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Towards A Mediterranean Development Bank

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TOWARDS A MEDITERRANEAN DEVELOPMENT BANK?

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ABSTRACT

The Mediterranean region is currently the only one without a dedicated multilateral or regional bank. Since 2002, only a special window at the European Investment Bank ("EIB"), the so-called Facility for Euro-Mediterranean Investment and Partnership ("FEMIP"), has operated in the Mediterranean basin as part of the European Neighbourhood Policy and the Union for the Mediterranean ("UMP"). Recently it has been argued that creating an international development bank focused entirely on Mediterranean issues and problems is among the most effective ways of enhancing investments and productive activities in the poorest countries of the Mediterranean region, and it was within this framework of understanding that, just over a year ago, a proposal for a Mediterranean Investment Bank was advanced by the Euro-Mediterranean Parliamentary Assembly. This article will critically evaluate the proposal as well as other proposals, alternative or complementary to the intervention of the EIB on the southern shore of the Mediterranean through the FEMIP. The analysis will necessarily be preceded by a concise evaluation of the work done by the FEMIP since its founding date to the present, as well as by a discussion of the main successes and shortcomings of the EIB as an institutional distributor of financial, external and technical aid to the southern Mediterranean countries.

I. INTRODUCTION

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As the history of the European Investment Bank's intervention in the southern shore of the Mediterranean indicates, this activity dates back to the mid 1970's when the initial financial protocols were signed by the Bank and by a few States such as Israel which at that time were interested in operating in the Mediterranean region[2]. However, it was only in 2002 - when the so-called "Facility for Euro-Mediterranean Investment and Partnership" (hereinafter "FEMIP") was finally established and started functioning - that the European Investment Bank (hereinafter "EIB") began to develop a proper plan of action for fighting poverty and under-development in the southern Mediterranean States.[3] Since its inception the FEMIP, which joins EU budget funds with the loan and investment resources of the EIB, has conducted several operations on a large scale and engaged in an active program focusing on stimulating and supporting projects *inter alia* in the fields of environment, transport, industry, infrastructure, energy, health and private equity through financing amounting to almost EUR 6 billion.

But why did the EIB start playing - and why does it continue to play - a key role in financially supporting projects and activities in this region of the globe? It is quite surprising as, according to its constituent charter, the EIB is an international financial institution aimed at operating within the EU borders and bringing about greater integration among the European Union's Member States.[4] But it is not so odd if one considers that the true *raison d'être* of the EIB's intervention on the southern shore of the Mediterranean is that the

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[2] The Israel - EU Association Agreement of the 26th of June 2000 (*available at* http://eeas.europa.eu/delegations/israel/index_en.htm), which forms the legal basis governing relations between Israel and the European Union, is a prosecution of these protocols. See S. STETTER, EU FOREIGN AND INTERIOR POLICIES: CROSS-PILLAR POLITICS AND THE SOCIAL CONSTRUCTIONS OF SOVEREIGNTY (2007), at 89.

[3] For further information on this programme see inter alia M. WILLIAMS, INTERNATIONAL ECONOMIC ORGANIZATIONS AND THE THIRD WORLD, (1st ED.,1994), at 131.

[4] *See* Article 16 (ex Article 18), which provides, at paragraph 1, that: "Within the framework of the task set out in Article 309 of the Treaty on the Functioning of the European Union, the Bank shall grant finance, in particular in the form of loans and guarantees to its members or to private or public undertakings for investments to be carried out in *the territories of Member States*, to the extent that funds are not available from other sources on reasonably terms (emphasis added)."

"Barcelona Process", which is the institutional framework under which the FEMIP operates, has no direct budgets for infrastructure projects, and hence the EIB has to operate as a European "tool" in this context.[5] Moreover, although the EIB' s primary concern is the economic integration of the EU, in the framework of the EU' s external co-operation policies the Bank has been playing an increasingly important role outside the European Union.[6]

The remaining part of this article will make a critical assessment of the recent proposal for a Mediterranean Investment Bank: the aim is not only to participate in the lively current debate over the intervention of the EIB in favour of the southern Mediterranean States but also to formulate a proposal to better support their suffering economies. The assessment will be preceded by a preliminary evaluation of the work done by the FEMIP from 2002 until the present and a discussion of the main shortcomings of the EIB as an institutional dispenser of financial external aid to the southern Mediterranean countries.

