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THE 'EXTERNAL DIMENSION' OF THE EU'S IMMIGRATION POLICY AND MOROCCO'S CAPACITY TO MANAGE MIGRATION

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ABSTRACT

Given the ever-increasing migratory pressure on its external borders and the shortcomings of traditional migration control policies in the past, the European Union has created an 'external dimension' of immigration policy (EDIP). That is, it has integrated migration goals into its external policy of freedom, security and justice (FSJ). The core element the EDIP consists of partnership with third countries which are grouped in countries of origin and transit. Those countries do not receive the prospect of EU membership but are offered a stake in its Internal Market and further economic integration instead. The EDIP as a mode of external governance serves one main purpose: The projection of values underpinning the area of FSJ on third countries in order to safeguard the EU's internal security. Within the EDIP, the EU has a broad range of policy instruments at its disposal enabling it to tailor its external cooperation to the situation of each country. In promoting its EDIP, the EU favours regional cooperation frameworks whereat Morocco pertains to the Southern Mediterranean region. Its geographic proximity, its status as a major sending- and transit country and its positive disposition towards the EU make Morocco a potential candidate for close cooperation. The main research question this paper attempts to answer is to what extent the policy instruments within the EDIP stimulate Morocco's capacity to manage migration. The concept of capacity is analyzed by means of an analytical framework consisting of three measures and respective indicators as well as three dimensions. While the potential to stimulate Morocco's capacity varies for each policy instrument its overall potential generally big.

ABBREVIATIONS

AA	Association Agreement
AC	Association Council
AP	Action Plan
CD	Capacity Development
CR	Country Report
EC	European Community
EDIP	External Dimension of Immigration Policy
EMP	Euro-Mediterranean Partnership
ENP	European Neighborhood Policy
ENPI	European Neighborhood and Partnership Instrument
EP	European Parliament
EU	European Union
FSJ	Freedom, Security and Justice
ILO	Immigration Liaison Officer
JHA	Justice and Home Affairs
MPCs	Mediterranean Partner Countries
MS	Member States
MTM	Mediterranean Transit Migration
ToA	Treaty of Amsterdam
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

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1 INTRODUCTION

In recent years, the issue of migration has risen to the top of the international agenda. The ramifications associated with the process of globalization, insecurity and armed conflict in many of the world's poorest countries have led to an immense increase in migratory flows. The increased scale of international migration has also strongly affected the European Union (EU). (p. 1, Boswell & Crisp, 2004) An ever-increasing pressure of irregular migrants on its external borders - particularly on the shores of the Southern Member States (MS) - has prompted the EU to take action. Given the shortcomings of traditional migration control policies in the past fathering the notion of 'Fortress Europe', the EU has searched for alternatives to cope with this external challenge. (p. 10, Aubarell *et al.*, 2009) With the recognition to perceive migration not only as a global problem but also as a chance, the EU has made migration a strategic priority in its external relations: the integration of migration goals into its policy of freedom, security and justice (FSJ) is a cornerstone within that process. (p. 7, COM(2002) 703 final) The core element of this so-called 'External Dimension of Immigration Policy' (EDIP) consists of partnership with third countries which are grouped in countries of origin and transit. Those countries do not receive the prospect of EU membership but are offered a stake in its Internal Market and further economic integration instead. (p. 681, Lavenex, 2004) The EDIP as a mode of external governance serves one main purpose: The projection of values underpinning the area of FSJ on third countries in order to safeguard the EU's internal security. (p. 3, COM(2005) 491 final) Within the EDIP, the EU has a broad range of policy instruments at its disposal enabling it to tailor its external cooperation to the situation of each country. In promoting its EDIP, the EU favours regional cooperation frameworks[1] whereat Morocco pertains to the Southern Mediterranean region. Its geographic proximity, its status as a major sending- and transit country and its positive disposition towards the EU make Morocco a potential candidate for close cooperation. Thus, the development of EU-Moroccan cooperation from a bilateral agreement to an extensive framework - with the fundamental parameter being the EDIP - is only an implication.

This paper will examine the policy instruments the EU has at its disposal within the EDIP and their potential to stimulate Morocco's capacity to manage migration. Hence, the main research question is: *To What Extent Do the Policy Instruments within the 'External Dimension' of the EU's Immigration Policy Stimulate Morocco's Capacity to Manage Migration?* The first hypothesis is that the policy instruments within the EDIP have the potential to stimulate Morocco's capacity to manage migration. The second hypothesis holds that Morocco's capacity is influenced by various factors either contributing to or anticipating capacity development. In course of action, the first chapter of this paper links the existing EU migration policy literature with that of EU external governance and presents some theoretical insights. In the second chapter, an overview of the current legal framework and the development of the EDIP are given. Morocco's disposition to cooperate with the EU on the issue of migration is displayed and the policy instruments the EU has at its disposal are reproduced. The third chapter conceptualizes capacity as the measurement of this paper and depicts the operationalization. In the fourth chapter, the EDIP's potential to stimulate Morocco's capacity to manage migration is evaluated by means of an analytical framework. The sixth chapter merely concludes.

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[1] A 'Regional Cooperation Framework' refers to a pool of countries that are bound by historical, cultural and/ or economic links in the same geographic area

2 LITERATURE & THEORETICAL INSIGHTS

The integration of migration goals into the EU's external policy as a (new) mode of external governance has prompted academics to study EU migration policy and EU external governance. The academic literature on the topics is continuously expanding in line with the ever-increasing EU's external relations framework. In examining the way in which EU migration policies produce effects beyond the Union's borders, academics tend to disagree about the appropriate concept to use and about the approaches the EU is taking in addressing third countries. In contrast, the EU concordantly speaks of a 'multi-strand approach' when referring to the EDIP. (p. 11, COM(2006) 402 final) In order to be able to analyze the degree and nature of the impact of EU migration policies on third countries, academics focussing on EU external governance defined various modes. Those modes differ across policies and third countries and vary in the conditions under which they are effective. This chapter aims at answering the sub-question: *What is currently known in the academic literature on EU migration policies and EU external governance?*

The first section of this chapter will link the existing EU migration policy literature with that of EU external governance. The emphasis will be placed on Morocco. In the second section, theoretical insights into the external governance literature will be presented. In the content analysis, they will then be applied to the results with the aim of identifying the mode of external governance that prevails in EU-Moroccan cooperation.

2.1 EU MIGRATION POLICY & EU EXTERNAL GOVERNANCE LITERATURE

By integrating migration goals into its external policy the EU conducts external governance. The concept of external governance seeks to capture the expanding scope of EU rules beyond EU borders. (p. 791, Lavenex & Schimmelfennig, 2009) Developed by Lavenex (2004), such governance can broadly be defined as "[...] a cluster of processes by which an entity A regulates, manages or controls the behaviour and, in certain circumstances, identities and interests of an entity B, in context C." (p. 2, CEPS, 2008) The concept implies that third countries adopt parts of the EU *acquis* in their own domestic legal order - thus a form of integration into the European system of rules - without being offered the prospect of membership. (p. 12, Rijpma & Cremona, 2007/ p. 792, Lavenex & Schimmelfennig, 2009) In the context of the European Neighbourhood Policy (ENP), external governance connotes that the Union offers third countries the prospect of a stake in its Internal Market and of further economic integration. (p. 3, COM(2004) 373 final) For that reason, Lavenex and UçArer (2004) refer to the concept of external governance as 'External Effects of European Integration': "[...] although Europeanization in the narrow sense has been defined as the impact of European integration at the national level of the member states, its dynamics can also be extended to states other than EU member states in so far as they refer to a process of change in national institutional and policy practices that can be attributed to European integration." (p. 419, Lavenex & UçArer, 2004) Early studies that applied the notion of external governance to the context of EU enlargement emphasized the predominance of 'governance by conditionality'[2]. (cf. Schimmelfennig & Sedelmeier, 2004) Since accession, however, is becoming less of an option and EU-third country relationships are predominated by alternative forms of cooperation, other mechanisms and conditions of external governance have received renewed attention. (p. 794, Lavenex & Schimmelfennig, 2009)

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[2] 'Governance by conditionality' is the geographic, territorial expansion of EU rules that is mainly driven by the conditional promise of EU membership. (p. 794, Lavenex & Schimmelfennig, 2009)

The elasticity of external governance makes it difficult to examine the way in which EU migration policies produce effects beyond the EU's borders. Modes of EU external governance differ across third countries and policy fields and vary in the conditions under which they are effective. They can reach from "[…] more hierarchical settings that involve third countries' adaptation to a predetermined and legally constraining *acquis* […] to 'new governance', i.e. more horizontal forms of network governance and communication in which rule expansion progresses in a more participatory manner." (p. 796, Lavenex & Schimmelfennig, 2009) In the case of Morocco, external governance is, *inter alia*, part of an overarching foreign policy initiative: the ENP. Three explanations try to elucidate such resilience: according to the institutionalist explanation, as the most germane to the external governance approach, the modes and effects of external governance are shaped by internal EU modes of governance and rules. By contrast, the power-based explanation attributes the modes and effects of EU external governance to EU resources *vis-à-vis*, and interdependence with, third countries and to alternative poles of governance. The third explanation states that the domestic structures of third countries may condition the modes of external governance and their effectiveness. (p. 792, Lavenex & Schimmelfennig, 2009)

In spite of a continuous expansion of EU migration policy literature in line with an ever-increasing EU external-relation framework, studies with an inward-looking focus seem to dominate. Such studies are primarily concerned with the elements, the internal dynamics and the intentions that expedite the EDIP. In this context, the evolution and the structure of the EU's migration policy as well as the roles of the European institutions play a central role. (cf. Martenczuk & Van Thiel, 2008; Bendel, 2005; Boswell, 1999; Bosch & Haddad, 2007; Lavenex, 2006) Wessel *et al*. (2010), for instance, look into the institutional framework composing the external dimension of the area of FSJ with particular emphasis on the competences of the Union *vis-à-vis* its MS and the external competences *vis-à-vis* the institutional innovations introduced in the legal governance of this external dimension. (Wessel *et al*., 2010) Lavenex & Wichmann (2009) as many other academics argue that the emergence of the external dimension of JHA is merely a means for EU internal security cooperation. Huysmans (2000) refers to this development in the realm of migration as 'Securitization of Migration'. (Huysmans, 2000) According to Lavenex, "[…] the shift 'outwards' may […] be interpreted as a strategy to maximise the gains from Europeanization while minimizing the constraints resulting from deepening supranationalisation." (p. 329, Lavenex, 2006) Studies with an inward-looking focus also deal with the appropriate denotation of the concepts in use. Some academics only make use of one particular concept (cf. Boswell, 2003; Bosch & Haddad, 2007; Lavenex & Wichmann, 2009; Lavenex & Schimmelfennig, 2009), whereas other academics underline that there are many labels attached to the external facet of EU migration policy. Even though, "[…] some of these concepts overlap considerably, each covers a set of peculiar practices and, for that matter, deserves […] brief scrutiny." (pp. 1, CEPS, 2008) (cf. Aubarell *et al.*, 2009; CEPS, 2008; Rijpma & Cremona, 2007) To put it in a nutshell, all concepts come under the common umbrella of designing governance and policy extension beyond borders, between at least two countries sharing a specific asymmetrical relationship, not only in terms of power and socio-economic disparities, but also in their capacities to politically-respond to the same phenomenon: the movement of people between one country and another. (p. 12, Aubarell *et al.*, 2009) Following that logic, the concepts most frequently used in the EU migration policy literature - apart from external governance - are: externalization[3], internationalisation[4] and extra-territorialisation[5].

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[3] *Externalization* has an economic origin and involves "[…] the transfer of a business function to an external entity, requiring a degree of coordination and trust between the outsourcer and this external entity." (p. 12, Rijpma & Cremona, 2007)

[4] *Internationalization* occurs when the EU acts as a distinctive polity and negotiates with third countries in matters that are traditionally regarded as falling within the precincts of internal politics. (p. 2, CEPS, 2008)

[5] *Extra-territorialisation* covers "[…] the means by which the EU attempts to push back the EU's external borders or rather to police them at distance in order to control unwanted migration flows." (p. 12, Rijpma & Cremona, 2007)

Studies with an outward-looking focus that analyze the degree and nature of the impact of EU migration policies on third countries are few. The existing EU migration policy literature reflects the elasticity of the concept of external governance, i.e. the settings external governance is used in and the policy fields it is applied to vary. The ENP as an overarching foreign policy initiative is frequently used as a setting. (cf. Aubarell & Aragall, 2005) Lavenex and Wichmann (2009), for instance, analyze the modes of governance through which "[…] the EU seeks to ensure the ENP countries' participation in the realization of its internal security project." (p. 83, Lavenex & Wichmann, 2009) Taking on a similar approach, Gaenzle (2008) comes to the conclusion that the EU's governance is well-equipped to grasp the internal dynamic of the ENP identifying coordination and competition as the dominant - albeit not exclusive - modes of governance. (p. 3, Gaenzle, 2008) Haddadi (2003) as well as Carafa and Korhonen (2008) refer to the ENP and its interrelation with Morocco but do not specifically focus on migration policy. (cf. Haddadi, 2003; Carafa & Korhonen, 2008; Martín, 2009) An example for a specific policy related to migration is Wolff's (2008) analysis of the institutionalization of border management in the Mediterranean: effective border management is dependent on cooperation with the EU's neighbours as the Spanish-Moroccan case demonstrates. (p. 253, Wolff, 2008)[6] Only a single expedient study - 'New Directions of National Immigration Policies - The Development of the External Dimension and its Relationship with the Euro-Mediterranean Process' - explores the impact of the EDIP on Morocco. Aubarell *et al.* (2009) analyze how five countries from the Mediterranean area (three from the North - Spain, France and Italy - and two from the South - Morocco and Egypt) are shaping the external dimension of their migration policies and influencing relevant decisions, and thus policies, at the Euro-Mediterranean process level. (p. 6, Aubarell *et al.*, 2009) The conclusion of the study is based on the classification of the approaches EU migration policy comprises in addressing third countries.

