suffer.

H.E. Dato' Deva Mohd. Ridzam, Embassy of Malaysia to the EU, remarked that Malaysia was not badly affected by the tsunami, with 68 deaths and an estimated 8000 people made homeless. There must be a role for the EU in responding to the needs of the more affected countries. Although the United States military, non-governmental organisations (NGO's) and neighbouring countries were very visible in their response, the EU was less visible. Later in January, the EU will sign €100m in aid commitments with relief and development partners. The humanitarian aid office, ECHO, should have the primary responsibility for monitoring the projects established in the affected regions. This role should not fall to the Directorate General for External Relations.

The emergency phase of helping the affected countries seems to be going well; certainly, food shortages seem to have been avoided. However, for the longer term, nothing appears to be happening to the estimated €800m donated by the public, which seems to be lying unused in bank accounts. NGO's need to state publicly what they intend to do with the money and when. The €350m pledged by the EU does not yet exist and the €100m from ECHO has been spent. If normal EU procedures are followed then it is likely that the €350m will not appear until June or July. This would take account of call for tenders, memoranda of understanding, financing agreements and the Summer break. Such a long timeframe would offer a bleak outlook to the tsunami survivors.

There is a question mark over whether this will be 'new money' or if it will be diverted from existing

commitments to other budget lines. Initial reports suggest that €150m will be taken from existing budget lines and €200m will come from the Member States. The EU must answer quickly when the affected countries can expect to see the €350m, where will the money come from and where is it going to be spent? To have a sufficient impact in the affected regions, EU programmes will have to be sustained over the long term. In any event, whatever actions donors undertake, they should not undermine the fiscal situation of the countries concerned. Probably, there should be a mixture of debt relief and debt cancellation, in order to help countries in a sustainable way. After 3-4 months, donors should cease purchasing goods and services from Europe and concentrate on accessing local providers. The EU's role can focus on three areas including aid, trade and debt relief.

Ms Neena Gill (British-PSE), Chairwoman of the European Parliament Delegation for the countries of South Asia and SAARC, noted the scale of the challenge facing international donors in the affected countries is huge but, the EU has significant experience in humanitarian aid and development co-operation that the region can benefit from. EU aid should be more than replacing what was damaged and instead be aimed at giving the affected regions a step up, in development terms. Having returned from a visit to Chennai and Tamil Nadu, Ms Gill said the impression she received was that emergency aid was delivered quickly and got to where it was needed.

The €100m committed through ECHO represents additional funding but EU visibility suffers due to the fact that ECHO works through well-established partners, such as the Red Cross and the United Nations. The €350m pledged by the EU in long term aid has been presented as 'new money' but, in fact, €150m is re-programming - redirecting money from existing budget lines. The European Parliament is against this practice in principle and, in general, has argued for increased EU funding for development co-operation in Asia. A basic principle should at least be that the money should not come from existing budget lines that target developing countries.

Parliament's Delegation to South Asia and SAARC discussed the need for the protection of women and child through measures to counter trafficking, child labour and prostitution. Victims of the tsunami may be disabled and may require trauma counselling. While the EU has a large role to play, SAARC and ASEAN can do much to help each other, particularly in the area of disaster management and developing early warning systems. If these regional organisations were prepared to take the lead, then international donors like the EU and the UN would surely follow. The EU and other donors will take a keen interest in the transparency of aid spending and accounting for the money spent on the ground.



During comments from the floor, Ms Sarah Storey, First Secretary, Embassy of Australia, said the government has committed AUSD1.06bn over five years. The emphasis for Australia would be on medium to long term development goals, in order to help ensure that international aid to the affected countries will be sustainable. Dr Tazeen Murshid, *Université Libre de Bruxelles*, suggested that the governments of the affected countries should consider a strategy to prevent future disasters, including building proper shelters in coastal areas, similar to what has been developed in Bangladesh. For example, when schools are built, they are designed to act also as shelters and relief centres.