II. THE FACILITY FOR EURO-MEDITERRANEAN INVESTMENT AND PARTNERSHIP OF THE EUROPEAN INVESTMENT BANK.

The FEMIP was established in 2002 as part of the European Neighbourhood Policy and the Union for the Mediterranean (hereinafter "UMP")[7], and it subsequently became the

[5] The Barcelona Process was launched in November 1995 by the Ministers of Foreign Affairs of the then 15 EU members and the 14 Mediterranean partners as the medium to manage both bilateral and regional relations. Guided by the agreement of the Barcelona Declaration, it supplies the basis of the Euro-Mediterranean Partnership that has expanded and evolved in the Union for the Mediterranean. See on the topic A. Vasconcelos, E. G. H. JoffÉ, *Towards Euro-Mediterranean Regional Integration*, in THE BARCELONA PROCESS: BUILDING A EURO-MEDITERRANEAN COMMUNITY (2000), at 3.
[6] C. Lankowski, *Financing Integration: The European Investment Bank in Transition*, (1996) 27 LAW AND POLICY IN INTERNATIONAL BUSINESS 1023.
[7] On the Ump see amongst others, *see* P. J. Cardwell, *Euro-Med, European Neighbourhood Policy and the Union for the Mediterranean*, (2011) 49 JOURNAL OF COMMON MARKET STUDIES 240. See also F. Bicchi, R. Gillespie (eds), *The Union for the Mediterranean: Continuity or Change in Euro-Mediterranean relations?*, (2011) 16 MEDITERRANEAN POLITICS 3-19; S. Cafaro, *L'Unione per il Mediterraneo*, (2010) 5 STUDI SULL'INTEGRAZIONE EUROPEA 105.

fundamental player in the financial partnership between Europe and the Mediterranean region. The main task of this facility, which offers different types of services such as loans, private equity and technical assistance to both the private and public sectors (though with greater emphasis on private sector activities), is to contribute to the UMP's policy objectives through facilitating the renovation and opening up of the Mediterranean partner countries. More specifically, the FEMIP allows southern Mediterranean countries access to the range of services provided by the EIB to help their economic development. It also endeavours to foster greater interaction between all the actors involved in the Euro-Mediterranean financial partnership, both at the institutional level and with the representatives of civil society and the private sector.

Given that the projects are from a wide range of sectors including energy, human rights, capital, environment, tourism and services and may be financed under the FEMIP, this facility possesses significant powers to create an enabling environment for the private sector to flourish.[8] It was therefore natural for the FEMIP to strengthen its action to help some countries of the southern side of the Mediterranean Sea such as Algeria, Syria, Egypt and Gaza to come through the current international financial crisis, especially by supporting the objectives set in the framework of the Joint Declaration of the Paris Summit for the Mediterranean, held on 13 July 2008.[9] In this regard, it is interesting to remember that FEMIP has recently made long-term direct loans for large-scale projects (costing over EUR 25 million) in Syria, and a long-term direct loan in local currency of almost DZD 300 million (EUR 3 million) to the family firm Nouvelle Conservatorie Algérienne Rouibla in Algeria.[10]

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[8] H. Darbouche, *Third time lucky? Euro-Mediterranean energy cooperation under the Union for the Mediterranean*, in F. BICCHI, R. GILLESPIE, *supra* note 6.

[9] Joint Declaration of the Paris summit for the Mediterranean, Paris, 13 July 2008 (*available at* http://wwww.eu2008.fr/PFUE/lang/en/accueil/PFUE-07.2008/declaration_commune-du_sommet_de_paris_pour__la_la_mediterranee.html).

[10] EIB, EU, FEMIP: Financing Operations in Syria (EUR-OP: Luxembourg, 2010).

The FEMIP, which has been recently assessed positively by the EU Commission[11] but severely criticized by several representatives of international civil society such as Counter Balance and CEE Bankwatch Network[12], is the main but not the only financial tool of the EIB for the Mediterranean basin. There is also the so-called "Mediterranean Environmental Technical Assistance Programme" (hereinafter METAR), which was set up jointly with the World Bank (with the technical assistance of the European Commission and the United Nations Development Programme) in early 1990, whose aim is to finance feasibility programmes through deploying grant-aided support. Furthermore, there is the FEMIP Support Fund, which uses EU Commission grant aid made available for supplying technical assistance in various forms, including feasibility or pre-feasibility studies for investment projects concerning the private sector, the environment, transport and telecoms to promoters during different stages of the project cycle.