Disagreement among academics prevails on the approaches the EU is taking in addressing third countries. Boswell (2003) framed such a paradigm for the first time suggesting that the EDIP consist of two distinct approaches: the 'preventive'- and the 'externalization' approach. According to Boswell, the preventive approach consists of "[…] measures designed to change the factors which influence people's decisions to move, or their chosen destinations." (pp. 619, Boswell, 2003) Measures under this category include attempts to address the root causes (push factors) of migration and refugee flows by, *inter alia*, more targeted use of development aid, foreign direct investment or humanitarian assistance. (p. 5, Gent, 2002; p. 29, Boswell & Crisp, 2004) For that reason other academics have labelled this approach the 'root-cause' approach. (cf. Gent, 2002; Aubarell *et al.* 2009) It is thus connecting migration to a wide spectrum of distinct and previously unrelated factors. (p. 18, CEPS, 2008) The externalization approach or 'remote-control approach' (cf. Aubarell *et al.*, 2009) involves forms of cooperation that essentially externalize traditional tools of domestic or EU migration control. The logic here is to engage sending and transit countries in strengthening border controls, combating illegal entry, migrant smuggling and trafficking, or readmitting migrants who have crossed into the EU illegally. (p. 619, Boswell, 2003) Apart from those two approaches, one of the main findings in the study of Aubarell *et al.* (2009) is that a number of the EU's externalisation policies and programmes neither clearly aim at control (remote-control approach) nor have an effect on the causes of migration (root-cause approach). Instead, their main objective is rather the management of flows to maximise opportunities and benefits, both at an individual level (emigrant) and for the receiving country, while also minimising human trafficking and irregular migration. (pp. 21, Aubarell *et al.*, 2009) Aubarell *et al.* (2009) term this modus operandi the 'managerial approach'. (cf. Papadopoulos, 2007) Interestingly, Papadopoulos (2007) refers to the 'managerial approach' as 'capacity-building strategy' which, according to him, includes the transfer of know-how, surveillance technologies and facilities and institutions. (p. 98, Papadopoulos, 2007) Returning to Aubarell *et al.* (2009), the study comes to the conclusion that three differentiated trends can be observed in Morocco. Firstly, the development of externalisation in migratory policies mainly takes place at the EU level, i.e. the reproduction of the domestic policy

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[6] For additional literature cf. Kruse, 2003; Van Selm, 2003; Lindstrøm, 2005; CEPS, 2008

of the EU in third countries follows a European agenda of interests that are focused on the remote-control approach (security). Secondly, the analysis of Moroccan policies reflects the root-cause approach, to a certain extent, influenced by EU initiatives such as the 'Global Approach to Migration'[7]. Thirdly, the national report identified a mainstreaming of externalisation policies or programmes around initiatives that neither seek to fulfil a desire for control (security) nor aim to have an effect on the root causes of emigration. Instead, their main objective is rather the management of migratory flows - managerial approach. (p. 6, Aubarell *et al.*, 2009) Figure 1 depicts below the overlap between the three approaches and reveals that policies and programmes - here examples extracted from the EMP - can not explicitly be assigned to either one of them in most of the cases.

Figure 1: Approaches in EU Migration Policy
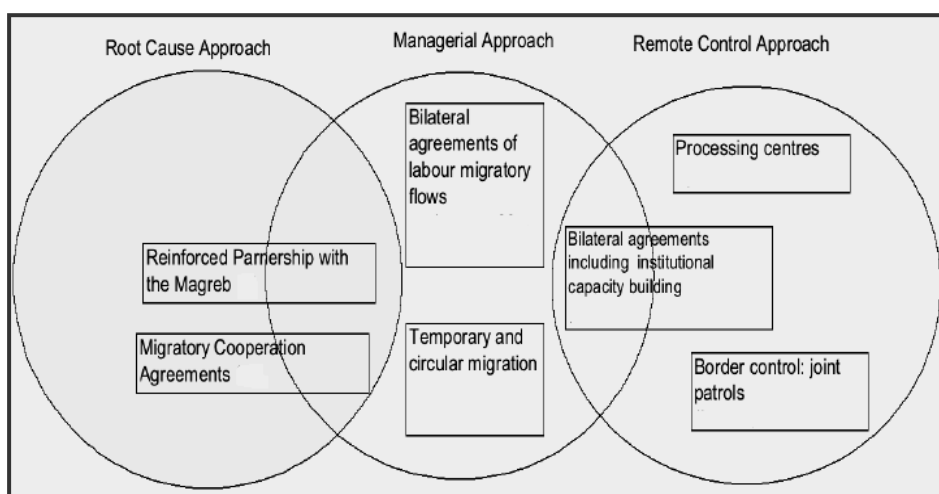
Source: p. 21, Aubarell *et al.*, 2009

Within this frame, the paper seeks to contribute to the hitherto under-researched relationship between the EU's migration policy and its impact on third countries, and particularly on Morocco. With the specific focus on the EDIP's potential to stimulate capacity, this paper opens a new field of study.

2.2 THEORETICAL INSIGHTS INTO EXTERNAL GOVERNANCE

In analyzing the degree and nature of the impact of EU migration policies on third countries, studies differentiate between various modes of external governance and external effects of European integration. As with most categorizations, those distinctions are merely heuristic, analytical devices for assessing EU-third country relations that may involve a mix of different modes in practice. (p. 796, Lavenex & Schimmelfennig, 2009) Drawing on an analogy with ideal types of governance in political systems and previous conceptualizations, Lavenex & Schimmelfennig (2009) distinguish between three basic modes of governance: hierarchy, networks, and markets. (cf. Lavenex & Lehmkuhl & Wichmann, 2007; Lavenex & Wichmann, 2009) Those vary in their actors' constellation, institutionalization and the mechanism of rule expansion. The institutional forms of governance act as opportunities and constraints on actors' modes of interaction and hence, have repercussions on the mechanisms of rule expansion.

Hierarchy is a mode of governance in which "[…] the EU capitalizes on its superior bargaining power in order to induce third country compliance." (p. 85, Lavenex & Wichmann, 2009) It is hierarchical in the sense that it works through a vertical process of command - where the EU transfers predetermined, non-negotiable rules - and control - where the EU ensures compliance through

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[7] Brussels European Council - Presidency Conclusions (15914/1/05 REV 1)

regular monitoring mechanisms. (pp. 674, Schimmelfennig & Sedelmeier, 2004) The vertical relationship between the 'rulers' and the 'ruled' is a form of domination and subordination implying that influence is exerted in an asymmetric manner. (p. 797, Lavenex & Schimmelfennig, 2009) The nature of institutionalization is tight and formal with harmonization as a mechanism of rule expansion. In the context of EU external relations, certain types of external governance come close to a hierarchical system if important sections of a third countries' autonomy over its legislation are undermined. (p. 797, Lavenex & Schimmelfennig, 2009) Two modes on the external effects of European integration termed by Lavenex and UçArer (2004) reflect the interplay between domination and subordination: policy transfer through opportune conditionality and policy transfer through inopportune conditionality. Generally, the scope and shape of policy transfer is conditioned by the existing institutional links between the EU and the third country, the latter's domestic situation at hand, and the costs of non-adaptation associated with an EU policy. (p. 417, Lavenex & UçArer, 2004) Particularly, policy transfer through inopportune conditionality occurs in a more authoritative manner meaning that the changes take place under pressure implying significant costs of adaptation to the third country. In contrast, policy transfer through opportune conditionality arises when third countries regard certain EU activities to be in their domestic interest and to be able to tackle existing problems more efficiently. Such a form a policy transfer provides a means to avoid lengthy and controversial policy debates over ambiguous situations in the third country. It can also be referred to as 'unilateral/ deliberate emulation'. (p. 421, Lavenex & UçArer, 2004) (cf. Radaelli, 2000)

Networks define a horizontal relationship in which the actors are formally equal. Even though such a relationship does not preclude the possibility of power asymmetries, actors have, at least in institutional terms, equal rights and are in need of each others' consensus when opting for certain measures. (pp. 797, Lavenex & Schimmelfennig, 2009) Thus, in contrast to hierarchical governance focusing on the production of binding authoritative law, networks usually "[…] produce less constraining instruments that are based on mutual agreement and often prescribe procedural modes of interaction rather than final policy solutions." (p. 41, Benz, 2007) Negotiations and voluntary agreement play a central role. The nature of institutionalization ranges from medium to tight and formal to informal. The corresponding mechanism of rule expansion is coordination. Given the voluntary basis and the process orientation of such modes of governance, network constellations provide a favourable context for mechanisms of influence based on socialization, social learning and communication. (cf. Schimmelfennig & Sedelmeier, 2005) In order for network governance to be successful governance capacity[8] and a high degree to which both sides share fundamental values and trust each other need to be present in the third country. (p. 97, Lavenex & Wichmann, 2009) The overarching legal framework needs to foresee mechanisms for joint decision-making, implementation and monitoring. In the absence of such provisions, the EU would have to resort to softer mechanisms of interaction - e.g. political dialogue - that due to the voluntarism implied would no longer qualify as governance. (p. 97, Lavenex & Wichmann, 2009) Lavenex & Wichmann (2009) subdivide networks in three different types:

- *Information networks* - are set up to diffuse policy-relevant knowledge and ideas among its members including distilling this information and identifying best practices
- *Implementation networks* - focus on enhancing cooperation among national regulators to implement/ enforce existing laws and rules; often, they promote capacity building trough technical assistance and training
- *Regulatory networks* - have an implicit or an explicit legislative mandate and are geared at the formulation of common rules and standards in a given policy area; therefore they are the most powerful ones in terms of governance

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[8] Governance capacity requires that the third country has an appropriate level of expertise in its national administration and that these bodies have the necessary financial resources at their disposal to ensure adequate implementation and that it exerts its repressive functions by abidance to rule of law standards, compliance with international human rights standards and the absence of corruption in the state administration. (p. 97, Lavenex & Wichmann, 2009)

(pp. 85, Lavenex & Wichmann, 2009)
These networks represent the most advanced form of flexible sectoral integration in terms of shared governance. (p. 86, Lavenex & Wichmann, 2009)

Market is a mode of governance where outcomes are the result of competition between formally autonomous actors. The political science literature usually does not regard markets as a form of governance since they lack the overarching system of rule. Newer governance approaches, however, sometimes include competition as an institutionalized form of political market interaction. (p. 799, Lavenex & Schimmelfennig, 2009) In the EU, the typical form of institutionalized market governance is the principle of mutual recognition, at least in its application in the Single Market. Mutual recognition unleashes a regulatory dynamic in which, owing to consumers' demand, the most competitive products and services prevail. This may lead to a voluntary de facto approximation of legislation on the basis of the respective production and service standards. (p. 46, Benz, 2007) Regulatory adaptation may, however, also occur in the absence of institutionalized mutual recognition as a consequence of competitive pressure. In the context of EU external relations, 'adaptation through externalities' (cf. Lavenex and UçArer, 2004) results from more indirect effects of EU policies. A mix of voluntary and involuntary adaptation exists when the third country perceives the necessity to change its policies in response to the externalities of EU policies. For instance, rising numbers of asylum seekers as a consequence of tighter controls at the EU's external borders is a negative externality. It may alter domestic interest constellations in that way that the costs of non-adaptation are perceived to be higher than those involved in a unilateral alignment with the European policy. (p. 421, Lavenex & UçArer, 2004) Generally, the scope of externalities is higher for countries which share geographic proximity and strong interdependence with the EU's system of regional governance. (p. 421, Lavenex & UçArer, 2004/ p. 799, Lavenex & Schimmelfennig, 2009) Table 1 summarizes the modes of external governance explained above.

Table 1: Modes of External Governance

	Actor constellation	Institutionalization	Mechanism of rule expansion
Hierarchy	Vertical: domination and subordination	Tight, formal	Harmonization
Network	Horizontal: formal equality of partners	Medium-tight, formal and informal	Co-ordination
Market	Horizontal: formal equality of partners	Loose, informal	Competition

Source: p. 800, Lavenex & Schimmelfennig, 2009

The effectiveness of external governance is defined as the extent to which EU rules are transferred to third countries. Lavenex and Schimmelfennig (2009) measure effectiveness at the levels of rule selection, rule adoption and rule application in domestic political and administrative practice. (p. 800, Lavenex & Schimmelfennig, 2009) *Rule selection* is relevant at the level of international negotiations and agreements between the EU and third countries. It examines whether and to what extent EU rules constitute the normative reference point for EU-third country relations. Questions such as whether third countries accept EU rules as the focus of their negotiations and agreements or whether they accept joint rules that reflect EU rules embedded in international norms are of particular relevance. Alternatively, the EU and its negotiating partners may select rules that do not conform to the EU *acquis* and that are set by other international organizations such as the United Nations (UN), other countries like the U.S. or Russia, or purely domestic rules. (p. 800, Lavenex & Schimmelfennig, 2009) (cf. Barbé *et al.*, 2009) *Rule adoption* in domestic legislation constitutes the second level of impact. It is indicated by the ratification of agreements with the EU or the adoption of laws and other legal documents that incorporate EU and joint rules. To assess rule adoption, questions such as whether EU rules selected for international negotiations and agreements are

transposed into the third country's domestic legislation. Empirically, this is relevant because, even though third countries may accept EU rules as the normative reference point of their negotiations with the EU or develop joint rules, they may not adopt these rules domestically in the end. (p. 801, Lavenex & Schimmelfennig, 2009) *Rule application* constitutes the deepest impact of external governance as rule adoption does not necessarily imply rule application. Here, questions such as whether and to what extent EU or joint rules are not only incorporated into domestic legislation but also acted upon in political and administrative practice are asked. Even though those three levels are interdependent of one another - rule adoption builds on rule selection and rule implementation builds on rule adoption - the sequence of effectiveness may be interrupted at any level of impact. (p. 801, Lavenex & Schimmelfennig, 2009) Therefore rule selection, rule adoption and rule application are presented separately in Table 2 below.