Ms Mette Petersen, Director, Development Programmes, Red Cross Belgium, noted that donors should undertake a proper assessment of the needs of the affected countries before rushing to move from emergency relief to reconstruction and rehabilitation. Partnerships between donors and governments are essential but must be co-ordinated and based upon adequate needs assessment. International aid must be accountable and transparent and not cause further harm. The European Commission had a task force on the link between relief, rehabilitation and development but this group has not met recently.

In conclusion, Dr Willem van der Geest presented an interim set of Recommendations from the meeting, to be presented to the EU. One of the main issues arising from the joint EIAS-EcoSoc meeting, he said, was concern about the aid funding coming from the EU. Participants had questioned whether this would be new money to the EU budget or merely redirected from existing budget lines. Aid must be delivered quickly, in phases ranging from immediate relief to long term development goals.

Another recommendation from the meeting suggests that partnerships between international donors and the affected government are essential in order to ensure that aid will be sustainable and offer a long term impact. These partnerships should include provisions for technology transfer and should consider the purchase of local resources, where appropriate. As part of its three year partnership Agreement with the European Commission, EIAS is ready to assist both the Commission and European Parliament in monitoring the EU response and ensuring its sustainability. ■

The International Criminal Court in Asia

by John Quigley

On 25th January, the European Institute for Asian Studies hosted Dr Ilaria Bottigliero for a lunch briefing on the subject of "International criminal justice in Asia: From the Tokyo trials to the International Criminal Court (ICC)". Following the adoption of the Rome Statute in July 1998, giving effect to the Court, there has been some difficulty in persuading countries in Asia to ratify the Statute. Worried about the possible implementation of the Court's remit, the United States has pursued a policy of inviting third countries to conclude bilateral agreements, effectively excluding US citizens from the remit of the Court. Dr Bottigliero is with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund, Sweden. The meeting was chaired by EIAS Director, Dr Willem van der Geest.

Across the world, Dr Bottigliero said, the concepts of justice and redress are basic principles recognised by most individuals and countries. Thus, whoever commits an offence should be punished and victims should be entitled to some form of compensation. Despite this, victims of massive crimes, such as genocide, war crimes or crimes against humanity have rarely seen justice. In the rare cases where perpetrators have been brought to trial, justice is rarely prompt.

Asia has been a region of severe human rights violations. In general, rights violations have occurred or continue to occur *inter alia* in Afghanistan, Cambodia, China, East Timor, Aceh, Kashmir, Burma, Nepal, Pakistan and Sri Lanka. Social and political unrest feeds into a cycle of resentment, violence and conflict. The examples of how Asian countries have been seriously deficient in providing redress, undermines the rule of law and what citizens can expect from their government. It is hoped that the International Criminal Court will be able to assist Asian governments to provide redress, where crimes occur.

In the first example, Dr Bottigliero raised the case of the germ warfare unit of the Japanese Imperial Army during the Second World War. Under Japanese experiments, it is estimated that some 300,000 people died from biological tests. Following the war, the United States granted the unit immunity, in return for data from the experiments. Subsequently, in the mid 1990's, 180 Chinese citizens began filing lawsuits against the Japanese government. While acknowledging the actions of the unit, Japan maintains that its liability ended with the signing of the 1951 Peace Treaty with China. What this example



demonstrates, Dr Bottigliero said, is that justice and redress are often sacrificed for political and strategic deals between governments.

In a second example, Dr Bottigliero examined the leadership regime of Ferdinand Marcos, the President of the Philippines between 1965-1986 and military dictator after 1972. His regime was responsible for torture of political and civil opponents, killings, extra judicial detention and stealing an estimated US\$5-7bn. Despite this, his wife was elected to the House of Representatives, although she was subsequently arrested for corruption in 2001. The democratically elected government of Corazon Aquino seemed to be committed to bring perpetrators to justice, but her government was destabilised. Another President, Fidel Ramos, adopted a series of amnesty laws. Faced with this scenario, victims began to file suit in the United States, where a Hawaii Court held Marcos liable for US\$1.2bn in punitive damages and US\$766m in compensation. To date, no victim has received any form of compensation, in part because the government of Gloria Arroyo refuses to release the funds. This case demonstrates that where the human rights violations are by a government, violations often go unpunished.