III. IS THERE A NEED FOR A NEW MECHANISM OR INSTITUTION?

There are several endemic problems facing the southern shore of the Mediterranean such as economic inequality, underdevelopment, environmental abuse, etc. As explained in the previous paragraphs, there is currently a Facility for Euro-Mediterranean Investment and Partnership of the European Investment Bank that operates in support of investments in the southern Mediterranean countries.

In a concise contribution dealing with the EIB's intervention in the Mediterranean region, scholar Francis Ghilès plainly indicates that there are three possibilities for the future of

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[11] EIB, EIB, European Commission to Explore EU Climate Financial Initiative (*available at* http://www.eib.org/about/press/2010/2010-098-eib-european-commission-to-explore-eu-climate-finance-initiative.html).
[12] Counter Balance, *Lack of scrutiny of EIB investments allows companies to free ride in Panama* (*available at* http://ec.europa.eu/economy_finance/financial_operations/coordination/femip/index_en.htm).

financial and technical assistance in that area of the world.[13] The first is the status quo, as both the EU and the EIB are unlikely to end or even diminish their influence in the region. Thus, the FEMIP will keep on being the fundamental instrument for cooperation. The second is a more flexible approach where the issues of external financial assistance and subsidy are dealt with one issue at a time: here international duties and commitments play a major role but the sovereignty of the southern Mediterranean States remains unbroken. The third option is a new international financial organization aimed at replacing the FEMIP. It is clear that the latter option might be difficult to achieve because of the political interests and significant costs involved in its creation and operation.

A new international development institution entirely focused on the Mediterranean region and its needs - similar to the existing multilateral or regional banks such as the European Bank for Reconstruction and Development, the Asian Development Bank and the Inter-American Development Bank - looks like the most viable option for the Mediterranean area, even though it is expensive. But this conclusion can only hold true if this (future) bank works exclusively under the umbrella of the UMP. As Jean François Daguzan lucidly observes, this is because the EU's "fraternal support" is looking increasingly burdensome - at least for some southern countries. Further support for the idea that a Mediterranean development bank would be the best option to choose can be found in the words of Caterina Amicucci, a Counter Balance member: "The benefits from the EIB's involvement in the region have been doubtful" since "… *the* main focus *of the EIB* on large energy infrastructure projects which are likely to have supported the dictatorial regimes … turn *it* into an implausible partner", and also that: "projects benefiting ordinary people and supporting

[13] F. Ghilès, *A Bank to Rebuild the Southern Mediterranean*, (March 2011) OPINIÓN CIDOB (*available at* http://www.cidob.org/es/publicacions/opinio/mediterraneo_y_oriente_medio/a_bank_to_rebuild_the_southern_mediter anean).

bottom up participation over pure GDP growth are hard to find in the bank's investment portfolio".[14]

That said, it appears that a fully dedicated international development bank would take into consideration the whole set of socio-economic problems of the Mediterranean region instead of the "one problem at a time" approach. Again, through a major emphasis on the private sector and the small-medium investment projects this bank would enhance economic and social development on the southern shore of the Mediterranean Sea in a much more efficient way than FEMIP. Furthermore, a Mediterranean development bank should have its own development strategy - which is currently missing in the EIB - and must also support ethical-ecological investments both in rural areas and in areas of low income. Indeed it is indispensable for the new institution to focus primarily on financial assistance for ethical-ecological investments in such underdeveloped areas because of the serious environmental degradation currently occurring in many parts of the Mediterranean region. Lastly, financial and technical assistance would be extended by the future bank to all human activities, which have an impact on the social or economic structures of the southern Mediterranean countries (including their local communities).