Table 2: The Effectiveness of External Governance

	Level	Effectiveness	Alternative outcomes
Rule selection	International negotiations and agreements	EU rules (or joint rules) as focus of negotiations and agreement	Rules of other international organizations, other states, or third-country rules
Rule adoption	Domestic legislation	EU rules (or joint rules) incorporated into domestic legal acts	
Rule application	Domestic political and administrative practice	EU rules (or joint rules) consistently applied	Behaviour ignoring or violating EU rules or joint rules

Source: p. 801, Lavenex & Schimmelfennig, 2009

3 EDIP AND EU-MOROCCAN COOPERATION

The Treaty of Amsterdam (ToA)[9] (1999) and a number of European Council meetings form the main building blocks for a comprehensive migration policy. The 'Global Approach to Migration: Priority Actions Focussing on Africa and the Mediterranean'[10], approved by the Council in December 2006, has evolved as the EDIP within this legal framework. It emphasizes the importance of partnerships with countries of origin and transit and defines a number of political priorities that aim at assisting third countries in their efforts to improve their capacity to manage migration. The EU provides such assistance to a third country mostly through regional cooperation frameworks. Such regionalism has the potential to promote increased security, stability, solidarity and prosperity among its partners. The country of Morocco pertains to the EU's regional cooperation with the (Southern) Mediterranean countries, sometimes referred to as the 'Maghreb'. Relations with that region have been developing through the Euro-Mediterranean Partnership (EMP) established by the Barcelona Declaration in 1995. The ENP adds a further dimension to this so-called 'Barcelona Process'. In implementing the EDIP, the EU has a broad range of policy instruments at its disposal enabling it to tailor its external cooperation to the situation of each country. The sub-question of this chapter is: *How are EU migration policy objectives currently integrated into the EU's external policy, i.e. in the EU's external policy towards Morocco?*

The first section of this chapter will present an overview of the current legal framework of EU-Moroccan cooperation with particular emphasis on the development of the EDIP. In the second section, Morocco's attitude and consequently, its internal disposition to cooperate with the EU on the issue of migration will be displayed. The third section will reproduce the policy instruments of the EDIP as they form the basis for the EU's external governance approach towards Morocco. The aim of this chapter is to reveal the means at the EU's disposal in influencing a third country's - Morocco's - capacity to conduct appropriate migration management.

3.1 THE LEGAL FRAMEWORK[11]

The 'Barcelona Declaration' from the year 1995 marks the commencement of EU-Moroccan cooperation. It was agreed upon at the Euro-Mediterranean Conference in Barcelona and launched EMP which is also referred to as the 'Barcelona Process'. As set out in the Barcelona Declaration, the EMP comprises three complementary long-term objectives: definition of a common area of peace and stability through the reinforcement of political and security dialogue (political and security partnership), construction of a zone of shared prosperity through an economic and financial partnership and the gradual establishment of a free- trade area (economic and financial partnership) and rapprochement between peoples through a social, cultural and human partnership aimed at encouraging understanding between cultures and exchanges between civil societies (social, cultural and human partnership). (p. 3, COM(2004) 373 final) As part of the economic and financial partnership, a new generation of bilateral agreements was set up with the Mediterranean partners. The Association Agreement (AA) with Morocco[12] was signed in 1996 and entered into force on 1 March 2000 replacing the 1976 Cooperation Agreement. It is the legal *acquis* for relations between the EU and its North African neighbour. The AA sets out in detail the specific areas in which the Barcelona process objectives can bilaterally be developed. The agreement emphasises the adherence to the principles of the UN Charter such as human rights, democratic principles and economic freedom; the need to strengthen peace, political stability and economic development in

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[9] The ToA provided for common measures on immigration policy under Title IV, Art. 61-69
[10] Brussels European Council - Presidency Conclusions (15914/1/05 REV 1)
[11] For an overview of the current legal framework and the development of the EDIP see Table 7: The Legal Framework
[12] Euro-Mediterranean Agreement Establishing an Association between the EU and Morocco (2000/204/EC)

the region by encouraging regional cooperation; the need to open a regular political dialogue in bilateral and international contexts on issues of common interest; and the need to maintain a dialogue on scientific, technological, cultural, audio-visual and social matters to the benefit of both parties. (p. 4, COM(2004) 373 final)[13]

With an EU external relation framework in place, a number of European Council meetings gradually contributed to the integration of migration goals into the Union's external policy of FSJ. The 1999 Tampere European Council[14] linked EU migration policy for the first time with external relations. The presidency conclusions stressed the need for a comprehensive approach to the subject of migration and identified four major priority areas for legislative and policy actions: establishing a common European asylum system; establishing a common approach to the temporary protection of displaced persons on the basis of solidarity between MS; establishing an asylum seekers' identification system through the completion of the EU fingerprint database; ensuring the fair treatment of third country nationals who reside legally on the territory of the MS. (p. 7, Commission Framework Contract/ EuropAid, 2009) In order to fulfill the Tampere remit, the European Council published a report[15] in June 2000 identifying the objectives that a coherent approach towards external action in the field of justice and home affairs (JHA) should contain. In this context, it is referred to the 'external dimension' of migration policy for the first time. The 2000 Feira European Council[16] reaffirmed the EU's commitment defined at the Tampere meeting; the EU's external priorities in the field of FSJ were incorporated in the Union's overall strategy as a contribution towards the establishment of the area of FSJ. Furthermore, the Council agreed upon a 'Common Strategy on the Mediterranean Region'[17] reinforcing once again the importance of cooperation between the EU and the Maghreb countries in the fields of security, democracy, justice and the economy. The 2002 Seville European Council[18] contributed significantly to integrate migration goals into the EU's external policy by calling upon the use of external EU instruments in combating illegal migration. (p. 10, Aubarell *et al.*, 2009) Further to the decisions of these Councils meetings, the Commission issued a Communication 'Integrating Migration Issues in the EU's Relations with Third Countries'[19] to incorporate migration-related policies into the programming of Community external aid, in order to support third countries in addressing related issues. (p. 7, Commission Framework Contract/ EuropAid, 2009)

The EU's new political geography due to its enlargement on 1 May 2004 contributed to the creation of the ENP. The ENP complemented and reinforced the 'Barcelona Process' as partner countries participating in the process became part of the ENP. A Communication[20] issued by the Commission one year earlier provided the framework for the Union's relations with those neighboring countries. To put it in the words of Štefan Füle, the Commissioner for Enlargement and ENP, "[...] our Neighbourhood Policy provides us with a coherent approach that ensures that the whole of the EU is committed to deeper relations with all our neighbours. At the same time, it allows us to develop tailor-made relations with each country." (European Commission, 21.05.2010) The ENP set ambitious objectives for partnership with neighbouring countries based on strong commitments to shared values and political, economic and institutional reforms. Partner countries were invited to enter into closer political, economic and cultural relations with the EU, to enhance cross border cooperation and to share responsibility in conflict prevention and resolution. The Union offered the prospect of a stake in its Internal Market and of further economic integration. The speed and intensity of this process generally depends on the will and capability of each partner country to engage in this broad agenda. (p. 3, COM(2004) 373 final) At the outset of this process, the

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[13] The AA is not accessible, therefore the objectives with regard to cooperation in the field of migration are not mentioned
[14] Tampere European Council - Presidency Conclusions (200/1/99)
[15] EU Priorities and Policy Objectives for External Relations in the Field of JHA (7653/00)
[16] Feira European Council - Presidency Conclusions (200/1/00)
[17] Common Strategy on the Mediterranean Region (2000/458/CFSP)
[18] Seville European Council - Presidency Conclusions (13463/02)
[19] Integrating Migration Issues in the EU's Relations with Third Countries (COM(2002) 703 final)
[20] Neighbourhood: A Framework for Relations with our Eastern and Southern Neighbours (COM(2003) 104 final)

Commission prepared Country Reports (CR) assessing the country's domestic situation in order to calculate when and how to deepen relations with that country. The CR on Morocco[21] was published in May 2004 summing up, *inter alia*, the existing structures in the field of JHA and possible approaches in strengthening EU-Moroccan cooperation. (p. 11, COM(2004) 373 final) As a next step, ENP Action Plans (AP) were developed with each country based on the country's needs, capacities and both parties' interests. They jointly define an agenda of political and economic reforms by means of short and medium-term (3-5 years) priorities. The AP with Morocco[22] was adopted in July 2005 for a period of five years. The priority action referring to the issue of migration is: "[…] effective management of migration flows, including the signing of a readmission agreement with the European Community (EC), and facilitating the movement of persons in accordance with the *acquis*, particularly by examining the possibilities for relaxing the formalities for certain jointly agreed categories of persons to obtain short-stay visas." (p. 4, COM(2004) 795 final) Its objectives, however, are not categorized by means of short and medium-term priorities as for other priority actions.

'The Hague Programme'[23] adopted by the 2004 Brussels European Council represented the first step in a comprehensive approach involving all stages of migration, *inter alia*, aiming at the development of a coherent EDIP; partnership with third countries and return and readmission policy being the fundamental elements of the 'external dimension.' The EDIP should aim at "[…] assisting third countries, in full partnership, using existing Community funds where appropriate, in their efforts to improve their capacity for migration management and refugee protection, prevent and combat illegal immigration, inform on legal channels for migration, resolve refugee situations by providing better access to durable solutions, build border-control capacity, enhance document security and tackle the problem of return." (p. 11, 16054/04) 'The Hague Programme' was implemented in June 2005 by means of an Action Plan[24]. In December 2005, the Communication 'A Strategy on the External Dimension of the Area of Freedom, Security and Justice'[25] was adopted[26]. The strategy outlined the main external challenges facing the area of FSJ, identified the objectives of the EU's external action in this field, the political priorities to be addressed worldwide and the instruments at the EU's disposal[27] as well as the principles for selecting appropriate actions. (p. 3, COM(2005) 491 final) In a subsequent Communication[28], the Commission reveals the EU's commitment to increase its efforts to assist Morocco in migration management especially through: effective implementation of projects to help combat trafficking in human beings, concluding negotiations of the EC-Morocco readmission agreement and improving the controls of its Southern and Eastern borders. (p. 8, COM(2005) 621 final) The 'Global Approach to Migration: Priority Actions Focussing on Africa and the Mediterranean'[29] - annexed to the 2005 Brussels European Council presidency conclusions - is the actual creation of the EDIP. With its adoption by the Council in 2006, the EDIP was fully integrated into the Union's external relations. The 'Global Approach' addresses three dimensions: the management of legal migration, the prevention and reduction of illegal migration and the promotion of the relationship between migration and development in the interest of the country of origin. Increased dialogue and cooperation with African states and with neighbouring countries covering the entire Mediterranean region plays a decisive role in approaching those issues. Priority work with three countries, one of them being Morocco, should be undertaken. (p. 13, 15914/1/05 REV 1)

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[21] ENP Country Report - Morocco (COM(2004) 373 final)
[22] EU-Morocco Action Plan (COM(2004) 795 final)
[23] The Hague Programme (16054/04)
[24] Action Plan Implementing the Hague Programme on Strengthening FSJ in the EU (9778/2/05 REV 2)
[25] A Strategy on the External Dimension of the Area of FSJ (COM(2005) 491 final)
[26] A Strategy for the External Dimension of JHA: Global FSJ (14366/3/05 REV 3)
[27] See Section 3.3 Policy Instruments
[28] Priority Actions for Responding to the Challenges of Migration: First Follow-Up to Hampton Court (COM(2005) 621final)
[29] Brussels European Council - Presidency Conclusions (15914/1/05 REV 1)

The 10th Anniversary of the Euro-Mediterranean Summit[30] held in Barcelona gave fresh impetus to EU-Mediterranean cooperation. The Summit set out regional partnership objectives for the next five years, according to the priorities established in the 'Barcelona Process' and in the relevant AAs and ENP APs. The importance of migration as an issue of common interest in the partnership was reinforced and said to be addressed through a comprehensive and integrated approach, *inter alia*, aiming at: the promotion of legal migration opportunities, the facilitation of the legal movement of individuals and the flow of remittances as well as fair treatment and integration policies for legal migrants. (p. 11, 15074/05) The development of the EDIP further progressed with the adoption of the Communication 'Towards a Common Immigration Policy[31] in December 2007. This policy document emphasised that the EDIP had grown immensely in importance in recent years and that cooperation on migration and related issues with the EU's neighbouring countries were well-developed and increasingly strengthened. The priorities being set, the Communication states that "[…] the real test of the Global Approach's values and effectiveness in Africa is just beginning. Over the coming years, all actors involved […] need to intensify the process already under way and to deliver results." (p. 6, COM(2007) 780 final) The impetus induced by the Euro-Mediterranean Summit led to the creation of the 'Union for the Mediterranean'[32] in May 2008. The Union currently includes all 27 MS of the EU and 16 partner countries. This EMP re-launching aimed to infuse a new vitality into the partnership and to raise the political level of the strategic relationship between the EU and its Southern neighbors. While maintaining the *acquis* of its predecessor - the Barcelona Process - the Union for the Mediterranean offers more balanced governance, increased visibility to its citizens and a commitment to tangible, regional and trans-national projects (none of them dealing with migration). (p. 7, COM(2008) 319 final)

