EU-Moroccan relations after Lisbon:

What’s new about the Union’s ‘special relationships’ with its neighbours?

Paper prepared for the panel ‘After Lisbon: Changing Patterns in EU foreign policy making towards the neighbours?’

6th ECPR General Conference, Reykjavik, Iceland, 24-27 August 2011

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Introduction

The Lisbon Treaty entered into force in December 2009 after nearly a decade of constitutional debates in the European Union (EU). While it does not replace the previous EU treaties it does bring a number of changes to the Treaty on European Union (TEU) and (what is now called) the Treaty on the Functioning of the European Union (TFEU) that have a bearing on the EU’s relations to third countries (Missiroli 2010). A permanent President of the European Council has been created and the High Representative for the Union’s Foreign Affairs and Security Policy is now also Vice-President of the European Commission responsible for External Relations. The European Parliament is fully involved alongside the Council of the EU in a large number of policy areas under the ordinary legislative procedure, for example when it comes to EU trade policy (Woolcock 2008). Moreover, the Lisbon Treaty also lends a treaty-based prerogative for the EU to develop ‘special relationships’ with neighbouring countries with the aim to establish an area of shared prosperity founded on the values of the Union and characterized by close and peaceful relations based on cooperation (art. 8 TEU). ¹ For this purpose the EU may conclude ‘specific agreements’ with the countries concerned and these agreements may contain reciprocal rights and obligations as well as the possibility of undertaking ‘joint activities’ (ibid).

However, it is not entirely clear what such special relationships actually entail in practice. They are arguably devised so as to offer something else than EU membership but how much can these relationships differ from what is already being established with the EU’s most ambitious partners in its neighbourhood? In other words, what does it mean for neighbouring countries to have a status of ‘more than association but less than accession’ with the EU in the post-Lisbon era? Although it has been noted that these relationships will probably be a mix of accession and association, it is indeed hard to see how they would differ in substance from the already existing European Neighbourhood Policy (ENP). Moreover, as Bechev and Nicolaïdis have duly pointed out, the discourse on special relationships hint at the dilemmas involved in the EU’s policy- and ‘polity-making’ ambitions towards its neighbours: hegemony vs. partnership; conditionality vs. ownership; bilateralism vs. multilateralism; differentiation vs. homogeneity; and a functional vs. a geostrategic vision vis-à-vis the neighbouring non-members (Bechev & Nicolaïdis 2010:479-481).

Morocco is a highly interesting country in this context. It has for a long time been considered an important partner of the EU, taking on an active role in the Euro-Mediterranean

Partnership (EMP) in the 1990’s and being among the ‘avant-garde countries’ of the ENP after 2004. The Kingdom of Morocco has a history of alignment with the West and it is up until today the only Arab country to have participated in an EU-led military operation (EUFOR Althea in Bosnia). Furthermore, in 2008 Morocco was granted a so called Advanced Status with the EU which can be said to deepen political and economic cooperation between the parties even further. Although there are strong indications of a continuous process of institutionalization of EU-Morocco relations there are also a number of contentious issues that more or less constantly put a strain on the relationship. Trade in agricultural products, fisheries policy, migration, trafficking, human rights as well as territorial disputes (i.e. Western Sahara, Ceuta and Melilla) all play a part in the mix of cooperation and conflict between Morocco, on the one side, and the EU, on the other.

This paper seeks to take a closer look at what the changes brought about with the Lisbon Treaty might entail for EU-Morocco relations. For example, how does the creation of a permanent President of the European Council and the new role of the High Representative for the Union’s Foreign Affairs and Security Policy affect the on-going institutionalization of EU-Morocco cooperation? To be sure, the interesting question for students of EU foreign policy is of course whether it can be said that the new treaty somehow increases the Union’s political leverage towards Morocco in terms of incentives for economic modernization and political liberalization. Importantly, it can be argued that lessons from the ways in which EU-Morocco relations have evolved in the past might give us valuable clues as to what the special relationships stipulated by the Lisbon Treaty might actually bring to the neighbours at a time when the EU enlargement process seems to be reaching its limits. To put it differently, studying the institutionalization of EU-Morocco relations might give us a better understanding of what integration without accession means in practice.

Thus, the paper addresses these questions by way of first analyzing the historical development of EU-Morocco relations leading up to the Advanced Status of 2008. It then moves on to discuss what possible novelties the Lisbon Treaty brings, focusing particularly on the Spanish EU Presidency of 2010 as it was the first to be held under the provisions of the new treaty and it was also responsible for organizing the first EU-Morocco summit. The analysis

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2 Institutions are usually defined as both formal and informal structures (e.g. ‘rules of the game’) shaping actors’ behavior whereas institutionalization would be the process in which norms or standards of behavior are created and developed. Institutionalization thus involves the development of formal and informal rules, as well as procedures, norms and practices governing politics (cf. Green Cowles, et. al. 2001, Smith 2004). For the purpose of this paper, institutionalization of EU-Morocco relations refers to both the setting up of formal institutions for political cooperation between the parties as well as the cooperative practices developed over time.
partly draws upon interviews with EU officials as well as Moroccan and Spanish diplomats conducted in the period September 2008 to October 2010.

The institutionalization of EU-Morocco relations: from trade and aid to regulatory convergence

Political and economic cooperation between the EU and Morocco comes with a long pedigree. It stems all the way back to the Rome Treaty of 1957 which stipulated that the European Economic Community (EEC) would have a common commercial policy towards third countries (ex art. 113 TEC) and that the community would be entitled to conclude association agreements with non-member states (ex art. 238 TEC) (Meunier & Nicolaïdis 2005). Thus, while Morocco regained national independence from France and Spain in 1956 the room of manoeuvre in terms of trade negotiations vis-à-vis its main European economic partners has ever since steadily become circumscribed by the process of European integration (and enlargement). Not surprisingly, Morocco was among the first non-member states in the Mediterranean to sign a Preferential and Association Agreement with the EEC in 1969, as a precursor to the EEC’s Global Mediterranean Policy (GMP) (Pierros, et al. 1999). When Spain and Portugal became members of the EC in 1986 the bar was raised even further as for Morocco’s access to European markets (Tovias 1996). Even so, it is estimated that around 50-60 per cent of Moroccan imports and exports either originate from or are destined to the Internal Market and these figures have been more or less constant since the 1980’s, although the total volume of trade has steadily expanded (see Figure 1). It should also be noted that Morocco has been one of the main beneficiaries of EU financial aid in the Mediterranean region (Dawson 2009).