IV. THE RECENT PROPOSAL FOR A MEDITERRANEAN INVESTMENT BANK: SOME CRITICAL REMARKS.

As outlined above, the idea of a Mediterranean Investment Bank instead of the special FEMIP window at the EIB is recent but not new, as it was also considered (and quickly rejected) by the European Union in 2001.[15] However, given the enduring concerns about the EIB and FEMIP not being conscious enough of issues of corporate governance and economic

[14] C. Amicucci, *NGOs Call for Investigation into EIB's Financing for the Mediterranean Region* (*available at* http://www.counterbalance-eib.org/).
[15] EIB, **Report** by the **Commission to the Council** on **a New Euro-Mediterranean Bank** (SEC(2002) 218).

policy in their operations, the proposal for a new institution was ultimately resuscitated at the Union for the Mediterranean plenary Assembly held in Rome in March 2011.[16]

Referring to the initial plan to create a Euro-Mediterranean Investment Bank, Dr. Peter Xuereb from Malta University sharply observed that: "…the news that ….*this* was shelved in favour of a less "ambitious" and less "symbolic" plan to create a Euro-Mediterranean investment facility to further boost the financing armoury beyond existing Association Agreement measures and MEDA was, if disappointing for some, in any event a welcome development in itself".[17] In his opinion: "….one enemy of progress in the Mediterranean is …. a culture of dependency; dependency at individual, group, enterprise, industry, commerce, and even government level".[18]

Although there may be some intrinsic validity in Xuereb's assertion, he is suggesting not only that a new international financial organization specifically focused on the Mediterranean countries is inappropriate, but also that any form of external financial aid intervention in the Mediterranean region is undesirable. This conclusion is questionable, especially in view of the recent tragic events that have occurred (and which are still in progress) in some countries of the southern shores of the Mediterranean Sea such as Egypt, Tunisia and Libya. Indeed it seems that only external assistance from the northern Mediterranean States and international development agencies will be able to provide these troubled countries with a real chance to reduce and/or solve some of their most dramatic and urgent problems, such as the loss of large portions of their population (including the youngest and most active members of their societies) due to the steady exodus of refugees and economic migrants towards the wealthier EU member States.

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[16] **Working Groups**: Transferring the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) into a Euro-Mediterranean Development Bank, Adopted by the Union for the Mediterranean Plenary Assembly on 30th of January 2010 (*available at* http://www.parlamento.it/apem/91806/91849/91851/sommario.htm).
[17] **P. G. Xuereb**, *Euro-Mediterranean Integration* (*available at* http://www.cde.unv.szczecin.pl/mec3/chap1.pdf.).
[18] *Ibid.*

Some critical remarks and considerations can also be made with regard to statements (rather than formal proposals) made by President Sarkozy and by the Mediterranean Assembly for a Mediterranean Investment Bank. These are indeed rather vague in their specific aims and contents: it is hard to find much more than their promoter's general idea that such an international financial institution would be independent from the EIB and have to finance investment projects common to all the participating members of the Mediterranean Union. Mr Franco Frattini's invitation to set up "a new Marshall plan" in order to help the transition to democracy in countries on the Mediterranean's southern shore may be viewed in a similar light.[19]

However these criticisms do not apply to the Italian proposal for a Mediterranean Partnership Fund (hereinafter MPF).[20] According to its proponents, if it is set up this would be a new instrument that will pursue the dual objectives of supporting the private sector and opening up southern Mediterranean States to European and non-European public investors, and to private investors with the support of existing international financial institutions. Unlike the Mediterranean Investment Bank, the MPF would therefore be complementary to already existing international financial organizations such as the EIB and the World Bank. Being mainly focused on cooperation and partnership between governments and private actors, the MPF will operate as an instrument of corporate banking, portfolio diversification, project innovation and risk management for the entire Mediterranean region. In performing its activities, the MPF will entail a wider spill-over into social structures and domestic economics, build up human capital, provide support for institutional capabilities and reduce rationing and inefficient local capital markets.

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[19] F. Frattini, *Marshall Plan for the Arab World*, (2011) EUROPE'S WORLD, Summer 2011 (*available at* http//wwww.europesworld.org/NewEnglish/Home_old/Article/tablid/191/ArticleType/articleview/ArticleID/21835/language/en-US/Default.aspx).

[20] *Mediterranean Partnership Fund – Note* (*available at* http://www.africanews.it/english/mediterranean-partnership-fund-note/).