The seventh meeting of the Association Council (AC)[33] on 13 October 2008 marked a new stage in the development of EU-Moroccan relations. The EU announced its volition to develop - within the framework of the ENP - bilateral relations with Morocco to an advanced status. Such an individual arrangement follows the principle of differentiation[34]. In a prior meeting, an ad hoc working party was set up to examine the scope for substantially reinforcing the relationship with a view to an advanced status. The working party prepared a roadmap for progressive, sustained development of bilateral relations in many areas. (p. 1, 13653/08) One of those areas in which cooperation should be strengthened is migration. The EU appreciated Morocco's efforts to deal with illegal immigration leading to a substantial reduction in immigration flows from that country. (pp. 10, 13653/08) The 'Joint Document on the Strengthening of Bilateral Relations/Advanced Status' was later adopted. This advanced partnership between the EU and Morocco "[…] is evidence of the EU's readiness to respond positively to Morocco's expectations and specific needs, in order to support its courageous process of modernisation and democratisation." (p. 2, 17233/09) Apart from the EU-Moroccan relations, on a European level a further essential step in strengthening the EDIP was taken. Building on the achievements of the Tampere and The Hague Programmes, a new multi-annual programme to be known as the 'Stockholm Programme'[35] was adopted in December 2009 for the period 2010-2014. The Programme aims to address the challenges still faced by the area of FSJ in a more comprehensive manner with the external dimension playing a significant role, to improve the coherence between policy areas and to intensify cooperation with partner countries. (p. 2, 17024/09) According to Wessel *et al.*, the ambition laid down in the Stockholm Programme is that "[…] the external dimension of the area of FSJ becomes an organized framework policy, ever more integrated in the main policies of the area of FSJ, keeping in mind the strong complementarity between the internal and external aspects of this policy field." (p. 16, Wessel *et al.*, 2010) The

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[30] 10th Anniversary Euro-Mediterranean Summit - Five Year Work Program (15074/05)
[31] Towards a Common Immigration Policy (COM(2007) 780 final)
[32] Barcelona Process - Union for the Mediterranean (COM(2008) 319 final)
[33] Relations with Morocco - Adoption of the EU's Position for the Seventh Meeting of the Association Council (13653/08)
[34] 'Differentiation' means that there can be no 'one size fits all' strategy requiring a tailored approach to respond to the particular situation of individual countries and regions. (p. 7, COM(2005) 491 final)
[35] The Stockholm Programme - An Open and Secure Europe Serving and Protecting the Citizens (17024/09)

controlling of migration flows still posing a serious challenge for the EU is one of the Programme's thematic priorities. (p. 55, 17024/09) An EU-Morocco Summit[36] held in Granada in March 2010 demonstrated the degree of maturity and confidence attained in the political dialogue between both parties and highlighted the strategic importance of the partnership. "Noting that Morocco has made its rapprochement with the EU a fundamental political choice, both parties agree that advanced status is an important stage in that rapprochement and that, in line with the purpose and principles of the ENP, they will continue the process of reflection on the nature and form of the contractual relationship to replace the AA." (pp. 1, 7220/10)

3.2 MOROCCO'S DISPOSITION

Morocco's disposition to cooperate with the EU (on the issue of migration) depends considerably on King Mohammed IV. He is the 'supreme representative of the nation and commander of the faithful' ascending the throne in 1999. Even though Morocco's 1962 Constitution defines the country as a 'constitutional, democratic and social monarchy', in practice the sovereign retains a significant number of executive prerogatives and exerts a certain amount of legislative power. He, *inter alia*, presides over cabinet meetings, promulgates laws, signs and ratifies international treaties, is commander-in-chief of the Armed Forces and presides over the Supreme Council of the Magistracy. (pp. 5, COM(2004)373 final). With rising numbers of regular and irregular migrants since the 1990s, Morocco - given its status as a country bordering the EU and its status as a transit country - has been pressurized by the EU to assume border control responsibilities and to introduce more restrictive immigration policies. This pressure has seen the Moroccan government develop a migratory policy based on Law 02/0353, which imitates/ replicates the European legislation on the issue, specifically the Spanish Law 4/2000. (pp. 20, Aubarell *et al.*, 2009) Law 02/0353 as of June 2003 lays down the conditions under which foreigners may enter and stay in Morocco and codifies crimes and penalties relating to irregular emigration attempts and people-smuggling, making them criminal offences. (p. 11, COM(2004)373 final) This new regulation amounted to a comprehensive reform of the legal framework governing migration previously adopted under the French protectorate. (p. 3, CARIM, 2009) De Haas (2009) when referring to Law 02/0353 argues that "[…] although the new Moroccan law makes reference to relevant international conventions and seems to be a nominal improvement, migrants' and refugees' rights are often ignored in practice." (p. 5, De Haas, 2009) Whether this is the case or not, can not be proven in this context. In his throne speech on 30 July 2004, King Mohammed IV proclaimed his sympathy for the EU by stating his motivation to have adapted Morocco's migration policy accordingly: "Since our access to the throne, we have called for a new migration policy in accordance with the speeding structural changes affecting our community abroad as well as the hopes and ambitions of this community to develop and modernize Morocco and to enhance its international status. We have opted for a comprehensive and multidimensional policy regarding institutions, diplomacy and society, and culture as well as the complementarity and homogeneity of the apparatus in charge of it." (p. 2, Sadiqi, 2004)

Having a pro-EU disposition, Morocco has made important steps to construct an institutional framework for dealing with migration. Ten major government agencies deal with the issue of migration on a hidden and declared agenda. The most important ones of these ministries are: the 'Delegated Ministry in Charge of the Moroccan Community Residing Abroad' and the 'Ministry of the Interior'. (cf. Sadiqi, 2004) Within the Ministry of the Interior, the border division takes care of border-related administrative and economic matters and the Directorate-General for National Security is responsible for checks at border-crossing points. Morocco cooperates with Spain on border checks through a group that organises discussions, exchanges of information, liaison officers and joint patrols. (p. 11, COM(2004) 373 final) Furthermore, King Mohammed IV decided - in the

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[36] Joint Statement EU-Morocco Summit (7220/10)

same year he gave the above-mentioned speech - to set up two new institutions: the Migration and Border Surveillance Directorate and the Migration Monitoring Centre. The former fights against networks that traffic in human beings and is mainly concerned with operational implementation of the national strategy against trafficking networks and with border surveillance. Its operations will be carried out by the National Search and Investigation Brigade. The latter brings together representatives from all departments concerned with the issue of migration. (p. 11, COM(2004) 373 final) As part of the AA, Morocco and the EU have created a working party to deal with social affairs and migration. The party has identified and holds regular discussions on a number of practical questions relating to migration such as co-development, social integration, visas, illegal migration, transit migration and better information, and practical cooperation projects. A Justice and Security subcommittee has also been set up to look at the full range of cooperation issues relating to justice and home affairs. (p. 11, COM(2004) 373 final) Morocco is still reluctant, however, to conclude a readmission agreement with the EU[37] and has not yet ratified the 2000 UN Convention on Transnational Crime and its two protocols on trafficking in human beings and smuggling of migrants. (p. 11, COM(2004) 373 final) Nevertheless, the Commission comments on the relations with Morocco and its willingness to cooperate in one of its ENP CRs[38] in a throughout positive manner: "The country has given the new ENP a very warm reception and has been very cooperative regarding its implementation. Morocco particularly welcomes the prospect of a bilateral, differentiated approach that takes account of the degree of political will and actual capacity exhibited by each partner, with a view to developing relations in a way which accurately reflects each country's specific situation. In this respect, the strategic use of the neighbourhood policy is precisely what Morocco has asked for." (p. 5, COM(2004) 373 final)

Morocco's long-standing aspiration of establishing a relationship with the EU "[…] deeper than association even if it stops short of full accession"[39] was rewarded by the EU. With the adoption of the 'Joint Document on the Strengthening of Bilateral Relations/Advanced Status' in 2008, Morocco obtained as the EU's first neighbour an 'advanced status'. The advanced status should translate into a reinforcement of political cooperation between Morocco and the EU in order to better consider their respective strategic priorities and a progressive integration of Morocco into the Union's Internal Market. (p. 239, Martín, 2009) With the conferment, the EU seems to honour Morocco for its reforms in the last ten years, particularly within the framework of the ENP. Beyond that the Union signifies to the other Mediterranean partner countries (MPCs) that compliance with engagements taken within the ENP APs pays back in terms of deeper integration into the EU's 'everything but the institutions' model. (p. 239, Martín, 2009) To put it in the words of the EU: Morocco has always been distinguished by its vision and its willingness and commitments to be the initiator of proposals within the ENP and the Union for the Mediterranean. (p. 1, 13653/08)

3.3 POLICY INSTRUMENTS

The EU has a broad range of policy instruments at its disposal that enable the Union to tailor its external cooperation to the situation of each country. (p. 7, COM(2005) 491 final) As outlined in the Communication 'A Strategy on the External Dimension of the Area of FSJ'[40] under Art. 6, those instruments are: bilateral agreements (1)[41], enlargement and pre-accession processes (2), ENP and APs (3), regional cooperation (4), individual arrangements (5), operational cooperation (6),

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[37] Morocco has concluded bilateral readmission agreements with Germany (1998), France (1993, 2001), Portugal (1999), Italy (1998, 1999) and Spain (1992, 2003). (p. 3, CARIM, 2009)
[38] ENP Country Report - Morocco (COM(2004) 373 final)
[39] Speech by King Mohamed VI (2000) in Paris on his first official visit abroad (p. 239, Martín, 2009)
[40] A Strategy on the External Dimension of the Area of FSJ (COM(2005) 491 final)
[41] The policy instruments are numbered in order to assign them to the respective EU policy document in Table 7: The Legal Framework and in Table 8: Projects under AENEAS Programme in Morocco

institution building and twinning (7), development policy (8), external aid programmes (9), international organisations (10) and monitoring (11). Most of them do not need any further explanation. Those policy instruments particularly capable of stimulating a third country's capacity are: operational cooperation (6), institution building and twinning (7) and external aid programmes (9). Operational cooperation implies that an EU agency cooperates with a third country's organization on a migration-related issue or that an EU agency undertakes cross-border operations. Such form of cooperation is very common in the field of border management with an example being FRONTEX, the European External Borders Agency. Apart from dialogue and expert meetings, the cooperation can be developed through agreements and working arrangements etc. with counterparts in third countries. Networks of liaison officers drawn from the MS are also being established in some third countries. (p. 7, COM(2005) 491 final) Institution building and twinning are a highly useful mechanism in capacity building. Twinning is a Commission initiative that was originally designed to help candidate countries acquire the necessary skills and experience to adopt, implement and enforce EU legislation. Since 2003 twinning has been available to some of the Newly Independent States of Eastern Europe and to countries of the Mediterranean region. Twinning projects bring together public sector expertise from EU Member States and beneficiary countries with the aim of enhancing co-operative activities. (European Commission, 05.08.2010) The third policy instrument particularly capable of stimulating a third country's capacity are external aid programmes. Projects on FSJ in the Mediterranean region under the EMP were financed - for the first time - by MEDA[42] adopted in July 1996. This geographic programme provided for financial and technical measures designed to help Mediterranean non-member countries reform their economic and social structures and to mitigate the social and environmental consequences of economic development. This so-called MEDA I was amended in November 2000 by MEDA II[43] providing the new financing amounts for the period 2000 until 2006. (pp. 14, DRN-ADE-PARTICIP-DIE-ODI-EIAS-ICE, 2009) In March 2004, a thematic programme - the AENEAS Programme[44] - was adopted for financial and technical assistance to third countries in the areas of migration and asylum. Initially, its operation period was set from 2004 until 2008 but AENEAS did only operate until 2006. AENEAS took place within a period where the EC continued to actively develop its policies in the migration field with two major elements: the 2004 The Hague Programme and the Global Approach on Migration. Even though this policy evolution did not lead to a modification of the objectives of the AENEAS Programme, it played a significant role in its concrete implementation. (p. 7, Commission Framework Contract/ EuropAid, 2009) Various projects are financed under the AENEAS Programme that address capacity building or capacity development. For the period from 2007 until 2013, the EDIP (including asylum) is financed by two types of instruments: the European Neighbourhood & Partnership Instrument (ENPI)[45] and the Thematic Programme for the Cooperation with Third Countries in the Areas of Migration and Asylum[46]. The ENPI is the geographic financing instrument of the ENP and the Thematic Programme is regarded as the successor of the AENEAS Programme.

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[42] Financial and Technical Measures to Accompany the Reform of Economic and Social Structures in the Framework of the Euro-Mediterranean Partnership (1488/96)

[43] Amending Regulation (EC) No 1488/96 on Financial and Technical Measures to Accompany the Reform of Economic and Social Structures in the Framework of the EMP (2698/2000)

[44] Programme for Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum (491/2004)

[45] Laying Down General Provisions Establishing an ENPI (1638/2006)

[46] Thematic Programme for the Cooperation with Third Countries in the Areas of Migration and Asylum (COM(2006) 26 final)

4 ANALYTICAL FRAMEWORK

The aim of this paper is to find out to what extent the policy instruments within the EDIP are able to stimulate Morocco's capacity to manage migration. The overall research conducted for this paper is a content analysis of relevant policy documents. This chapter will provide the analytical framework needed in order to answer the overall research question. The sub-question to be addressed is: *How can Morocco's capacity to manage migration be analyzed?*

The first section will provide a conceptualization of capacity by means of different sub-sections. A definition of the concept will be given followed by its underlying assumptions. The last sub-section will explain how the dimensions and indicators have been derived as capacity is used as the measurement in this paper. The second section - the operationalization part - will illustrate the hypothesis of this paper and will explain the method of analysis for the upcoming content analysis. Throughout the whole chapter, the limits inherent to this case study will be mentioned.