The 1990’s saw steps towards further institutionalization of EU-Morocco relations. As a response to the ‘Mediterranean enlargement’ of the EC and in the wake of the ground shaking event taking place in Eastern Europe in 1989, the European Commission sought to renew the community’s Mediterranean policy. In 1990, it presented a proposal for a Renovated Mediterranean Policy (RMP). A set of financial protocols with Morocco (and other

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3 By way of comparison, trade with Morocco amounts to less than 1 per cent of the EU’s total external trade volume and Morocco has a structural trade deficit vis-à-vis the EU. These figures have not changed considerably for quite some time now (cf. Tsoukalis 1997). Economic figures for 2009 reveal a contraction of the trade volume between EU and Morocco as a consequence of the global economic crisis that was set off in 2008.

4 Of course, it is only after the ratification of the Treaty on European Union (TEU) in 1993 that one can properly speak of ‘EU-Morocco relations’.

Mediterranean non-member countries) was thereafter negotiated which would then constitute the basis for the RMP. While the RMP mostly stayed true to the already established practice of regulating economic relations between the EC and Mediterranean non-members (i.e. granting trade concessions mainly for industrial goods with a number of important exceptions mostly related to agricultural products) it also: ‘suggested a new way of spending money, by promoting multilateral networks, decentralized cooperation and a public/private partnership… [RMP] was a step toward the promotion of regionalism, as well as a more neoliberal approach to development’ (Bicchi 2007:155, emphasis added).

Figure 1. EU-Morocco Trade Volume 1988-2009

Importantly, the end of the Cold War also meant that the relationship between the EU and countries in its southern vicinity took on a new dynamic in terms of security. The geographical proximity and the ‘closeness of all types of relations’ between Europe and the countries in Maghreb/North Africa made the stability and prosperity of the EU seen as ultimately dependent on the stability and prosperity of its southern vicinity. According to the Commission: ‘What is at issue is its [i.e. the EU’s] security in the broadest sense’. In a report presented in March 1992, the Spanish Minister of Foreign Affairs, Francisco Fernández Ordóñez, described the situation in the Maghreb as ‘ticking time-bomb’ that could only be defused by enhanced regional cooperation between EU member states and non-members within a ‘Euro-Maghreb Partnership’ (Hernando de Larramendi, et al. 2009:76).

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6 Trade in goods. Figures in million euro. Source: European Commission
7 European Commission (1990:2).
8 This was also in line with the general shift in Spanish foreign policy towards the Maghreb, and particularly Morocco, aiming to create a ‘cushion of common interests’ (colchón de intereses comunes) between Spain and the
The idea of a Euro-Maghreb Partnership was picked up by the Commission and presented to the EU member states which adopted it at the European Council meeting in Lisbon in June 1992. Euro-Maghreb relations were to be based on the establishment of a free trade area, financial cooperation, political dialogue, and region building: ‘as a response to the challenges of migration, political instability, security and development’ (Bicchi 2007:163). However, in order to get the northern EU member states fully on board the geographical scope of the proposal had to be expanded to include not only the Maghreb but also the countries in the Middle East. In October 1992, the Spanish Minister of Foreign Affairs, Javier Solana, duly confirmed that a Euro-Maghreb Partnership was only one of several ‘possibilities’, implying that other options should also be explored. This essentially paved the way for the Euro-Mediterranean Partnership (EMP) (Bicchi 2007:163).

The EMP (also referred to as the Barcelona process) was launched in November 1995 following the adoption of the Barcelona Declaration. The declaration was adopted by all EU member states and ten Mediterranean partner countries at a summit held in the Catalan capital organized by the second Spanish EU presidency. The original aim was to establish a ‘common area of peace and stability’ as well as ‘an area of shared prosperity’ and ‘develop human resources and promote understanding between cultures and exchanges between civil societies’. Thus, the EMP would cover three main areas: i) political and security, ii) economic and financial, and iii) social and cultural. However, aside from economic cooperation and the gradual liberalization of trade through a range of bi-lateral Euro-Mediterranean Association Agreements and financial aid through the MEDA programmes (aimed at the construction of a Euro-

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10 Spain and Italy had previously sought to promote the Conference on Security and Cooperation in the Mediterranean (CSCM) and although it had proven to be unsuccessful it nonetheless served to show that the political-security dimension had been missing from previous EU policies towards the Mediterranean. The Spanish-Italian proposal was based on the Conference on Security and Cooperation in Europe (later OSCE) model of conflict resolution and confidence building developed during the Cold War (Adler 1998). However, the major European partners were at best indifferent (France) but mainly hostile towards it (the UK), and perhaps most importantly: ‘The United States was totally against it’ (Bicchi 2007:158). According to Bicchi: ‘one of the most important successes of Spanish diplomacy was to be the establishment of a link between on the one hand the CSCE perspective, with its global approach, and on the other European foreign policy, traditionally based on economic relations’ (Bicchi 2007:159).
12 The Mediterranean partners were Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey and the Palestine Authority. Cyprus and Malta became EU members in 2004, Turkey is candidate for EU membership since 2005 and Libya was accepted as observer to the EMP in 1999.
Mediterranean free trade area by 2010) progress has been slow on security and political matters to say the least, mainly owing to the perennial conflict in the Middle East (see Table 1).  