Other examples in Asia include widespread sexual violence ranging from Second World War 'comfort women' in South-East Asia that affected South Korea, the Philippines, Indonesia and China, to the systematic rape of some 200,000 Bangladeshi women over nine months in 1971 by Pakistani troops to the 2002 riots in Gujarat, which has unresolved cases of sexual and gender violence. These cases beg the question of why such serious rights violations have gone unpunished across so many Asian countries? Several factors seem to contribute, Dr Bottigliero said, to a general climate of impunity. These include unstable political situations with weak human rights protection, governments that often play a role in rights violations and governments that may be unable to cope with the magnitude of crimes. Prosecutions seem to be difficult in Asia where there are a large number of victims and when victims petition for monetary compensation.

The ICC may have a role in cases in Asia where domestic courts are unable or unwilling to provide justice or redress. An international instrument could assist governments, such as Cambodia, where it is seven years since the decision was taken to establish a tribunal to investigate Khmer Rouge abuses. Since entering into force in July 2002, three countries have submitted actions to the Court including the Central African Republic, Uganda and the Democratic Republic of Congo. Some 139 countries have signed the Rome Statute and 97 have ratified it. To date, the United States, China, India and Japan have not signed up and, in general, South-East Asia lags behind other regions.

Asian governments may be reluctant to ratify the Rome Statute for several reasons, Dr Bottigliero explained. Governments may feel they lack sufficient information about the Rome Statute and appropriate technical support. This can manifest itself as a lack of expertise to draft the required domestic implementing legislation or even to translate the Statute. Governments may feel that domestic political considerations hinder their ability to sign or ratify the Statute, such as the Philippines, which signed in 2000 but has yet to ratify. Some government, such as China, have adopted a wait and see approach and while they do not seem to be against the Court in principle, prefer to see how it works in practice before committing themselves. Some governments are preoccupied with civil wars or other internal conflicts such as Sri Lanka and Nepal. Some governments are currently reviewing how the ICC Statute will affect existing domestic legislation. Finally only a few governments have serious reservations about the Court with the prospects of either Malaysia or Burma joining assessed to be very poor. Equally, it is unlikely that either Pakistan or India will join in the near future and Singapore seems to have a mixed position.

Questions and Answers

Bo Jonsson, ILO/ACTRAV, raised the case of Indonesia and wondered what was the official view coming from Jakarta. In comparison to the European Court of Human Rights, where the implementation of justice rests with national governments, is it expected that the ICC will really do any better? Caroline Horekens, Director's Assistant and Researcher, EIAS, noted that international support for such tribunals depended, to a large degree, on available financing and technical support. In the case of Cambodia, the United Nations has retreated from supporting a tribunal to investigate the Khmer Rouge and prefers to wait until the estimated US\$50m needed is committed by States.

Philippe van Amersfoort, European Commission, said the EU was committed to promoting the International Criminal Court in Asia through an Action Plan that targets specific countries initially, including getting China and Japan to ratify the Rome Statute. Their participation would also have important consequences for the annual budget of the ICC. Globally, participation by Asian States is lagging behind other regions, partly because of the influence of the United States although this, at times, can be overstated.

Dick Gupwell, Secretary General, EIAS, commented that it might appear that international law is more of a relative concept rather than an absolute one. Often, governments are happy to repeat it when it suits them and ignore it when it does not suit them. Thus, Noam Chomsky, the American author and thinker, recently said that, under the Nuremberg Trial rules, every United States President since the end of the Second



World War could be liable for the wars they fought. If not very many Muslim States have signed the ICC Convention, do they see a conflict between Islamic and secular law, at ICC level?