4.1 CONCEPTUALIZATION: CAPACITY

4.1.1 DEFINITION

Capacity is an elusive concept that is described as either a process or an outcome in the literature. According to EuropeAid (2009), capacity is "[…] the ability of people, organisations and society as a whole to manage their affairs successfully." (p. 6, Europe Aid, 2009) Goodman *et al.* (1998) simply regards capacity to be the ability to carry out stated objectives. (p. 261, Goodman *et al.*, 1998) In all cases, capacity exists for the purpose of performing a certain action or enabling performance. Caffyn and Jobbins (2003)[47] developed a theoretical framework - based on Kooiman's socio-political theory of governance - in which they refer to the *concept of governance capacity*. (p. 224, Caffyn & Jobbins, 2003) (cf. Lavenex & Wichmann, 2009) This concept consists of three components: images, tools and action potential. (see Table 3: The Concept of Governance Capacity) These operate at an intentional level but are embedded within a structural context: images as part of culture, tools as parts of resources and action potential as part of power relations. Images at the intentional level refer to images held by a stakeholder about a current situation and potential alternatives. On the structural level, images especially refer to ideological and/or cultural judgment, prejudices, assumptions, theories and convictions that act as filters or contexts to the stakeholder's images. Tools are the instruments stakeholders have at their disposal for addressing governance needs. Just as the EU has a variety of policy instruments within the EDIP at its disposal, a distinction of tools is also drawn within the concept of governance capacity: regulatory (licences, standards), market-based (taxes, subsidies) and communicative (forums, education). The structural level of this component comprises resources implying that they are needed to develop and implement the tools. Thus, the effectiveness of tools will depend on the availability of resources. Relating this appraisal to Goodman *et al.*'s (1998) definition, the fundamental question is then, whether resources are adequate for the tools to carry out the stated objectives. To some extent, this way of thinking reflects the main research question of this paper except that it is more outcome-oriented; assuming that resources are sufficiently provided by the EU for the policy instruments within the EDIP. Action potential as the third component refers to the socio-political sphere for action in which stakeholders have to operate. This action potential is embedded in a structural context of power relations. If these are political, they depend upon the ability or willingness of a government to curtail or encourage the actions of individuals or groups. At the heart of this component of capacity are issues of legitimacy

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[47] Caffyn and Jobbins (2003) studied - by means of an EU research project concerned with sustainable management of coastal ecosystems in the Southern Mediterranean - the implications for the Moroccan governance system to conduct effective management of coastal tourism. (p. 224, Caffyn & Jobbins, 2003)

and authority, i.e. that the ability of stakeholders to attain their goals and interests will be constrained or facilitated by power relations with other actors. (p. 228, Caffyn & Jobbins, 2003)

Table 3: The Concept of Governance Capacity

	Intentional level	*Structural level*
Governance capacities	images tools action potential	culture, data collection resources power relations

Source: p. 228, Caffyn & Jobbins, 2003

The elusiveness of the concept of capacity is also reflected in EU policy documents. In the presidency conclusions of the Tampere European Council[48] held in October 1999 a first allusion to capacity is made: "The European Council calls for assistance to countries of origin and transit to be developed in order to promote voluntary return as well as *to help the authorities of those countries to strengthen their ability to combat effectively trafficking in human beings* [...]." (A. IV. 26., Tampere European Council, 1999) Here, the EU identifies stimulating a third country's capacity to manage migration as a need while proclaiming its willingness to assist in this undertaking. The Hague Programme[49] as from November 2004, is somewhat more explicit stating that "[...] EU policy should aim at assisting third countries, in full partnership, using existing Community funds where appropriate, *in their efforts to improve their capacity for migration management [...], prevent and combat illegal immigration*, inform on legal channels for migration, resolve refugee situations by providing better access to durable solutions, *build border-control capacity*, enhance document security and tackle the problem of return." (p. 11, 16054/04, 2004) This passage mentions the various elements that the concept comprises without identifying any specific measures. Subsequent documents such as the Communication 'Priority Actions for Responding to the Challenges of Migration: First Follow-Up to Hampton Court'[50] only reaffirm the above-given quotation without providing any additional input. The most explicit definition of capacity stems from the Communication on 'Integrating Migration Issues in the EU's Relations with Third Countries'[51] stating: "[...] *some of the programs - those specifically dedicated to border management, fight against illegal migration, migration management - will contribute directly to strengthen third countries capacity to manage migration flows*." (p. 18, COM(2002) 703 final) Thus, from a European perspective, one might conclude that capacity is a multi-dimensional concept involving three dimensions: border management, fight against illegal immigration and management of (legal) migration. An all-embracing definition, however, is missing.

4.1.2 UNDERLYING ASSUMPTIONS

The concept of capacity entails two underlying assumptions.

The first assumption is: *Capacity is shaped by, adapting to and reacting to external factors and actors, but it is not something external - it is internal to people, organizations and groups or systems of organizations.* (p. 6, Europe Aid, 2009) Thus, capacity development is a dynamic process internal to organizations and people who unleash, strengthen, create, adapt, and maintain capacity over time. Instant results cannot be expected. (cf. Lusthaus *et al.*, 1995) This is also in line with the Commission stating that reforming a judicial system or establishing an effective asylum system takes years, not months. (p. 5, COM(2005) 491 final) Capacity development[52] (CD) can entail change of knowledge, skills, work processes, tools, systems, authority patterns etc. People and organizations can have strong or weak incentives to change, develop and learn. (p. 6, Europe Aid, 2009) As a logical

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[48] Tampere European Council - Presidency Conclusions (200/1/99)
[49] The Hague Programme (16054/04)
[50] Priority Actions for Responding to the Challenges of Migration: First Follow-Up to Hampton Court (COM(2005) 621 final)
[51] Integrating Migration Issues in the EU's Relations with Third Countries (COM(2002) 703 final)
[52] '*Capacity development*' occurs when certain substructures are already in place whereas '*capacity building*' starts from scratch.

consequence, external partners cannot 'do' capacity development of others and have to accept that they only play 'second violin'. Capacity resides and develops internally in that learning can occur through a wide variety of planned and unplanned experiences and activities (e.g., networking, training and creative responses to new challenges) (Lusthaus *et al.*, 1995); but whether and how capacity develops may largely be determined by the 'demand-side' or external factors. Section 3.2 shows that Morocco's disposition to strengthen, adapt and maintain its capacity over time is given and that certain substructures are already in place. This underlying assumption being fulfilled, the focus of this paper can be shifted to the external factors stimulating Morocco's capacity.

The second assumption is: *The external factors shaping capacity either belong to the functional dimension or the political dimension.* (see Table 4: The External Dimension Shaping Capacity) EuropeAid refers to the external factors as 'external dimension' but in order to avoid confusion with the EDIP, they will be termed 'factors'. It is important to note, however, that all organizations are shaped by four dimensions: the internal and external dimension and the functional and political dimension. All of them are needed in a well-functioning organization. The functional dimension refers to, *inter alia*, the legal framework, timeliness and adequacy of resources or oversight bodies. The political dimension - the power, the incentives, the tensions, and conflicts - provides the energy that brings motion, purpose, direction, and change to an organization or a system, for good or bad. In this context, the strength of external demand from citizens, clients, politicians - and to some degree donors - for performance and accountability may provide the most important incentive or disincentive to CD. (p. 7, Europe Aid, 2009) External assistance to build or develop capacity generally occurs through more discrete and planned interventions often focussing on achieving specific improvements in a particular context in a particular time period. Thus, external assistance comes in a variety of forms, including but not limited to technical assistance, training courses and financial packages. (Lusthaus *et al.*, 1995) Such variety can also be observed within the EU's external relations framework. The important challenge is to keep a balance between the two dimensions. If loyalty and narrow vested interests dominate, then the organization may end up serving private rather than public goals. In extreme cases where public organizations have been captured for the narrow purposes of powerful elite, they may have a formal façade with a mission, vision, outputs, plans, budgets, structures, and systems. The informal capacity behind the formal façade may, however, serve totally different purposes and produce hidden outputs that do not cope well with the formal purposes of the organization. (p. 8, Europe Aid, 2009) Relating this assumption to the topic at hand, it seeks to answer whether the EDIP's functional and political dimension are present enough to induce a sufficiently strong external factor influencing Morocco's capacity. This question is particularly interesting as the biggest incentive the EU has at its disposal - the incentive of membership - does not apply to Morocco.

Table 4: The External Dimension Shaping Capacity

	Functional Dimension	Political Dimension
External Dimension	External, functional dimension: Legal framework, timeliness and adequacy of resources, results-based performance targets, oversight bodies, formal accountability requirements.	External, political dimension: Political governance, possible vested interests, pressure from clients/customers, competitors, media attention.

Source: p. 9, EuropeAid, 2009

4.1.3 MEASUREMENT

The working definition of the concept of capacity composes a hybrid of Goodman *et al.*'s (1998) and Caffyn and Jobbin's (2003) notions. Less emphasis is placed on the purpose of Goodman *et al.*'s (1998) definition that capacity is the ability to carry out stated objectives and more emphasis is placed on Caffyn and Jobbin's (2003) component of governance capacity that - at its intentional level - is referred to as tools. Thus, *capacity is the ability to perform a certain action by means of tools -*

restricted by the adequacy of resources - in order to generate a specific output. This definition implies a shift from a more outcome-oriented way of thinking to one that focuses on capacity as a process. This perception is supported by EuropeAid (2009) which developed a framework underscoring three key points about organizations and capacity. (see Figure 2: Organizations as Open Systems) The first key point of the so-called 'Open Systems Approach' implies that organizations operate in a context. In other words, an organizations' capacity does not develop independent of the context in which it is embedded. A constant interaction takes place, be it through formal or informal mechanisms. (p. 7, EuropeAid, 2009) "Therefore, the maximum level of capacity (and performance) that can be attained in any one entity may vary in different contexts." (p. 10, MEASURE Evaluation, 2001) The second key point states that performance leads to outputs implying a link between capacity and performance. A need for capacity building or capacity development is often identified when performance is inadequate. To put it differently, capacity building or development is only perceived as effective when contributing to better performance. (cf. MEASURE Evaluation, 2001) The third key point stresses that output leads to outcomes and impact. Applying this chain to the example of migration, a migration management centre - an output - when demanded and properly governed leads to improved migration management and may have an impact on migration flows. Generally, the chain of causality from 'capacity' to 'impact' is long and increasingly influenced by other factors. Outputs are the immediate step in the chain and therefore a good proxy indicator for capacity (and will also be used in this paper). (p. 7, EuropeAid, 2009) Outcomes and particularly impact are long-term objectives that can not be measured for the EDIP yet as this policy is a relatively new paradigm.

Figure 2: Organizations as Open Systems
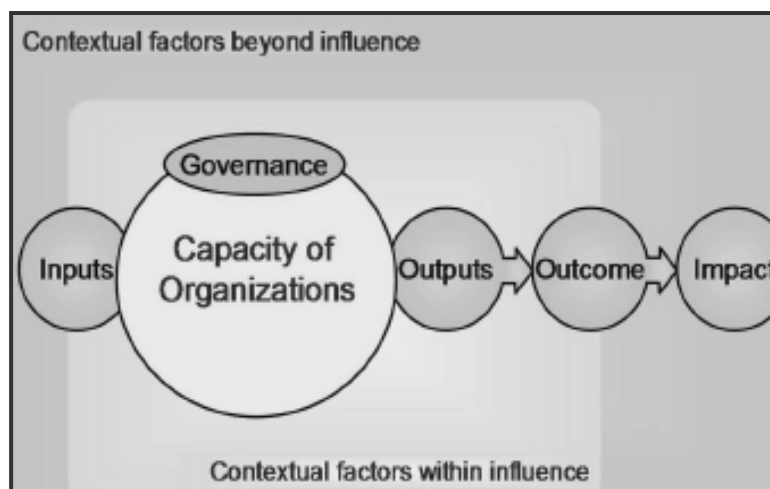
Source: p. 7, EuropeAid, 2009

The analytical framework of this paper consists of three dimensions that directly contribute to strengthen a third country's capacity to manage migration flows. The dimensions are derived from the Communication on 'Integrating Migration Issues in the EU's Relations with Third Countries'[53]: migration management, irregular migration, border management. (see Section 4.1.1) Migration management specifically refers to the administration of legal movements such as labour migration or family reunification. Irregular migration includes the fight against trafficking and smuggling of human beings. The objective of both of these dimensions is the management of flows - be it legal or illegal - to maximise opportunities and benefits at an individual level and for the receiving country while minimising human trafficking and irregular migration. Linking this insight to the literature, both dimensions reflect the 'managerial approach' as termed by Aubarell *et al.* (2009). Border management as the third dimension is what Boswell (2003) referred to as the 'externalization approach' and Aubarell *et al.* (2009) as the 'remote-control approach': strengthening border

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[53] Integrating Migration Issues in the EU's Relations with Third Countries (COM(2002) 703 final)

controls, increased surveillance of entry and exit areas to combat migrant smuggling and trafficking. Strictly speaking, readmission is also part of this dimension as migrants illegally reaching the shores of the EU are sent back to their country of origin or, at least, to their country of transit if ascertainable. Due to Morocco's reluctance for many years to sign this agreement, however, readmission lacks a legal basis and is therefore excluded from the analysis. It may have also been an option to integrate 'Migration and Development' as a fourth dimension into this framework. Then, all approaches defined in the literature would have been covered - migration and development reflecting Boswell's (2003) 'preventive approach' - but as a long-term policy, this dimension can not be measured yet in terms of output as a proxy indicator. Therefore, it is excluded from the analysis.