Table 1. Financial Aid EU-Morocco 1995-2013

<table>
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<th>Total amount (million euro)</th>
<th>Amount per year (million euro)</th>
<th>Amount per inhabitant (euro)</th>
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<tr>
<td>MEDA II (2000-2006)</td>
<td>982</td>
<td>140,3</td>
<td>4,8</td>
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<tr>
<td>ENPI (2007-2010)</td>
<td>654</td>
<td>163,5</td>
<td>5,45</td>
</tr>
<tr>
<td>ENPI (2011-2013)</td>
<td>580</td>
<td>193,3</td>
<td>6,2</td>
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For the purpose of this paper it is also important to note that the run-up towards the EMP points to the more idiosyncratic features of the EU-Morocco relations in the post-Cold War era. One particularly interesting event in this regard was the crisis that broke out between the EU and Morocco in 1992. It was spurred by the European Parliament’s decision to block the renewal of Morocco’s Financial Protocol due to human rights abuses committed by the Moroccan regime. Morocco retaliated by refusing the aid package and threatening to cancel its fisheries agreements with the EU: ‘with devastating effects on the Spanish and Portuguese fleets and up to 100,000 related workers’ (Dawson 2009:54). Hence the activities undertaken by the Commission and Spanish diplomats in early 1992 (see above).

Talks between the Commission and Morocco started in May the same year aiming to explore the possibilities of establishing an EU-Morocco free trade agreement as well as enhancing political cooperation between the two parties. By the end of 1992 the Parliament reinstated the aid package for Morocco and the fisheries agreement had also been renewed. In December the Commission presented a draft negotiation mandate which was debated and then finally approved by the Council of Ministers in late 1993. Although in Rabat’s view the deal fell short of expectations since the proposed agreement offered only minimal concessions as to

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14 Source: Jaidi & Martin (2010)
15 It is quite telling that the EC had not signed a single agreement on fisheries with Morocco until Spain and Portugal became members in 1986. The bi-lateral agreement between Spain and Morocco signed in 1983 was prolonged by the EC until December 1987 and the first EC-Morocco Fisheries Agreement was then signed in 1988 (García Pérez 2009). The agreement that was reached between the EU and Morocco in 1995 stipulated both a large financial compensation to Morocco and a substantial reduction of the European quotas in Moroccan fishing waters (ibid). The negotiations in 2001 that were meant to lead to a new agreement collapsed (it has been suggested that it contributed to set off the ‘Parsley Island crisis’ between Spain and Morocco in 2002, Gillespie 2006). A new EU-Morocco Fisheries Agreement was not signed until July 2005 and it did not enter into force until April 2007. It should be noted that these agreements can be seen as a tacit recognition by the EU of Morocco’s de facto jurisdiction over the fishing waters outside of the occupied territories of Western Sahara.
16 It should however be noted that the Council: ‘had greatly reduced the concessions to be offered to Morocco under pressure from certain member states, most notably Spain’ (Dawson 2009:55).
agricultural trade, did not cover non-tariff trade barriers trade and promised quite inadequate financial assistance (Dawson 2009:55).\(^{17}\)

Up until the conclusion of the Euro-Mediterranean Association Agreement between the EU and Morocco in November 1995 intense negotiations followed in which Morocco tried to use its ‘fisheries leverage’ in order to secure concessions from the EU: ‘Morocco sought to negotiate the proposed association agreement before discussing any new fisheries accord in the hope of leveraging its marine resources, while the EU insisted that the fisheries agreement be dealt with first’ (Dawson 2009:56). Tensions were running high in the negotiations as Madrid pushed for the EMP to be launched at the end of the Spanish EU Presidency in the second-half of 1995 (knowing that launching it without having concluded a new Association Agreement with Morocco would be inconceivable to most EU member states, including Spain) (Dawson 2009:107). The EU eventually prevailed in insisting that there would be no association agreement before a new fisheries accord, and negotiation of both deals took place from July through November of 1995.

In 2000 the EU-Morocco Association Agreement entered into force and it remains to this day the legal basis for political and economic cooperation between the two parties. The EU-Morocco Association Council is the venue where the implementation of the free trade provisions set by the Agreement is being discussed alongside other issues of common interest, also related to peace, security and regional cooperation in the Mediterranean.\(^{18}\) The first meeting of the EU-Morocco Association Council was held in October 2000 and the parties have meet on a yearly basis ever since (except for 2002).\(^{19}\) It has indeed become: ‘le cadre normal du dialogue

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\(^{17}\) Dawson also makes the argument that the Moroccan negotiators had been pushing for a more encompassing free trade agreement with the EU than their counterparts on the European side were willing to offer. The liberalization of the Moroccan economy that started in the early 1980’s with the implementation of the World Bank’s structural adjustment programmes (i.e. tariff and subsidies reduction and debt rescheduling) and Morocco’s subsequent entry into the GATT/WTO had by the 1990’s led to that the Moroccan elite had become increasingly technocratic and in favour of free trade as a means to modernize the Moroccan economy (Dawson 2009). However, the ‘ideological commitment’ to free trade that the Moroccan elite had come to develop was not enough to persuade all the necessary actors on the EU side and a grand coalition of protectionist EU member state governments (notably, Spain) and certain Directorate-Generals within the European Commission (notably, DG Agriculture) prevented the inclusion of agricultural trade in the later Euro-Mediterranean Association Agreement (Dawson 2009:129).

\(^{18}\) Article 5 of the Euro-Mediterranean Association Agreement between the EU and Morocco instructs that the parties shall meet on a regular basis, and whenever necessary, in the form of an Association Council: ‘Political dialogue shall be established at regular intervals and whenever necessary notably: (a) at ministerial level, principally within the Association Council; (b) at the level of senior officials representing Morocco, on the one hand, and the Council Presidency and the Commission on the other; (c) taking full advantage of all diplomatic channels including regular briefings, consultations on the occasion of international meetings and contacts between diplomatic representatives in third countries; (d) where appropriate, by any other means which would make a useful contribution to consolidating dialogue and increasing its effectiveness’ (OJEC 2000).

\(^{19}\) The first meeting held during the French EU Presidency and presided by the French Minister for Foreign Affairs, Hubert Védrine, together with the ‘EU Troika’ (represented by the High Representative for the CFSP, Javier Solana, the Commissioner for External Relations, Christopher Pattern, and the incoming EU Presidency represented by the
institué entre les parties contractantes sur les questions bilatérales ou internationales d’intérêt commun’ (Jaidi & Martín 2010:10).

However, in a similar way as with the EC enlargement in the 1980’s the Eastern enlargement of the EU in 2004 had a direct effect on EU-Morocco relations. The European Neighbourhood Policy (ENP) was launched with the explicit aim to avoid the build-up of a sharp delineation between EU member states and closely situated neighbours of an enlarged EU which would encompass about 500 million citizens (European Commission 2004). In the words of the former President of the Commission, Romani Prodi, the EU should offer its neighbours ‘everything but institutions’ as a means to closer cooperation and better access to the Internal Market.