Although the Italian suggestion for a Mediterranean Partnership Fund is certainly couched in less general terms than the previously mentioned proposals for a Mediterranean Investment bank, it is not free from criticism, as summarized below.

a) As the MPF is just a complementary body to the existing international financial institutions such as the World Bank and EIB, it cannot be a viable alternative solution to the intervention of the EIB in the southern Mediterranean countries;

b) As currently formulated, this proposal is much too timid, because it fails to clearly indicate whether the MPF would operate under both the EU and the UMP or exclusively under the latter;

c) the proposal evidently fails to specify the rules and even the general principles according to which the MPF's decisions to support private investors should be adopted. There is therefore plenty of room for an alternative solution both to the MPF proposal and to that of a Mediterranean Investment Bank.

V. THE UNDERLYING FOUNDATIONS OF AN ALTERNATIVE PROPOSAL.

The establishment of an autonomous financial institution - whose aim is both to support the realization of working democratic systems and at the same time to foster sustainable economic growth in southern Mediterranean countries such Libya, Egypt and Tunisia - is a major opportunity for development for the entire area, which is currently the only one without a dedicated multilateral or regional bank. A large number of benefits are expected to be generated by the creation of a bank entirely dedicated to rebuilding the financial institutions of southern Mediterranean countries. Among these benefits are the promotion of much needed investments in the region and the enhancement of financial and technical assistance to transition countries in the South Mediterranean, and such a bank may indeed contribute to the betterment of living conditions in the poorest countries of the southern side of the Mediterranean Sea.

The legal regime aimed at regulating the functioning of this organization should therefore establish provisions that permit it to work with southern Mediterranean countries on "global commons" issues, such as health and the environment. In other words, the legal regime would enable the new bank to develop original instruments for promoting private-sector involvement, and/or uses of the bank's capital for global-commons programs (for example, the vaccine initiative or research on environmentally friendly technology).

Moreover, to better its chances of being accepted the legal regime has to strike a balance between overregulation and inadequate regulation. It is obvious that too much bureaucracy would discourage potential businesses investing in the Mediterranean area, while regulation that is too limited or vague might fail to guarantee a proper legal environment for investments in both the public and private sectors.

The legal regime to govern the functioning of a Mediterranean bank would therefore only be successful if it were able to achieve a proper balance between the need to ensure the protection of the natural and social environment, and the need to create incentives to encourage investors of various dimensions and expectations in the economic structure of the Mediterranean region.

Moreover, to achieve its statutory aims the bank's legal regime should be able to support not only public sector non-sovereign and private sector transactions, but also non-sovereign ones. To do this the bank would need to be able to make accurate assessments of sovereign and country risk and the potential influence of these risks on a structured financial transaction, for example by monitoring changes in central government policies, in financial market conditions, in the health and stability of a country's or region's economy, and in the macroeconomic and microeconomic conditions which can influence government decision-making.

Above all the legal regime of the future bank must enable it to borrow funds for its operations. Like all other international financial organizations, it would function like a credit cooperative institution, supplying valuable leverage on the capital of its members. In particular, it would be able to borrow on the markets of its member countries or elsewhere and the borrowings must constitute part of its ordinary capital resources. The future bank should consequently adapt its borrowing strategy to the opportunities available both on international markets and on the national markets open to its activity. When borrowing in the currency of any member country or on the financial markets of any member country, it is clear that the bank should obtain the prior consent of the competent national authorities.

VI. GENERAL AND LEGAL CHARACTERISTICS OF THE INTERNATIONAL FINANCIAL INSTITUTION SUGGESTED.

Some of the flaws of the existing proposals have been already been pointed out above, and of course there may not be any perfect solution. However, a further proposal may solve the joint problems identified in the previous examples as regards their lack of specific contents about the aims, structure and functioning of a Mediterranean development bank and its approach towards reconciling economic growth with environmental sustainability in countries on the southern shore of the Mediterranean.

So how should this international financial institution be organized?

The provisions on the structure and functioning of a bank to rebuild the Southern Mediterranean presented in this paragraph are partially inspired by the provisions contained in the constituent charter of the European Bank for Reconstruction and Development (hereinafter "EBDR"). As explained below, this international legal instrument is far better than the others at offering valuable solutions and examples that may be easily transposed and applied to the management and development of an international bank aiming to help rebuild the financial institutions of the southern Mediterranean countries.