The analytical framework comprises three measures with respective indicators. The measures are taken from the broad range of policy instruments the EU has at its disposal in implementing the EDIP. The policy instruments particularly capable of stimulating a third country's capacity are: operational cooperation (6), institution building and twinning (7) and external aid programmes (9).[54] They can be ascribed to the external functional dimension as termed by EuropeAid (2009). The indicators are a hybrid derived from the definitions of the three policy instruments and personal conception since no indicators at the EU level have been determined yet.[55] From this it follows that the indicators for operational cooperation: are dialogue, arrangements and networks. The indicators for institution building and twinning are: institutions and twinning. And the indicators for external aid programmes are: projects and budget. With regard to operational cooperation, dialogue refers to the forms of communication (conferences, working groups, committees etc.) that are in place and the issues that are being discussed: legal migration and/or irregular migration and/or border management. The indicator of arrangements corresponds to the agreements that have been concluded by EU agencies. As in the case of migration, the only agency that comes into consideration is Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the MS of the EU. Networks as the third indicator of operational cooperation are an advanced form of cooperation. The analysis will show whether they are present in EU-Moroccan relations. The two indicators of institution building and twinning - institutions and twinning - are more tangible and therefore need no further explanation. With regard to the external aid programs, the quantitative indicators of projects and budget will not include all technical and financial instruments at the EU's disposal. As the scope of this paper is limited, the AENEAS Programme[56] will serve as a showcase. It has two advantages compared to the other programmes: its focus and its operation period. As a thematic programme specifically focussing on providing assistance to third countries in the areas of migration and asylum, the AENEAS is likely to cover the majority of projects stimulating Morocco's capacity to manage migration. Furthermore, its operation period ended in 2006 with the last projects being implemented by 2008. Thus, evaluation mechanisms are in place and have already yielded results. Should the EU indeed act on its principles of coherence and consistency within its external actions[57] then - even though the scope of the other external aid programs may vary - the trend pursued by the Union would remain consistent. In order to allow for comparisons those projects within the AENEAS Programme that specifically aimed at stimulating Morocco's capacity are selected[58], e.g. compared with the overall number/ budget of the projects. As projects and budget are quantitative indicators, they will be illustrated in form of diagrams.

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[54] For a definition of those three measures see Section 3.3 Policy Instruments

[55] The Communication 'Towards a Common Immigration Policy' (2007) states that a common immigration policy would have to provide objectives and quantifiable indicators to allow for regular evaluation of the impact of measures adopted as no concrete objectives and quantifiable indicators exist at this point in time. (p. 12, COM(2007) 780 final)

[56] Programme for Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum (491/2004)

[57] "Coherence and consistency of the EU's external actions: Improved coordination is required to ensure coherence and consistency at EU level between different policies and instruments, bearing in mind the Commission's competence. At the same time, Member States must be closely involved." (p. 11, COM(2005) 491 final)

[58] See Table 8: Projects under AENEAS Programme in Morocco; those marked in black do stimulate Morocco's capacity to manage migration

Table 5: The Analytical Framework

MEASURES/ INDICATORS	DIMENSIONS	MIGRATION MANAGEMENT	IRREGULAR MIGRATION	BORDER MANAGEMENT
OPERATIONAL COOPERATION	**Dialogue Arrangements Networks**			
INSTITUTION BUILDING AND TWINNING	**Institutions Twinning**			
EXTERNAL AID PROGRAMMES	**Projects Budget**			

Source: own compilation

4.2 OPERATIONALIZATION

Investigating the potential of the policy instruments within the EDIP, the expectation of this paper is to see that the policy instruments within the EDIP (positively) contribute to the stimulation of Morocco's capacity to manage migration. That is, Morocco has a pro-EU character by adapting to the values underpinning the area of FSJ.[59] The independent variable is political identity. Political identity in this sense refers to the nature of the government that can range from very EU-oriented to EU-animus. The dependent variable is capacity. This case study investigates whether the stimulus of the EDIP - in form of policy instruments - on the independent variable changes the governmental output. Consequently, the EDIP as the intervening variable is directed at the Moroccan government with the aim of changing the original status of the dependent variable - capacity. There are two hypotheses in this paper: first, *the policy instruments within the EDIP have the potential to stimulate Morocco's capacity to manage migration* (with the overall aim to expand the area of FSJ in order to safeguard the EU's internal security). *The second hypothesis is that Morocco's capacity is influenced by various factors either contributing to or anticipating capacity development*. As Section 4.1 revealed, CD is susceptible to pressures or influences from their context or environment, i.e. external factors (V_2). Those factors that are inherent or proximate are called internal factors (V_1). An example for an internal factor anticipating capacity is corruption. As indicated in the ENP Country Report on Morocco (2004), Transparency International ranks Morocco 70th out of 133 countries in its corruption perceptions index dated from 2003. Thus, the Commission declares corruption to be a serious problem ascribing it as one of the main causes to the country's economic backwardness. (p. 7, COM(2004)373 final) An example for an external factor contributing to Morocco's capacity are other international NGOs. Irrespective of their origin, some factors can be influenced and some can not (e.g. drought or flooding). Other factors have an immediate and direct impact (e.g. political changes leading to personnel shifts) or are incremental and barely perceptible in the short term (e.g. the rise in the intensity of migration politics). (pp. 24, Morgan, 1997) As Section 2 Literature and Theoretical Insights has shown, studies with an outward-looking focus analyzing the degree and nature of the impact of EU migration policies on third countries are few. Literature on the potential of EU policies to stimulate a third country's capacity is non-existent. Such a lack of readings may lead to overestimating the potential of the policy instruments within the EDIP by neglecting the influence of other factors. Thus, in order to consider this potential threat, V_1 and V_2 are included in the analysis. The following figure visualizes both hypotheses:

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[59] This statement has been confirmed in Section 3.2 Morocco's Disposition

EDIP

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CAPACITY ⟶ OUTPUT
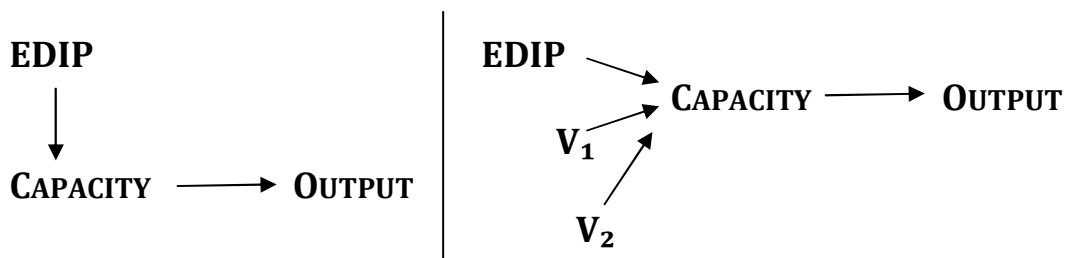
EDIP ⟶ CAPACITY ⟶ OUTPUT

V_1

V_2

Figure 3: Visualization of Hypothesis

The method of analysis explains how the analytical framework is used to measure the potential of the EDIP to stimulate Morocco's capacity to manage migration. In order to assess whether the EDIP provides indeed a stimulus, the indicators as outlined in Section 4.1.3 Measurement have to be examined for each dimension. In this context, it is important to note that "[…] capacity indicators need to be closely related to, and derived from strategy, process, contextual factors and performance. They need to be part of an interconnected web of ideas that can allow participants to design them and use the resulting information as part of a coherent framework. […] They should be seen as a supplement and an aid to judgment rather than its replacement." (pp. 40, Morgan, 1997) Such interconnectedness, however, can result in considerable overlap making it difficult to assign the respective indicator to each dimension. Even though the legal framework - presented in Section 3 EDIP and EU-Moroccan Cooperation - plays a decisive role for EU-Moroccan cooperation, it is not included in the analytical framework. The reason is that it is discussed when a link to the theoretical insights is being made. This section then reveals the interplay between the external functional dimension - in form of the legal framework - and the external political dimension - in form of governance and pressure from the EU. For the purpose of evaluating the EDIP's potential, scores will be assigned to the different indicators according to each dimension. The indicators will score a '+' if EU-Moroccan cooperation exists and is likely to (positively) contribute to Morocco's capacity. The indicators will score a '-' if EU-Moroccan cooperation is not satisfactory and not likely to have an impact on Morocco's capacity, i.e. the cooperation is very loose, occurs irregularly and lacks substructures. It may also be possible that an indicator can not be evaluated due to a lack of information in the policy documents. The indicator will then receive a '*'. This scoring system in combination with written explanation is supposed to answer the main research question. In case the majority of indicators scores a '+', the cooperation between the EU and Morocco is likely to resemble 'network governance' and has the potential to stimulate Morocco's capacity to manage migration. (Lavenex & Schimmelfennig, 2009) In case the majority of indicators scores a '-', the cooperation is likely to resemble a form of 'hierarchical governance' given that the EU is able to induce Morocco's compliance. (Lavenex & Schimmelfennig, 2009) The policy instruments within the EDIP would not have the potential to stimulate Morocco's capacity then. The judgement of the analysis is based on EU (policy) documents. As they are so numerous and can not be put into a certain category, the documents are clearly marked by proper references. The analysis is a subjective evaluation with a unidirectional perspective of the EU's opinion on Morocco's development and cooperation. The fact that no room is left for a second opinion may be challenged. Furthermore the EDIP has just been developed and thus, certain measures have not yet attained the expected outputs let alone outcomes.

5 ANALYSIS AND FINDINGS

The paper so far presented the development of EU-Moroccan cooperation from a bilateral agreement to an extensive framework with the fundamental parameter being the EDIP. Morocco's positive disposition towards cooperation with the EU is promising. Its efforts to reform in the last ten years have been rewarded by the Union with an upgrade of its status. The 'advanced status' represents a reinforcement of political cooperation and a progressive integration of Morocco into the EU's Internal Market. In order to deepen its cooperation with Morocco, the EU has a broad range of policy instruments within the EDIP at its disposal. Three policy instruments - operational cooperation, institution building and twinning and external aid programmes - particularly aim at stimulating Morocco's capacity. Hence, the sub-question of this chapter is: *To what extent does the EDIP indeed enhance Morocco's capacity to manage migration?*

The first section of this chapter will present the EU-Moroccan relations structured according to the different indicators and dimensions. The analysis will follow the method outlined in Section 4.2 Operationalization. In the second section, the theoretical insights will be applied to the development of EU-Moroccan cooperation. The third section will evaluate the EDIP's potential to stimulate Morocco's capacity to manage migration by means of the analytical framework taking also the link with the theoretical insights into consideration.

5.1 CONTENT ANALYSIS

5.1.1 OPERATIONAL COOPERATION

According to the 'Open Systems Approach' created by EuropeAid (2009), the indicators of dialogue, arrangements and networks have an ambiguous function in the chain of CD: on the one hand, they represent three measurement categories for the proxy indicator of output and on the other hand, they are likely to lead to further CD. Dialogue, arrangements and networks imply the existence of mechanisms for communication which, in turn, can - given that mutual agreement is reached - launch initiatives developing capacity, such as twinning. Within this process, the indicator of dialogue composes the smallest degree of institutionalization and is thus provided with the fewest possibilities for CD.

Dialogue
The existing legal framework for EU-Moroccan cooperation allows for regular dialogue and review on the issues at hand. Within this framework, two important groups that deal with migration exist: the working group on migration and social affairs and the high-level working group on asylum and migration. The former was initiated by the AA and is now increasingly utilized within the ENP framework. It holds regular discussions with Morocco on a number of practical questions particularly relating to the issue of legal migration. Nevertheless, issues such as co-development, social integration, visas, transit migration and the improvement of information exchange are also being discussed. (p. 11, COM(2004)373 final) The task of the high-level working group on migration and asylum is to create an integrated Community strategy for EU cooperation with third countries in order to improve the country's capacity to manage migration flows. By doing so, the countries shall become less attractive as transit countries. Generally, the group prepares conclusions in the area of migration and development and reports to both the General Affairs and External Relations Council and the Justice and Home Affairs Council. (Swedish Presidency of the European Union, 2010, June 02) It is not explicitly stated that this working group communicates with Morocco. Considering Morocco's status and the extensive EU cooperation framework however, a regular dialogue

involving both parties is very likely. Furthermore, the first EU-Morocco Summit held in Granada in March 2010 provides a forum for the exchange of information on migration. As one of the political priorities in the EU-Moroccan relations, this issue is likely to be placed on the agenda of future summits. At this summit, Morocco and the EU agreed to reinforce the mechanisms for cooperation and to support the process of reinforcing Morocco's capacity to combat illegal immigration, to promote legal migration, to optimise the contribution of migrants to development and to deal with the underlying causes of migration. (p. 4, 7220/10) Apart from the dialogues that only involve the two parties, a more comprehensive dialogue on Mediterranean transit migration (MTM) exists with Morocco and the EU - represented by the Commission - only being a part of the many members. Founded in 2003, the MTM involves numerous participants from Mediterranean countries, the MS of the EU, Norway, Switzerland, Turkey as well as observers such as Australia. Agencies and international organizations such as Frontex, Europol and the United Nations High Commissioner for Refugees (UNHCR) are also present. The MTM dialogue is built on two pillars; the first one focuses on shorter-term measures to combat irregular migration and the second one deals with a longer-term perspective by addressing the root causes (push factors) of irregular migration. These pillars are used as a framework for the implementation of specific projects but cross-pillar projects are also put in place. Generally, the dialogue follows guiding principles which are intergovernmental, informal and state-driven. (ICMPD, 2010, August 15) To put it in the words of Bosch and Haddad (2007): „Dialogue at the multilateral, regional and bilateral level has tended to cover the broad range of migration issues of interest to both sides, looking specifically at where the EC can offer assistance in helping African countries to build capacity to better manage their own migration […] systems." (p. 10, Bosch & Haddad, 2007) This quotation is partly true, the dimension of border management however is not covered or only slightly touched upon in EU-Moroccan cooperation dialogues.