The logic behind the ENP draws heavily upon the Commission’s experiences from monitoring the implementation of the EU’s *acquis communautaire* in new Eastern members during the pre-accession phase (Kelley 2006). Instead of offering membership to Morocco (and other Mediterranean non-members) enhanced cooperation with the Union and its member states is envisioned through legislative approximation and the exchange of experience and best practices. In 2006: ‘the EU took first steps towards coupling such policy-transfer with partial organizational engagement of ENP countries with EU agencies and programmes’ (Lavenex & Schimmelfennig 2007:152).

Bechev and Nicolaïdis note that the ENP: ‘has, by and large, been embraced by Israel and Morocco as an opportunity to move beyond the what those countries perceive to be the lowest-common-denominator approach of the Barcelona Process (the EMP)... There is, therefore, a measure of support, hence a sense of ownership, for a policy of differentiation and conditionality which provides effective incentives to the frontrunners in the ENP’ (Bechev & Nicolaïdis 2010:483).

Swedish Minister for Foreign Affairs, Anna Lindh). Morocco was represented by a delegation headed by the Moroccan Minister for Foreign Affairs, Mohamed Beniaissa. Furthermore, delegates from several EU member states also attended, including the Spanish Minister for Foreign Affairs, Josep Piqué i Camps (EU-Morocco Association Council 2000).

In 2003 the parties decided to set up six subcommittees under the Association Council, dealing with such matters as the Internal Market; Industry, trade and services; Transport, environment and energy; Research and innovation; Agriculture and fisheries; and Justice and security (EU-Morocco Association Council 2003).

In Prodi’s vision the centrepiece of the ENP: ‘is a common market embracing the EU and its partners: it would offer a single market, free trade, open investment regime, approximation of legislation, interconnection of networks and the use of the euro as a reserve and reference currency in our bilateral transactions (speech Prodi 2002).

On the ENP, see also Lavenex (2004), Barbé (2010).

Furthermore, the European Neighbourhood and Partnership Instrument (ENPI) was launched in 2007. This has meant that financial support to both ENP programmes and individual countries is now provided through one overarching instrument. It replaces MEDA, PHARE and other such financial aid programmes. The ENPI also finances joint programmes which aim to bring together sub-national regions of EU member states and neighbouring countries sharing a common border, using the EU’s Structural Funds approach based on multi-annual programming, partnership and co-financing (European Commission 2007).
In comparison with earlier EU policies towards the Mediterranean, the explicit focus on regulatory convergence between EU member states and non-members is a novel feature of the ENP. This can be attributed to the fact that the scope of EU legislation pertaining to the Internal Market has expanded drastically ever since the 1980’s, but it could also be seen as a conscious strategy on behalf of the Commission in order to come to terms with non-tariff barriers to trade between the EU and neighbouring states. The ENP Action Plan for Morocco which sets the short to medium term priorities for the cooperation under this framework was jointly adopted in 2005 (Lavenex & Schimmelfennig 2007:151). It should also be noted that Morocco signed a free trade agreement with the U.S. in 2004. Although that agreement is more limited in scope that the EU-Morocco Association Agreement Dawson suggests that Morocco thus might benefit from having signed both because it places Morocco in: ‘a privileged position as an export platform for the EU and U.S. markets’ (Dawson 2009:143).

Morocco’s Advanced Status with the EU: variations on a (well-known) theme

The most recent step in the process of institutionalizing EU-Morocco relations was taken in 2008 when Morocco was granted the so called Advanced Status with the EU. Following upon the adoption of the ENP Action Plan, the 6th EU-Moroccan Association Council meeting in 2007 took the decision to set up a joint ad-hoc working group to explore the modalities of deepening bi-lateral relations. The first meeting of this group was held in January 2008, and subsequent meetings were then held in May, July and September the same year. The working group included

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24 These (quite extensive) priorities include: ‘enhanced political dialogue on the CFSP and ESDP and enhanced cooperation on combating terrorism; negotiation of an agreement on liberalizing trade in services; cooperation on social policy; support for the education and training system, scientific research and information technologies; effective management of migration flows, including the signing of a readmission agreement; development of the transport sector development of the energy sector; integration of the Moroccan electricity market into the European electricity market’ (European Commission 2005).

25 Morocco was also granted the status of non-NATO ally of the U.S. in 2004 as a further expression of the close relations between Morocco and the U.S. (Sater 2010:137).

26 For example, American firms might now locate their production in Morocco in order to benefit from relatively cheap labour costs as well as duty-free imports from the EU and the U.S. and then: ‘export their finished products on a preferential basis to either market, provided that minimum local value-added requirements (at least 35 per cent) are satisfied. The same logic applies to the EU and other firms’ (Dawson 2009:143).

27 Interestingly, the process leading up to it actually started only a short while after the Association Agreement had entered into force (see above). In March 2000, the Moroccan king Mohammed VI (recently ascended to the throne) expressed his opinion, on a state visit to France, that the time was ripe to explore new ways to further institutionalize the cooperation between the EU and Morocco. In the words of the Moroccan monarch, EU-Morocco relations should be: ‘plus et mieux que l’association revue et corrigée a laquelle nous nous sommes attelles, et peut-être pour quelque temps encore, un peu moins que l’adhésion que nous dictent pourtant la raison, la géographie et les réalités au quotidien de la vie économique, sociale et culturelle dans nos pays’ (speech Mohammed VI 2000).
representatives from the Commission, the EU member states and Morocco. The Moroccan delegation presented a draft paper to which the EU representatives reacted and presented their version (Document du Royaume du Maroc 2008). It was this fine-tuning of positions that eventually led to the preparation of the joint document on the Advanced Status which was endorsed by 7th EU-Morocco Association Council meeting in 2008 (EU-Moroccan Association Council 2008a).