This is particularly evident if one compares the EBDR's constituent agreement with the establishing treaty of the European Investment Bank. Indeed the latter, for various reasons, does not appear to be the best-equipped legal instrument to handle the matters inherent in any form of financial and technical assistance to the poorest countries of the Mediterranean region. The following elements support this idea. First, as the EIB's deliberations on financial assistance grants are the final results of deliberations that have frequently taken place between "dubious actors in obscure corners of the political arena" they are opaque to the outside world. Second, unlike the World Bank and several other international financial organizations such as the EBDR, the EIB does not acknowledge the need for the introduction of environmental and social standards or criteria in its lending practices. Third, although according to its constituent agreement the EIB is required to follow EU legislation in its activities, there is very little evidence that it does so. Fourth, the EIB's project appraisal is normally made on financial, economic and technical terms rather than by placing sustainable development at the core. And finally, the EIB's mandate remains unclear for operations in the global south.[21]

[21] On these criticisms, *see also* CEE Bankwatch Network, *A public bank? The EIB's Lack of Transparency and Participation* (*available at* http://bankwatch.org/our-work/who-we-monitor/eib/eib-transparency-participation).

A Bank for the Reconstruction of the Mediterranean should be based on the idea that an in-depth understanding of the region is essential to help the southern Mediterranean countries promote long-term growth and stability and renovate their economies' industry which is often unproductive and energy-intensive, so the future bank should mainly recruit people coming from the various population groups of the Mediterranean's southern shore.[22] Indeed the latter, together with the involvement of local NGOs and community groups, would help the new bank in not being *just* another international development institution financing general – i.e. not tailored to the specific needs of the southern Mediterranean States' development projects. Moreover, such people would aid the future organization in efficiently assisting those Mediterranean countries that are currently in the process of modernizing their rural sectors and the infrastructure, which is frequently antiquated. However, even though it would be useful also to guarantee that the most significant financial resources of the bank will be channelled to the southern Mediterranean countries most in need of technical and financial support, recruiting people coming from the different population groups of the Mediterranean's southern shore would not be sufficient *per se* to guarantee a proper understanding of the region and its fundamental needs, including the need to recover from decades of poor economic management, by the new international development bank. A permanent local presence of the future bank is fundamental, too, in as many countries as possible. Furthermore, the European and Arab partners should be represented in the Bank for the Reconstruction of the Mediterranean. In other words, the European and Arab partners' participation in decision making and their access to the bank's highest positions, and the promotion of forms of close and regular cooperation between the new bank and other international development organizations such as the EBDR, the African Development Bank and the World Bank, should be perceived as key priorities in the strategy of the future Bank for the Reconstruction of the Mediterranean and be guaranteed by its establishing agreement. In the present author's opinion, if this were so, the bank would be able to

[22] F. GHILÈS, *supra* note 12.

contribute towards accelerating linking up the Mediterranean markets, which is a core objective of the UMP, and at the same time to finance infrastructure projects and grant loans to the private sector for all the States in the Mediterranean area. Again, if this were so, the bank would be more responsive than the EIB to the demands of Mediterranean borrowing members, more sympathetic to their problems, and more diplomatic in conducting its business.

Such a Bank for the Reconstruction of the Mediterranean would act as a "supervisory body" for financial clearance. In performing this duty it would, *inter alia*, have to initiate debate about economic reforms and prospective cooperation between countries in the region, support private enterprise and investment which are essential for future prosperity and - last but not least – by operating as a centre of excellence in development thinking it could sponsor studies which are either currently lacking or not sufficiently well developed in current research.

In order to ensure that environmentally sustainable and socially just transitions are achieved in the States where it operates, in its operational policies and procedures a Mediterranean bank should not simply concentrate on financing major projects, it should also work on financially and technically supporting small and medium-sized projects - so long as these are carried out by ecologically-minded companies. Indeed this would allow the bank to satisfy the financial needs of the many small businesses, which operate informally and encounter major problems in accessing credit.

It goes without saying that the projects that the bank invests in have to be sound economically, technically and financially, and should be able to attract other sources of funding. In other words, the Bank should always adopt an explicit country-risk policy in its lending, and must aid southern Mediterranean countries move from a "command economy" to an economy where prices answer to market forces, and where consumer interests are guaranteed, not by subsidies, but by sound regulatory interventions[23]. Again, for corresponding reasons, such a bank should be an institution of the "UMP family" (rather than of the "EU family", although it should also be opened to EU members' participation), and it would be required to take its own decisions exclusively on the merits of each project. The latter necessarily implies that the bank should be very attentive to credit tests and take a conservative approach to the quality of projects. Moreover, it also implies that the results of post evaluations should be encompassed effectively and regularly in new project lending. Again, under its statute the bank should be allowed to take whatever measures may appear indispensable to overturn any decline in its net income, including penalties and several incentives to promote timely loan repayments. Self evidently, this implies that some projects must be definitely discarded and some conditions strictly applied, in spite of borrower allegations.