Arrangements
Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the MS of the EU[60], is the only European agency in the field of migration that can conclude agreements with third countries. (p. 6, Wessel *et al.*, 2010) Frontex promotes operational cooperation in the areas of information exchange, risk analysis, training, research and development, joint operations and pilot projects. It values the establishment of operational cooperation with third countries as an indispensable tool for the effective management of the fight against illegal migration and cross-border crime. Cooperation takes place with the law enforcement authorities in the third countries that have an operational responsibility for border control and regional border control cooperation structures. (Frontex, 2009, October 21) The Frontex decision under Article 14 envisages two different sorts of external powers: "[…] the first concerns facilitation agreements through which Frontex seeks to establish operational cooperation between third countries and the Member States in the framework of the European Union external relations policy; the second allows Frontex to cooperate directly with authorities of third countries having the same competences by concluding working arrangements." (p. 25, Wessel *et al.*, 2010) This agency has clear priorities regarding cooperation with third countries. Special attention is attributed to the cooperation with EU candidate and potential EU candidate countries in order to facilitate the countries' efforts in aligning their border management structures with EU standards. Furthermore, operational cooperation with neighbouring countries is also high on the agenda given the continuing pressures of the current migratory flows at the Southern borders of the EU. With regard to operational cooperation with Morocco, Frontex - having received the mandate from its management board - is currently in negotiation with its North African neighbour to conclude a working arrangement. (Frontex, 2009, October 21) Due to Frontex' lack of transparency as criticized by Wessel *et al*. (2010), it can not be said whether a facilitation agreement has already been concluded. (p. 26, Wessel *et al.*, 2010) Not having any agreement in place, this indicator scores extremely low on all three dimensions.

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[60] Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (2007/2004)

Networks

The immigration liaison officers' network[61] established in 2004 is the only form of such EU-third country cooperation. This network aims at the improvement of information exchange in the field of irregular migration with special focus, *inter alia*, on the flows of illegal immigrants originating from or transiting through the host country, the routes followed by those flows of immigrants and their modus operandi. In order to ensure such observations, each MS posts an immigration liaison officer (ILO) to its consular authorities in a third country who adopts common approaches as the method of gathering information. MS posted in the different host countries inform one another, the Council and the Commission about their secondment. MS may also post ILOs to the same country where they form a local network: to exchange information and practical experience, to coordinate positions to be adopted in contact with commercial carriers, to attend joint specialized training courses and to organize training sessions for consular officers of each MS. Meetings with all the ILOs and the representatives of the Commission are held at the initiative of the MS holding the Council presidency. (377/2004) The ENP CR on Morocco only provides an indication that a Spanish ILO might be posted in Morocco. (p. 11, COM(2004) 373 final) Further information could not be obtained but due to the close Spanish-Moroccan cooperation it is likely to be correct. Strictly speaking, as the Union itself does not directly cooperate with Morocco, this initiative can not be regarded as an output of EU-Moroccan cooperation. Given the fact however that the Commission is present in the overall meetings, the network of liaison officers' can be attributed to the dimension of irregular migration.

5.1.2 INSTITUTION BUILDING AND TWINNING

Applying the indicators of institutions and twinning to the 'Open Systems Approach' coined by EuropeAid (2009), they represent two measurement categories for the proxy indicator of output. Both indicators are a direct implication of (governance) capacity as they only come into existence on the initiative of the respective government. Prerequisites would then be the governments' recognition to perceive the issue at hand as a problem, commitment to undertake action and a certain room for manoeuvre that is, e.g., the availability of (financial) resources. Particularly institution building is a costly matter and requires plenty of input such as staff, policy, equipment etc. Institutions and twinning if properly managed are capable to unleash, strengthen and maintain capacity over time.

Institutions

Morocco has made important steps to construct an institutional framework for dealing with migration. The two major government institutions concerned with the subject are: the 'Delegated Ministry in Charge of the Moroccan Community Residing Abroad' and the 'Ministry of the Interior'. The formers focus lies in the management of their own migrant population residing abroad, thus the majority of objectives are directed to the host country level. (p. 4, Sadiqi, 2004) Nevertheless, a number of objectives also aim at the management of migration on a national level which include: to improve the conditions offered in Morocco to return migrants, to promote direct investment in Morocco by Moroccans residing abroad considering their remittances as a driving force in the economic development, to transfer through migrants the expertise and technology that are necessary to development and to modernize the sector of national tourism. According to this ministry, the modernization of the national tourism sector is important "[...] in order to attract Moroccans residing abroad by setting competitive offers and coming up with creative new ideas and a variety of activities to satisfy the needs of the younger generation of migrants." (p. 4, Sadiqi, 2004) In contrast, the Ministry of the Interior deals with irregular migration that is, illegal emigration of Moroccans to other countries - in particular to the EU - and illegal immigration of foreigners to

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[61] Creation of an Immigration Liaison Officers Network (377/2004)

Morocco. Thus, the underlying goals pursued by this Ministry are: to stop illegal immigration and to uproot and combat its causes. (p. 8, Sadiqi, 2004) The latter implies a clear link between migration and development. In order to reinforce the role of the Ministry of the Interior in migration-related issues, King Mohamed IV set up two new administrative structures within this Ministry: the Migration and Border Surveillance Directorate and the National Observatory of Migration. (p. 11, COM(2004) 373 final)/ p. 11, Sadiqi, 2004) The Directorate deals with the application of the national strategy in combating networks of illegal migration and the control of frontiers. In order to apply the national strategy at the regional level, new regional delegations in a number of Moroccan provinces have been created. In the remaining provinces, local commissions have been set up to gather information relating to migration and to pass it on to the central administration. These commissions fall under the direct responsibility of the city governors. (p. 10, Sadiqi, 2004) All operations of the Migration and Border Surveillance Directorate are carried out by the National Search and Investigation Brigade. (p. 11, COM(2004) 373 final) The National Observatory of Migration aims at conceptualizing a national strategy geared towards gathering all types of information related to migration. The Observatory makes also suggestions on how to improve illegal migration. The results are, here again, passed on to the central administration. (p. 11, Sadiqi, 2004) In its ENP CR on Morocco, the Commission refers to this body as the 'Migration Monitoring Centre'. (p. 11, COM(2004) 373 final) Morocco has - up to this day - indeed made important steps in constructing an institutional framework for dealing with migration covering all the relevant dimensions.

Twinning

Twinning projects bring together public sector expertise from EU MS and beneficiary countries with the aim of enhancing co-operative activities. (European Commission, 2010, August 05) As it follows from the 2006 ENP Progress Report, the first FSJ twinning initiative in the Mediterranean region was launched in 2006 and involves training activities aimed at border control forces. (p. 10, COM(2006) 726 final) Following the request from the Moroccan authorities, however, this initiative was largely redirected in order to provide financial support for a new emergency programme aimed at upgrading the migration strategy as a whole, with a budget of approximately EUR 67 million. (p. 10, COM(2006) 726 final) EuropeAid confirms on its homepage that only a single twinning initiative in the sector of migration was undertaken. (European Commission, 2010, July 03) This indicator clearly lacks information as regards the other two dimensions of migration management and irregular migration.

5.1.3 EXTERNAL AID PROGRAMMES

The AENEAS Programme[62] - a thematic programme for financial and technical assistance to third countries in the areas of migration and asylum - serves as a showcase for other external aid programmes of the EU. (see Section 3.3) It consists of three annual work programmes - 2004, 2005 and 2006 - that follow the same thematic priorities: support for development of legislation in the field of legal immigration, development of legal migration, drafting of legislation and development of national practices as regards international protection and asylum, stemming illegal migration and readmission and durable reintegration of returnees. (p. 2, EuropeAid, 2008) While the thematic approaches did not change for any of those three Work Programmes, the 2006 Work Programme introduced many changes in terms of thematic and geographical priorities. Those changes resulted from policy developments on the European level such as the adoption of The Hague Programme and the Global Approach to Migration. The 2006 Work Programme defined its regional and geographical priorities through lots that are more consistent with the 'migratory route concept'[63] than it was the case for 2004 and 2005. (pp. 23, Commission Framework Contract/ EuropAid, 2009) Generally, regions were better defined and countries grouped together more coherently - also from a cultural

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[62] Programme for Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum (491/2004)
[63] Countries are grouped based on the routes migrants take in order the reach the European border

and historical perspective. Morocco pertains to Lot 1: Sub-Saharan Africa and Southern Mediterranean. (pp. 31, Commission Framework Contract/ EuropAid, 2009)

The indicators of budget and projects form an exception when applied to EuropeAid's (2009) 'Open Systems Approach'. Instead of representing an output within the CD chain, they relate to the input-side of the chain. Both indicators contribute to CD. That is, the greater the budget and the higher the number of projects supporting capacity building, the more likely capacity is to develop. The indicators of budget and projects therefore reveal the importance the EU attaches to CD in Morocco.

Projects
The overall number of projects that were financed under the AENEAS Programme is 105. (Commission Framework Contract/ EuropAid, 2009) The number of projects increases with each Work Programme, i.e. under the 2004 Work Programme 26 projects were financed, under the 2005 Work Programme 38 projects and under the 2006 Work Programme 41 projects. Morocco has been chosen as receiver of 22 projects whereas 11 of those aim at stimulating the country's capacity to manage migration[64]. Not all of those projects, however, are directed at Morocco as the only beneficiary. In the majority of cases, Morocco is only one of them. Figure 4: Number of Projects under AENEAS Programme shows the proportion between the total number of projects financed by this external aid programme and the number of projects stimulating Morocco's capacity. The proportion is remarkable with 90 per cent to 10 per cent considering the many regions - Sub-Saharan Africa and the South-Mediterranean, the Middle-East and Turkey, the New Independent States and Balkans, Asia, Latin America - the EU is addressing. (p. 32, Commission Framework Contract/ EuropAid, 2009) The distinctive agglomeration in the number of projects stimulating the capacity in Morocco indicates the importance the EU attaches to this undertaking. Morocco's geographical proximity, its status as a major sending and transit country and its intensive cooperation framework with the Union are likely to play a decisive role in that. Figure 5: Number of Projects Stimulating Morocco's Capacity differentiates between the sub-sectors that correspond with the dimensions of the analytical framework. It reveals that the number of projects for irregular migration and migration management are equal, each with five. The AENEAS Programme has only a single project operating in the sector of border management. As a result, an accurate distinction can not be made but it is sufficient for an approximation.

Figure 4: Number of Projects under AENEAS Programme

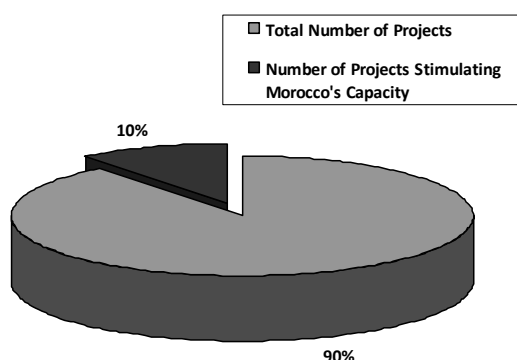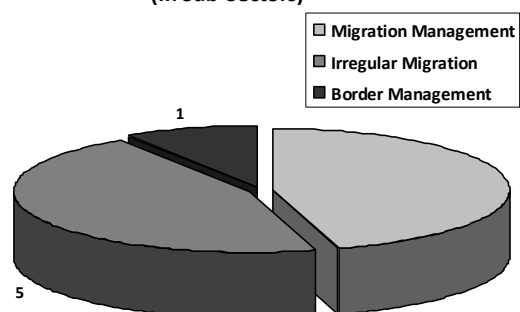**Figure 5: Number of Projects Stimulating Morocco's Capacity (in Sub-Sectors)**

Source: own compilation

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[64] See Table 8: Projects under AENEAS Programme in Morocco; those marked in black do stimulate Morocco's capacity to manage migration

Budget

AENEAS was initially designed as a five-year instrument (2004 - 2008) with an overall indicative budget of EUR 250 million. Due to its shorter operation period, however, the allocated total budget was reduced to EUR 120 million.[65] A budget breakdown for the respective Work Programmes was suggested as follows: 2004 Work Programme EUR 30 million, 2005 Work Programme EUR 45 million and the 2006 Work Programme EUR 45 million. (p. 33, Commission Framework Contract/ EuropAid, 2009) For each year, the budget is divided among the different regions covered by the programme according to two main categories: 'neighbouring' regions and 'other regions'. For the neighbouring regions (Mediterranean and the Middle East, Eastern Europe, South Caucasus, the Balkans and Turkey) the allocations were: EUR 19 million (2004), EUR 26 million (2005) and EUR 27 million (2006) for an overall total amount of EUR 72 million. (pp. 34, Commission Framework Contract/ EuropAid, 2009) Figure 6: Budget under AENEAS Programme reveals the proportion between the total budget of the AENEAS Programme and the total budget of the neighbouring regions. With almost 40 per cent of the total share, the neighbouring regions are clearly favoured by the Union. A further and more precise distinction is being made by Figure 7: Budget Neighbouring Regions showing that 26 per cent of the budget of the neighbouring regions - amounting to more than EUR 18 million - is allocated to projects stimulating Morocco's capacity. Hence, almost every third project undertaken within the neighbouring regions is directed at Morocco's capacity to improve migration management. It should be noted, however, that the projects are not entirely financed by the European Community (EC). The EC covers up to 80 per cent of the entire cost of an action and the remaining part is co-financed by eligible partners. (pp. 34, Commission Framework Contract/ EuropAid, 2009) Figure 8: Total Budget Stimulating Morocco's Capacity reveals that the EC's share in financing the projects stimulating Morocco's capacity is 77 per cent. That is, more than three-quarters are financed by the EC or respectively EU. The EU's share is very close to its threshold revealing its great commitment to this undertaking. When comparing the budget of the three sub-sectors with each other, Figure 9: Total Budget Stimulating Morocco's Capacity illustrates that the highest amount is allocated to the sector of irregular migration with more than half of the budget - EUR 9 425 979 million. The sector of migration management receives 35 per cent of the budget and border management only the remaining 14 per cent, that is EUR 2 502 577 million. It is striking however that the number of projects financed for each sector does not correspond with the share of the budget allocated to it. If this would be the case, irregular migration and migration management would have an equal share and that of border management would be comparably lower.