The joint document lists a range of proposals as to how the EU and Morocco could enhance the bi-lateral relations. For example, the possibility of holding ministerial meetings between Morocco and EU member states or allowing for Moroccan diplomats and functionaries to participate at Council working group meetings and the Political and Security Committee (PSC) of the EU is mentioned (although this does not really bring that much novelties to the table compared with what the Association Agreement already allows for). However, such meetings would be organized on a strict ad-hoc basis, and not in a fully institutionalized manner as originally suggested by Morocco. However, one Commission official with first-hand experience of negotiating the Advanced Status noted that:

The Moroccans call it Advanced Status, we call it deepening of the bi-lateral relationship. For us, Advanced Status doesn’t mean anything concrete. We don’t see it as the end of a process either. We see it as a continuing process of deepening relations. We are taking big steps with the decisions taken this year [2008] but there clearly are other areas where we could go further, and that is what we envision to do. So it’s nothing that will put an end to the process of deepening the relations, on the contrary.

Moreover, Morocco is encouraged to align with the Common Foreign and Security Policy (CFSP) declarations and to establish a framework agreement for Morocco’s participation in EU-led military and civil crisis management operation under the Common Security and Defence Policy (CSDP). Although aligning with previously agreed common positions within the CFSP is of

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28 Interview European Commission, DG Relex (Maghreb Unit), Brussels, 6 November 2008; Interview Moroccan Mission to the EU, Brussels, 31 October 2008; Interview Spanish Ministry of Foreign Affairs (Subdirector General del Magreb), Madrid, 16 March 2009; Interview Moroccan Ministry of Foreign Affairs (Chef de la Division de l’UE), Rabat, 5 June 2009

29 The meeting took place in Brussels during the French EU Presidency, and the French Minister of Foreign Affairs, Bernard Kouchner, presided the meeting together with Christian Jouret (General Secretariat of the EU Council), Hughes Mingarelli (European Commission) and the Czech Minister for Foreign Affairs, Karl Schwarzenberg (representing the incoming EU Presidency). Morocco was represented by a delegation headed by the Moroccan Minister for Foreign Affairs, Taïb Fassi-Fihri. The Spanish Minister for Foreign Affairs, Miguel Ángel Moratinos, and the Portuguese Secretary of State for European Affairs, Manuel Lobo Antunes, also attended the meeting (EU-Morocco Association Council 2008b).

30 For example, Morocco proposed to set up a ‘EU-Moroccan Political and Security Committee’ (Document du Royaume du Maroc 2008).

31 Interview European Commission, DG Relex (Maghreb Unit), Brussels, 6 November 2008

32 The Advanced Status suggests further intertwining between Morocco and the EU in other fields also related to security. For example, Moroccan participation in training and seminars at the European Police College (CEPOL) or cooperation agreement with Europol is envisioned. In the field of civil protection the joint document suggests that
course not the same thing as formally having a stake in the decision-making process leading up to such position, and it does not seem to be in the cards for a non-member such as Morocco since CFSP operates on the premise of ‘decision autonomy’ on behalf of the EU and CSDP has implications for EU-NATO cooperation.  

But it should be noted that for the most part the joint document discusses enhanced economic cooperation, such as a ‘deep free trade agreement’ between the EU and Morocco. Regulatory convergence and approximation with EU standards also play an important part and to ensure this Morocco is suggested to be ‘integrated’ in the committees that are set to govern the implementation of EU legislation in those policy areas where the EU has exclusive competence. An interesting example is set here by the EU-Morocco aviation agreement signed in 2006 (OJEU 2006). The same Commission official made an interesting reflection is this regard:  

What’s interesting is that we don’t only liberalize the air traffic gradually, but Morocco agrees also to take on most of the EU acquis in the field of aviation. If you read the agreement you’ll see that they have agreed to transpose directly a number of directives. Now, what’s interesting is that since we have an ‘open sky’ with them and they have transposed a number of directives, we have opened the doors to them to participate in the open skies committee in the Council. There you see the emerging policy of the Union towards our neighbours. We have the European Economic Agreement with Norway and so on, and it has very sophisticated institutional structures, consultation mechanisms in place to elaborate our directives, there’s a court of justice to arbitrate in conflicts among the parties. We are not there with our neighbours, but as we incorporate them into some of the Internal Market policies, we’re moving in that direction. This is very much a new ground. There is no clearly spelled out policy of the EU towards our neighbours, especially towards our most ambitious neighbours such as Ukraine and Morocco, or Israel in some cases. The idea and the logic in which we are moving is that we will need to find ways to associate them into our decision-making processes because we want to integrate them into some of our Internal Market policies.  

Moreover, trade in agricultural products is a recurrent theme in EU-Moroccan relations but the joint document does not focus explicitly on the dismantling of trade tariffs but rather on the modernization of the Moroccan agricultural sector, for example by granting EU support for Morocco’s ‘Green Plan’ to enhance its export capacities. Such an explicit focus on non-tariff issues relating to agricultural trade rather than focusing on dismantling tariffs could of course be seen as a kind of disguised protectionism on behalf of the EU, although it should be noted that negotiations on agricultural trade between the EU and Morocco has changed since 2005 when the Euro-Mediterranean Roadmap for Agriculture was adopted. This change basically consists of applying a ‘negative list approach’ meaning that all trade in all agriculture products is meant to

the Commission and Morocco should sign an administrative arrangement to enhance the cooperation with the Community Mechanism for Civil Protection.

33 Interview Council of the EU (Policy Unit, Middle East/Mediterranean Task Force), Brussels, 23 October 2008
34 In the document it is suggested that Morocco’s: ‘intégration au comité “Ciel Unique” constituera une étape logique succédant à la conclusion de l’accord aérien’ (EU-Morocco Association Council 2008a).
35 Interview European Commission, DG Relex (Maghreb Unit), Brussels, 6 November 2008
36 The Euro-Mediterranean Roadmap for Agriculture (also called the Rabat Roadmap) operates on two levels, the commercial (tariffs) and the non-commercial (rules and regulations). This allows for asymmetrical and temporal solutions for liberalizing trade relations, which means that there is no need for simultaneous reciprocity.
be liberalized, except for those products put on the negative list (as opposed to the logic of only negotiating the tariffs for those products that have been put on a ‘positive list’ beforehand). Accordingly, this also creates a broader mandate for the Commission in the negotiations on trade in agricultural products with third countries, such as Morocco.