In financially supporting central and local government bodies which are involved in viable organizational reforms to ameliorate the quality of governance in Arab countries, a bank for the reconstruction of the Mediterranean should indirectly contribute towards building up forms of popular representation that would allow former subjects to become citizens and also towards modernising elites in the countries concerned. Even if this outcome might appear unrealistic at first glance, it would not be impossible because the conditions that any bank attaches to its loans can heavily influence fundamental decisions about the budget in borrowing countries, along with other issues which usually lie within the single jurisdiction of national governments, such as judicial and civil service reform.[24] This is precisely why, as Dr. Ngaire Woods acutely remarks, "One should *always* be wary … of shifting decision-

[23] For corresponding remarks in relation to the EBDR, *see* I. H. SHIHATA, THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT: A COMPARATIVE ANALYSIS OF THE CONSTITUENT AGREEMENTS (1999), at 56.
[24] M. A. Bekhechi, *Some Observations Regarding Environmental Covenants and Conditionalities in World Bank Lending Activities*, (1999) 3 MAX PLANCK YEARBOOK OF UNITED NATIONS LAW 314.

making from potentially more accountable governments to the necessarily democratically stunted international organizations". Indeed no matter how meticulously international organizations are created or reformed they cannot be made as democratic as national governments.[25]

VII. CONCLUSION

From the above analysis it is possible to conclude that the most suitable option would be a Bank for the Reconstruction of the Mediterranean. Indeed it is clear that such an institution would not only be better able to help in promoting long-term growth and stability in southern Mediterranean States than the EIB does at present, but it would also do significantly better than a hypothetical Mediterranean Investment Bank could do in the future.

While this may be true, the creation of a Bank for the Reconstruction of the Mediterranean would inevitably entail referring to the European Bank for Reconstruction and Development (hereinafter the EBDR) as the most obvious model to follow notwithstanding its lack of experience in the Mediterranean region, and also despite the fact that its achievements relating to the transition to market economies and democracy varies significantly in the different countries where it operates.[26] Nevertheless, as Francis Ghilès has shrewdly observed, a Bank for the Reconstruction of the Mediterranean does not have to be the exact copy of the EBDR. For example, it does not seem advisable for the establishing agreement of the future bank for the Mediterranean region to contain a provision such as Article 11, paragraph 3 of the EBDR Agreement which provides, though without prejudice to the other

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[25] N. Woods, *Holding Intergovernmental Institutions to Account*, (2003) 17 ETHICS & INTERNATIONAL AFFAIRS 70.

[26] M. H. Stein, *Conflict prevention in transition economies: a role for the European Bank for reconstruction and development?*, in A. CHAYES, A. HANDLER CHAYES (eds), PREVENTING CONFLICT IN THE POST-COMMUNIST WORLD: MOBILIZING INTERNATIONAL AND REGIONAL ORGANIZATIONS (1996), at 391.

operations referred to in Article 11, that: "(n)ot more than forty (40) percent of the amount of the Bank's total committed loans, guarantees and equality … investments shall be provided to the state sector". This is in fact a very inflexible provision: if it were embodied in the establishing agreement of the future Mediterranean bank for reconstruction and development, it would significantly reduce the possibility for this institution to support the public sectors of the southern Mediterranean countries even during periods of public emergencies.[27]

That said, it is worth noting that a Mediterranean Bank for Reconstruction and Development possesses all the characteristics for being fully accepted by the southern Mediterranean States. Indeed it will leave these States entirely free to propose not only large infrastructure and energy projects but also projects related to issues directly benefiting ordinary people and/or supporting bottom up participation over pure GDP growth. Such a bank will always decide on the basis of what has been proposed in the single project. And it could always require the proposing State to modify certain parts of its project or proposal without obliging it to focus only on the aggregate productivity benefits.

[27] On this provision see I. H. SHIHATA, *supra* note 21, at 56.