In the case of the Philippines, how far are the victims of the Marcos regime identified as enemies of the current government of Gloria Macapagal-Arroyo. Regarding Malaysia, has there been any shift in the government's attitude since the departure of Mohamad Mahathir from the office of Prime Minister. Is there any serious debate underway in India about whether they would consider being associated with the ICC. Dr Willem van der Geest, Director, EIAS, said the influence of the United States should not be underestimated. Often, countries in Asia will use the stalling tactics of the USA to adopt a wait and see approach for themselves. If a country joined the ICC today, would they be liable for events that transpired since 2002, when the ICC started, or just from their date of accession. Dr Sebastian Bersick, Research Fellow, EIAS, wondered what status Taiwan might enjoy as a possible member of the Court, in light of its relationship with mainland China and Beijing's attitude to Taiwan's membership of international bodies.

The Speaker in Reply

Dr Bottiglierio replied that the position of the Indonesian government is mixed although it seems that Jakarta is not against the ICC in principle. Over time, the position is evolving and with some technical support, the ICC may be hopeful they would join. Currently, the government is examining whether the implementation law they must adopt would conflict with existing domestic law or the Constitution. The process of establishing a tribunal in Cambodia is difficult, not least because of the financial constraints, whereby the United States has stated they will not fund the tribunal and the United Nations saying they are unable to do so. However, a more pressing concern is the attitude of the Cambodian government, which makes other countries reluctant to pay for the tribunal process. On the one hand, the government has enacted amnesty laws while, on the other hand, asking for funding. As Cambodia has signed and ratified the Rome Statute, any future crimes would come under the remit of the ICC.

The European Union has been very active in Asia, seeking ratification of the Rome Statute. However, it can be very tough to counter successfully the influence of the United States in the region, particularly with the Philippines, for example. Nevertheless, despite this delay, world opinion can not wait for the USA, as in other fields, to ratify this international instrument. In its lobbying campaign against the Rome Statute, the US has invited third countries to sign so-called Article 98 Agreements, which prevent the handing over of US citizens to the Court. To date, the US has signed

numerous such bilateral agreements worldwide. The US had also requested the United Nations Security Council to exclude non-State party nationals from the remit of the Court, who might be serving in peacekeeping missions. The UN Security Council adopted Resolutions agreeing to this practice in 2002 and 2003, but the UN refused in 2004 so US peacekeepers are no longer immune from prosecution.

Regarding the plight of the victims of the Marcos regime in the Philippines, where the perpetrators are now often part of the democratic system, Dr Bottiglierio said the wider community generally respects the victims but the country is full of contradictions, with some groups praying to Marcos as a saint! In post-Mahathir Malaysia, the optimism of a change in policy was short-lived. Despite another new government, there does not seem to be a probable change in policy, in the short term. There is an internal debate underway in India but a scheduled conference on the role of the ICC in 2003 was cancelled at the last minute. Indian government representatives were active during the negotiations that led to the adoption of the Rome Statute but this has not translated into any short or medium term optimism that the government will ratify the Statute.

If Turkey, as a State with a majority Muslim population, was to join the EU, Ankara would have to ratify the Rome Statute as part of the *acquis communautaire*, including other human rights instruments. Many Islamic States were active in the negotiations leading to the Rome Statute so although they may have domestic political problems adhering to such an international instrument, there does not seem to be a contradiction between the Statute and Islamic law, *per se*. Once a country has ratified the Statute, there is an obligation to assist the Court in detaining or arresting any person wanted for trial.

Interestingly, Asia is the only region worldwide not to have its own human rights system. The EU, the USA and even Africa all have indigenous charters or courts ensuring protection of human rights standards. Regarding the possible membership of Taiwan, only States may accede to the Rome Statute. Thus, neither Hong Kong nor Macau, for example, would be eligible. There is the option for such territories of signing Co-operation Agreements with the Court, promising to co-operate with the Court and detain suspects if necessary. The success of the Court will depend on the will of the member States to make it work. The enforcement of warrants or judgements will depend on the co-operation of governments, which can in itself be problematic. ■