The Spanish EU Presidency and the 1st EU-Morocco summit: new playes, old game?

Spain held its fourth EU Presidency from January to July of 2010. At previous occasions Spain had been able to use the role of the Presidency to promote its interests, not least when it came to EU foreign policy making towards the Mediterranean (Bicchi 2007). For example, the EMP was launched in November 1995 when Spain was at the helm of the EU (see above). However, this time Spain had to exercise the role of the Presidency under the new rules stipulated by the Lisbon Treaty. The principle of the rotating Presidency is kept in the Council constellations other than Foreign Affairs, but the new rules imply that the EU member state holding the Presidency is now quite circumscribed in terms of agenda-setting in the CFSP.

For example, the permanent President of the European Council, Herman Van Rompuy, shall: ‘at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy’ (art. 15 TEU). Furthermore, the Council and the Commission, assisted by the High Representative (HR) of the Union for Foreign Affairs and Security Policy, shall ensure ‘consistency’ between the different areas of EU’s external action and other EU policies (art. 21 TEU). While the President of the European Council is an institutional novelty created by the Lisbon Treaty, the figure of the HR is rather amended by it. Originally created by the Amsterdam Treaty in 1997 to serve the CFSP, 40

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37 This makes it similar to the functioning of the Agadir Agreement between Morocco, Tunisia, Egypt and Jordan signed in 2004 and entering into force in 2007. The agreement uses EU rules of origin, which means that signatory parties are allowed to keep preferential tariffs with the EU as long as the value being added in the manufacturing process is created somewhere within the area established by the agreement.

38 Still, one structural problem that is constantly blocking further liberalization of agricultural trade between the EU and Morocco is that the harvest calendars in southern Europe and North Africa overlap to a large extent, and there is little scope for complementarities since these countries all produce Mediterranean agricultural products (Escribano & Lorca 2008). However, the so-called Health Check of the EU’s Common Agricultural Policy (CAP) and the support for cross-border rural development cooperation between Spain and Morocco through the European Agricultural Fund for Rural Development (EAFRD) imply that there might be an increased European demand for Moroccan agricultural products in the future. Interview European Commission (DG Agriculture, Maghreb Unit), Brussels, 2 December 2008

39 Whereas the European Council shall: ‘identify the strategic interests and objectives of the Union’ (article 22 TEU).

40 The first person to be appointed HR/CFSP was the former NATO General Secretary, Javier Solana. In the period 1999-2009 Solana played an important role as the: ‘external face of the EU and to help forge consensus on policy
the HR now has a triple-hatted function of being: a) responsible for the EU’s Foreign Affairs and Security Policy, b) vice-president of the Commission responsible for External Relations, and c) permanent chair for the Foreign Affairs Council. In her capacity as HR, Catherine Ashton, is also the Head of the European External Action Service (EEAS) which is being set-up as of March 2010. However, as noted by Missiroli: ‘the President of the Commission will continue to play a crucial role in external relations, especially if the widening range of policy issues coming under that heading is considered’ (Missiroli 2010:430).

What complicated things even further for the Spanish government was that it was uncertain until quite late into the preceding Swedish EU Presidency whether the Lisbon Treaty would actually be in place before Spain would take over. Thus, the Spanish government had to quickly rearrange its priorities in order to start implementing the changes as soon as it stood clear that the treaty would be ratified. According to Morillas: ‘The Spanish authorities took the political decision not to push for national policy initiatives in order not to hold up the work of the new foreign policy structures’ (Morillas 2011:248). Particularly one item of the Spanish Presidency’s agenda had to be adapted to the new circumstances, namely organizing and hosting the first EU-Morocco summit. It was clear from the beginning that this summit would have an important symbolic value as it were to be the first of its kind to be held between the EU and an Arab country with the Lisbon Treaty in place. One Spanish diplomat who worked with the Presidency explained:

We were very conscious of the example that this summit would set. From an institutional point of view it was a success in terms of the work and coordination between the Commission, Council Secretariat and the Spanish Presidency. We think it worked in a very satisfactory manner. The organization of the summit was


41 The EEAS will merge the parts of the Commission that deals with External Relations and the Council Secretariat that deals with the CFSP and CSDP. However, EEAS will not formally have competence over external trade, humanitarian aid or the EU’s enlargement policy as they are being dealt with by other Commissioners (Missiroli 2010).

42 Even though the Lisbon Treaty largely preserves the intergovernmental character of CFSP in that it is said to still be subject to ‘specific rules and procedures’ (i.e. the Council decides with unanimity) (article 24 TEU), the European Parliament can be said to have gained a greater say over EU external relations. For example, article 207 TFEU (ex article 133 TEC) stipulates that the Parliament and the Council (in accordance with the ordinary legislative procedure) shall adopt the measures defining the framework for implementing the EU trade policy. The Commission conducts negotiations with third parties and shall report regularly to a special committee appointed by Council and to the Parliament on the progress of negotiations. Furthermore, the Parliament and the Council shall jointly adopt measures necessary for the implementation of the EU’s economic, financial and technical cooperation with third countries (article 212 TFEU, ex article 181a TEC). In order to conclude association agreements with third countries the Council needs to ‘obtain consent’ from the Parliament, although this is not something entirely new since it was stipulated also in the old version of the treaties (article 218 TFEU, ex article 300 TEC).

43 The summit was held in Granada in March 2010 and was hosted by the Spanish Prime Minister, José Luis Rodríguez Zapatero, and attended by the President of the European Commission, Herman Van Rompuy, alongside with the President of the European Commission, Jose Manuel Durão Barroso and the Moroccan Prime Minister, Abbas el Fassi.
initiated with a communication that was prepared by the rotating Presidency and it was then consolidated within the EU institutions and after two months of meetings in the Council working group for Maghreb-Mashrek we had practically a finished document in which only two issues were still left open. One was on human rights and the other was on Western Sahara. These two issues arrived, we could say, undigested to the summit and the corresponding paragraphs in the declaration had not been closed. The goal was to close them at the summit with the help of a political intervention from the highest level, particularly from President Van Rompuy.44

The same interviewee also made a reflection of what made this summit different from the regularly held EU-Morocco Association Council meetings:

The Association Councils make unilateral statements on behalf of the two parties. For the first time there was a need to find a common language shared between the EU and Morocco, taking into account that in the EU there is no unity on the issue of Western Sahara. In the end, we had to find something that could unite and it basically was the declaration of the UN Security Council on Western Sahara… From the point of view of what could have been done it might not look like much but from my perspective and considering the different positions it could not have gone much further. Moreover, Morocco had declared from the beginning that their priority was Western Sahara.45

Human rights and Western Sahara are of course sensitive topics in EU-Moroccan relations and they have served to put a strain on the relationship in the past (see above). Thus, it should not come as a surprise that the paragraph on Western Sahara in the joint declaration stipulates that the solution to conflict needs to be political, definitive, sustainable and (arguably most important) mutually acceptable to the conflicting parties:


However, it is noteworthy that at the press conference following upon the summit President Van Rompuy went further and added that the EU wishes to see improvements on the situation of human rights in the context of the Western Saharan conflict, saying that:

*L’Union européenne continuera à être active sur le front des aspects humanitaires du conflit. Nous souhaitons voir des améliorations dans la situation des droits de l’homme dans ce contexte et dans la situation de leurs défenseurs (speech Van Rompuy 2010).*

But in a by now well-established practice the participating parties at the summit took the opportunity to publicly express the high level of maturity and confidence that they mean characterize EU-Morocco relations as well as the strategic importance of the partnership. Interestingly, at the end of the joint declaration it is recognized that there is a need to adopt a new ENP Action Plan for Morocco that would ensure the putting into practice the Advanced

44 Interview Spanish Ministry for Foreign Affairs (Subdirector General del Magreb), Madrid, 19 July 2010
45 Interview Spanish Ministry for Foreign Affairs (Subdirector General del Magreb), Madrid, 19 July 2010
Status, and the possibility for a new ‘contractual arrangement’ to replace the current Association Agreement is also referred to:

L'objectif est de permettre au Maroc d'atteindre une proximité optimale avec l'UE, de conforter sa dynamique de modernisation politique, d'ouverture économique et de cohésion sociale et de promouvoir sa concertation et sa coordination avec l'UE sur les questions stratégiques d'intérêt commun. La mise en oeuvre harmonieuse et équilibrée de ce nouvel instrument sera accompagnée par l'approfondissement de la réflexion sur la nature et la forme d'un nouveau lien contractuel qui remplacerait l'Accord d'association (Council of the EU 2010a).

The same Spanish interviewee also made an interesting remark in relation to what the on-going institutionalization of EU-Moroccan relations entails in terms of political leverage, referring to a recent incident when the Moroccan authorities refused to let a Sahrawi human rights activist enter the country, only to succumb to international pressure after about a month (i.e. ‘the Haidar case’): 46

We think that Europe can stimulate a domestic reform process in Morocco exactly through exercises such as the joint document on Advanced Status and the EU-Morocco summit, etc., etc. It's not so much a strategy based on conditionality as it is to try and make Morocco understand that it is in its own interest to deepen the reforms that they have already decided upon. The way in which the Haidar case was resolved is a perfect example. Morocco refused to let this person enter until there was international pressure from the UN General Secretary, Council of Europe, U.S. State Department, France and very notable from the European Parliament. Well, that mechanism and the work of international and European persuasion shows that the strategy of using the closeness to the EU as a leverage of persuasion works for the Moroccan reform process. And this is our absolute priority and conviction in terms of foreign policy towards Morocco. For Spain, a modern and prosperous Morocco is the only guarantee for stability. 47

After the Spanish Presidency had been concluded, the 9th EU-Morocco Association Council meeting was held in December 2010 in Brussels under the Belgian EU Presidency. 48 This time the meeting had been preceded by violent events in El-Ayoun (Laayoune), the ‘capital’ of Western Sahara, when protesters denouncing poor economic and social conditions were heavily suppressed by Moroccan security forces. 49 These events did not go unnoticed by the EU and the spokesperson for HR Ashton made a statement on her behalf appealing to ‘all parties to remain calm and restrain from any further violence’. 50 The European Parliament also passed a resolution

47 Interview Spanish Ministry for Foreign Affairs (Subdirector General del Magreb), Madrid, 19 July 2010
48 The 9th EU-Morocco Association Council meeting was attended by Belgian deputy Prime Minister, Steven Vanackere, and the EU Trade Commissioner, Karel de Gucht, together with the Moroccan Minister for Foreign Affairs, Taïb Fassi-Fihri, the Moroccan Minister for Agriculture and Fisheries, Aziz Akhenaouch, and the Moroccan Minister for External Trade, Abdellatif Maâzouz.

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noting that: ‘the setting-up by the Moroccan Parliament of a committee of inquiry to investigate the course of events which led to the intervention by the Moroccan authorities, but considers that the United Nations would be the most appropriate body to conduct an independent international inquiry in order to clarify the events, the deaths and the disappearances’.  

However, the EU does not seem to have used the opportunity presented by the Association Council meeting to put any tangible pressure on Morocco as the scheduled meeting was duly held and the process of ‘deepening bi-lateral relations’ took another step forward. At the meeting the parties signed three agreements: one protocol on a framework agreement on the general principles for the participation of Morocco in EU programmes (added to the EU-Morocco Association Agreement), one agreement on reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products and one agreement between the EU and Morocco establishing a dispute settlement mechanism (Council of the EU 2010b).

The latest turn of events is of course the Arab spring of 2011 which is bringing what seems to be, at the time of writing, unprecedented change to the EU's southern neighbourhood, ranging from the popular protests that managed to oust the rulers of Tunisia and Egypt from power to the still uncertain outcome of the civil war in Libya and the massive protests and fierce repression in Syria. The situation in Morocco appears more stable, although popular protests have regularly been held throughout the country since February demanding democratic reforms and an end to corruption. Furthermore, in April a café in Marrakesh was struck by a terrorist attack killing 16 people although the Moroccan authorities do not seem to have cracked down on suspected perpetrators and Islamist sympathizers to the same extent as after the Casablanca bombings in 2003.  

The political support that the EU lends to Morocco is once again underlined by the statement on behalf of HR Ashton and the Commissioner responsible for Enlargement and Neighbourhood, Štefan Füle, welcoming the decision by Mohammed VI to hold a referendum on a new Moroccan constitution (in which some of the monarch’s power would officially be transferred to the Prime Minister and the Parliament in order to appease some of the demands put forward by the Moroccan people):  

http://www.bbc.co.uk/news/world-africa-13226117  
We welcome the King of Morocco’s announcement of the main elements of the new Constitution that will be submitted to referendum on 1 July 2011. It is a significant step and signals a clear commitment to democracy and respect for human rights. The proposed constitution touches on key elements of reform and modernization, such as the separation of powers, the strengthening of the government's role, the independence of the judiciary, regionalisation and equality of rights between men and women. Once fully implemented, it would be a major step forward in the process of reforms already initiated by Morocco. It is now for Moroccan citizens, politicians and civil society to express their legitimate aspirations and decide. The proposed constitutional reform is in line with the ambitions of the Advanced Status in the relations between Morocco and the EU. The European Union is ready to support Morocco's efforts to implement such far-reaching reforms.\textsuperscript{54}

Conclusions

It is of course too early to pass any substantive judgement on what the attempts by HR Ashton and the Commission to reformulate the ENP according to the formula of ‘more for more’ focusing on the three ‘M:s’ (i.e. money, markets and mobility) in the wake of the Arab spring entail for the institutionalization of EU-Moroccan relations in the post-Lisbon era. It should be noted that the logic enshrined in the ENP right from the start, namely that the most ambitious partners would also be rewarded with the closest cooperation with the EU, does not seem to have changed in this regard. What has changed however is the political situation in the majority of the countries in the EU’s southern neighbourhood.

As a consequence it is possible that the prospects for the ENP to work a bit more according to the original scheme are improving. For example, in the case that Tunisia does move ahead and consolidates democratic reforms it does not seem too farfetched that the EU would also grant some kind of rewards to Tunis, at least in the form of enhanced financial aid but perhaps also further trade liberalization and visa facilitation in the future (although that definitely remains to be seen). The argument here is that if a country such as Tunisia would move even closer to the EU then it might create an incentive for Morocco to catch up, so to speak, in order not to be replaced as the Union’s most ambitious partner in the Maghreb (and doing so could possibly lead to further reforms in Morocco, but this cannot naturally be more than speculations for the time being).

However, it should be recognized that if we are to judge from the way in which EU-Morocco relations have developed up until the present it seems likely that the gradual process of institutionalization of the cooperation will continue. Indeed, on the basis of the analysis presented in this paper it can be argued that if there is anything that characterizes EU-Morocco relations than it is continuity and incremental steps towards deepening bi-lateral

\textsuperscript{54} See, ‘Joint statement by High Representative Catherine Ashton and Commissioner Štefan Füle on the announcement of the new constitution of Morocco’ A 238/11, Brussels, 19 June 2011
cooperation. In this regard the changes brought about with the Lisbon Treaty do bring some institutional novelties to the table but they should not be over-emphasized.

For example, the President of the European Council does seem to be prepared to take a more candid position vis-à-vis the regime in Rabat when it comes to issues such as human rights (in comparison to Morocco’s traditional supporters in the Council, i.e. France and Spain), but on the overall there are no clear indications that the EU would now be ‘tougher’ on Morocco than before. To be sure, if the European Parliament would prove to be willing to use its new powers under the ordinary legislative procedure and if a majority in the Council would form around a more confrontational stance linking issues such trade, aid and human rights then it could also led to an amounting pressure on Morocco to move forward on the Western Sahara issue. A more coherent EU foreign policy shaped with the help of HR Asthon and the EEAS could also enhance EU-Morocco cooperation on peacekeeping missions and military crisis management.

Admittedly, all of this taken together cannot be said to bring any qualitative change to the already relatively close cooperation between the EU and Morocco on a wide range of issues of international concern but it could nonetheless help to institutionalize EU-Morocco cooperation further. Indeed, judging from the analysis presented here the relationship between EU and Morocco can be described as ‘special’ already before the Lisbon Treaty entered into force and the legal basis for undertaking ‘joint activities’ was (and still is) duly provided by the Association Agreement. It could nonetheless be argued that the EU to certain extent plays the role of a ‘vincolo esterno’ for political and economic reforms in Morocco, although not necessarily so as to circumscribe the power of the Moroccan monarchy. In fact, the EU rather seems to enhance its political legitimacy.

Indeed, I would argue that this paper serves as an illustration to the point that Volpi has recently made. Namely: ‘As often in the democratizing Moroccan context, a liberal reform was introduced via illiberal means that entrenched the role of the monarchy as the ultimate authority in the country’ (Volpi 2010:686). Thus, the EU inadvertently supports this as it had developed a practice of giving public backing to: ‘the democratic and liberal advances made in the country by listing principally the reform initiatives launched by the King’ (ibid). Whether this is good or bad for the future prospects of democratization in Morocco is a question beyond the scope of this particular paper, suffice it to say here that in terms of the institutionalization of EU-Morocco relations the Lisbon Treaty can be said to have codified that which are already taking place in practice.
This also provides for an answer to the main question that this paper seeks to address, namely that what the special relationships with neighbouring countries devised by the Lisbon Treaty actually entail will ultimately, and in each case, depend on the way in which the relationships between the EU and the neighbours have developed before the new treaty was in place. While such an answer undeniably balances on the verge of a tautology it nonetheless serves to underline a more fundamental insight on integration without accession as a process of institutionalization moving forward as much as a function of practice as due to legal reforms. In my view, the analysis presented here can also be seen as giving support to Manner’s description of the ENP as an ‘open-ended process of socialization’ involving both EU member states and non-members (Manners 2010). It also serves as a reminder that while talking about regulatory convergence and enhanced market access (as the Commission is quite keen to do) are important as a first step in implementing the ENP, it is of course not the same thing as achieving it for real. In this regard the gap between talk and action, or between ambitions and results, has not necessarily narrowed since the new treaty entered into force. To be sure, this is also where the real challenge for the EU and its partners lies in the future if the special relationships referred to in the Lisbon Treaty will have any meaning at all for the peoples of the Euro-Mediterranean region.

References


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