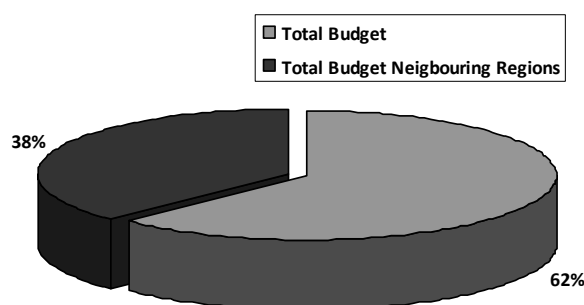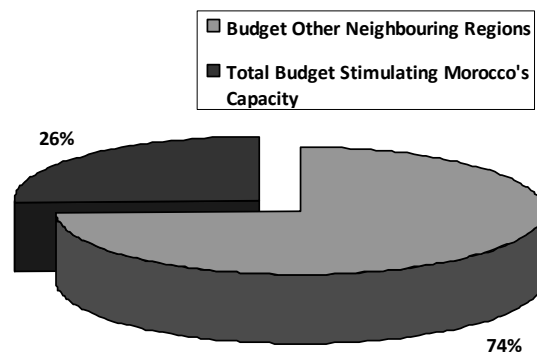**Figure 6: Budget under AENEAS Programme (in M)**

■ Total Budget
■ Total Budget Neigbouring Regions

38%

62%

Figure 7: Budget Neighbouring Regions

■ Budget Other Neighbouring Regions
■ Total Budget Stimulating Morocco's Capacity

26%

74%

Figure 8: Total Budget Stimulating Morocco's Capacity

Total Budget Stimulating Morocco's Capacity
EC Share Budget Stimulating Morocco's Capacity

23%
77%

Figure 9: Total Budget Stimulating Morocco's Capacity (in Sub-Sectors)

Irregular Migration
Migration Management
Border Management

14%
35%
51%

Source: own compilation

5.2 LINKING WITH THEORETICAL INSIGHTS

The EU's external governance towards Morocco has undergone a transition characterized by three stages. The first stage composes the time period from 1996 marked by the signing of the AA until 2003 when Morocco adopted its migratory policy based on Law 02/0353. During this stage, the EU pursues a form of 'hierarchical governance' towards Morocco. (Lavenex & Schimmelfennig, 2009) Even though the nature of institutionalization is scarce and by no means tight and formal, the actor constellation and mechanism of rule expansion comply with Lavenex and Schimmelfennig's (2009) conceptualization. It seems that the EU aims for a horizontal relationship - characterized by the equality of partners - with the signing of the AA but, in practice, it capitalizes on its superior bargaining power in order to induce Morocco's compliance with its rules and values. Morocco is well aware that in order to establish a profound relationship with the Union, it first of all has to show its commitment by adapting to the Union's requests even at high costs. Thus, a clear form of domination and subordination prevails with harmonization as the only option if a continuative relation is wished for. In this initial stage of cooperation, the EU practices 'policy transfer through inopportune conditionality' towards Morocco. (Lavenex & UçArer, 2004) The creation of the Moroccan migratory policy based on Law 02/0353 imitating or replicating the European legislation and specifically the Spanish Law 4/2000 is an exemplification of the effectiveness of the EU's approach. Rule adoption accounts for the second level of impact. (Lavenex & Schimmelfennig, 2009) If one is to believe De Haas (2009) then, in the case of Morocco, rule adoption does not necessarily imply rule application. The second stage can be regarded as a transition period. It begins with the adoption of the migration policy in 2003 and ends with Morocco obtaining the 'advanced status' in 2008. This stage can not be assigned to any conceptualization as it is unclear whether the EU still exerts a dominating influence on Morocco or whether the external pressure - previously described - had a triggering effect. If the latter is the case, the EU would pursue a sort of 'policy transfer through opportune conditionality' or Morocco would conduct 'unilateral or deliberate emulation'. (Lavenex & UçArer, 2004) It is clear however that Morocco has seen intense legislative activity with a large part affecting migration issues and has undertaken reforms, particularly within the framework of the ENP. Within this time period, Morocco harmonizes its law, rules and values to a considerable degree with that of the Union. Consequently, the third stage begins in 2008 when Morocco obtained the 'advanced status' and has not yet ended. Rewarding Morocco for its achievements and commitment within the last ten years of EU-Moroccan cooperation by upgrading its status, the EU acknowledges Morocco to be at eye level. For its ongoing compliance with EU requests, Morocco is offered a stake in the Internal Market and further economic integration in return. This form of cooperation is best described as 'network governance' implying an equality of partners that are in need of each others' consensus when opting for certain measures. To be more precise, the EU-Moroccan cooperation

currently consists of a combination between 'information'- and 'implementation networks' in which negotiations and voluntary agreement play a central role. (Lavenex & Wichmann, 2009) The perpetual negotiations between the EU and Morocco on the conclusion of a readmission agreement provide evidence. With an extensive overarching framework in place - foreseeing mechanisms for joint decision-making, implementation and monitoring - and the acknowledgement of Morocco by the Union, EU-Moroccan cooperation seems to be promising for the future.

5.3 FINDINGS

The analysis of EU-Moroccan cooperation in terms of the different indicators and dimensions reveals certain tendencies. With the various indicators covering the input- and output-side of CD, the evaluation is quite comprehensive. The findings show that the cooperation between both parties is neither consistent for the measures nor for the dimensions. The measure of institution building and twinning performs best with all indicators scoring a '+' on each dimension except for those lacking information. Thus, as strong indicators representing a direct implication of (governance) capacity, they contribute profoundly to Morocco's capacity to manage migration. The measure of the external aid programmes also performs very well on the dimensions of irregular migration and migration management. It seems that projects stimulating Morocco's capacity are not suitable for the sector of border management. The scores for the measure of operational cooperation are particularly mixed. Dialogue is well-established for all three dimensions whereas arrangements between the EU and Morocco are practically non-existent. Networks only operate under the dimension of irregular migration and this only with reservation. With regard to the different dimensions, irregular migration performs best covering all measures except for arrangements. Irregular migration from Morocco to the EU is consequently perceived as the main challenge within the migration paradigm. The dimension of migration management scores quite high as well with networks and arrangements being the exception. Admittedly, both of these indicators represent peculiar forms of cooperation. As for the dimension of border management, the EU consciously seems to select the policy instruments aiming at the cooperation of border management issues. All in all, the policy instruments to stimulate Morocco's capacity to manage migration are particularly well-established in three segments: institution building and twinning in combination with border management, external aid programmes in combination with migration management and external aid programmes in combination with irregular migration. Considering the fact that the indicator of twinning lacks information, *the analytical framework reveals that external aid programmes and twinning and institution building are the most suitable and conducive in stimulating Morocco's capacity to manage migration*. The form of governance prevailing in EU-Moroccan cooperation can not easily be defined as the scores of '+' and '-' are more or less equally distributed. The majority, however, is annotated with a '+'. Therefore, the EU-Moroccan cooperation could be classified as 'network governance' with hierarchal elements. Such a form of cooperation implies that both parties are formally equal but the EU's domination for certain stages of migration still prevails. This finding is also in line with the theoretical insights having classified the current cooperation between the EU and Morocco as network governance. Table 6: Evaluation of Analytical Framework sums up the main findings of the analysis.

Table 6: Evaluation of Analytical Framework

MEASURES/ INDICATORS	DIMENSIONS	MIGRATION MANAGEMENT	IRREGULAR MIGRATION	BORDER MANAGEMENT
OPERATIONAL COOPERATION	Dialogue Arrangements Networks	+ - -	+ - +	+ - -
INSTITUTION BUILDING AND TWINNING	Institutions Twinning	+ *	+ *	+ +
EXTERNAL AID PROGRAMMES	Budget Projects	+ +	+ +	- -

Source: own compilation

6   Conclusion

With the aim of answering the main research question, this paper was divided in two main parts: a descriptive part looking at the development of EU-Moroccan cooperation with particular emphasis on the EDIP and an analytical part measuring the concept of capacity. The analysis was conducted by means of a framework with three different measures and dimensions. Theoretical insights extracted from existing literature were compared to the findings in order to confirm or reject the outcome. The expectation was that the policy instruments within the EDIP (positively) contribute to stimulate Morocco's capacity to manage migration.

The EU-Moroccan cooperation is coined by an extensive legal framework involving all stages of migration: migration management, irregular migration, border management and migration and development. The Association Agreement, the European Neighbourhood Policy and the Union for the Mediterranean are its major building blocks. Developments in the EU-Moroccan cooperation framework were accompanied by the creation and the subsequent strengthening of the EDIP. As its core element being the partnership with countries of origin and transit, a further impetus was provided for cooperation between both parties in the last years. Even though Morocco will not receive the prospect of EU membership, the Union attaches great value to the country in conducting appropriate migration management not least due to Morocco's geographical proximity and its status as a major sending- and transit country. Morocco's positive disposition towards the EU and the compliance with its requests and commitment to undertake reforms in the last decade was rewarded by the Union; as the EU's first neighbour, Morocco has obtained the 'advanced status' in 2008. It translates into a reinforcement of political cooperation between Morocco and the EU with the aim of progressively integrating Morocco into the EU's Internal Market. The formal acknowledgement of Morocco's achievements implies a shift in the EU's external governance towards Morocco: from a hierarchical mode of governance characterized by domination - on the part of the EU - and subordination - on the part of Morocco - in the initial years of cooperation to network governance with only some hierarchical elements in the last two years of cooperation. Thus, EU-Moroccan cooperation is in transition and likely to become even more equal in the future.

In implementing the EDIP, the EU has a broad range of policy instruments at its disposal in order to tailor its external cooperation to the situation of each country. Three policy instruments are particularly capable of stimulating a third country's capacity to manage migration: operational cooperation, institution building and twinning and external aid programmes. They have been analyzed by means of an analytical framework with a number of indicators for each policy instrument along three dimensions that reflect the phenomenon of migration: migration management, irregular migration and border management. The analytical framework reveals that external aid programmes and institution building and twinning are the most suitable and conducive - addressing all three dimensions - in stimulating Morocco's capacity to manage migration. Considering the time period the EDIP has been operating, the outcomes achieved need to be interpreted as extremely positive. With regard to the policy instrument of operational cooperation, it may need more time to develop and establish itself or it may simply not be suited for the policy instruments of operational cooperation and external aid programmes. Before drawing a final conclusion, it should be pointed out that capacities always operate within a context and it is impossible to disentangle them from the various external and internal factors either contributing to or anticipating capacity development. Nevertheless, in conclusion it can be said that the policy instruments - under study - of the EDIP have a to a great extent the potential to stimulate Morocco's capacity to manage migration. Thus, the expectation is to be confirmed. This potential is likely to even increase in the future as EU-Moroccan cooperation looks very promising.

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8 APPENDIX

Table 7: The Legal Framework

POLICY DOCUMENT	CONTENT	POLICY INSTRUMENT	DATE
THE DEVELOPMENT OF THE EDIP			
Tampere European Council - Presidency Conclusions (200/1/99)	Linking EU Migration Policy with External Relations, Partnership with Countries of Origin	-	Oct. 1999
Council: EU Priorities and Policy Objectives for External Relations in the Field of JHA (7653/00)	Identifies the Objectives of a Coherent Approach Towards External Action in the Field of JHA	-	June 2000
Feira European Council - Presidency Conclusions (200/1/00)	A Programme of Priorities, Objectives and Measures to develop the External Dimension of Justice, Freedom and Security Policies/ Common Strategy of the EU on the Mediterranean Region	-	June 2000
Biannual Update of the Scoreboard to Review Progress on the Creation of an Area of "FSJ" in the EU (COM(2000) 782 final)	Review Progress on the Creation of an Area of FSJ	(11)	Nov. 2000
Communication: On a Common Policy on Illegal Migration (COM(2001) 672 final)	Commission Identifies Six Areas for Possible Actions Preventing and Fighting Illegal Immigration	-	Nov. 2001
Seville European Council - Presidency Conclusions (13463/02)	Intensification of Cooperation with Third Countries for the Management of Migration; Incorporation of Migration-Related Policies into Programming of Community External Aid	-	June 2002
Communication: Integrating Migration Issues in the EU's Relations with Third Countries (COM(2002) 703 final)	Focus on Migration and Development and the Effectiveness of Financial Resources Available at Community Level	-	Dec. 2002
Regulation: Programme for Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum (AENEAS) (491/2004)	Technical and Financial Assistance to Third Countries in the Areas of Migration and Asylum (2004-2008) → did only operate until 2007	(9)	March 2004
The Hague Programme (16054/04)	A Comprehensive Approach, Involving all Stages of Migration, with Respect to the Root Causes of Migration, Entry and Admission Policies and Integration and Return Policies Needed	-	Nov. 2004
Council & Commission: Action Plan Implementing the Hague Programme on Strengthening FSJ in the EU (9778/2/05 REV 2)	Action Plan Implementing the Hague Programme	-	June 2005
Communication: A Strategy on the External Dimension of the Area of FSJ (COM(2005) 491 final)	The Main External Challenges Facing the Area of FSJ, the Objectives and Issues to Be Addressed Worldwide, the Instruments at the EU's Disposal and the Principles for Selecting Appropriate Actions	-	Oct. 2005
Council: A Strategy for the External Dimension of JHA: Global FSJ (14366/3/05 REV 3)	Adoption of Strategy as Proposed by the Commission	-	Nov. 2005
Communication: Priority Actions for Responding to the Challenges of Migration: First Follow-Up to Hampton Court (COM(2005) 621 final)	Focuses on the Management of Migration in Relation to the Mediterranean Area and Africa by Identifying a Framework Responding to a Series of Short Term, Medium Term and Long Term Actions	-	Nov. 2005
Brussels European Council - Presidency Conclusions (15914/1/05	The 'Global Approach to Migration: Priority Actions Focussing on Africa and the	-	Jan. 2006

REV 1)	Mediterranean' Is Introduced		
Communication: Thematic Programme for the Cooperation with Third Countries in the Areas of Migration and Asylum (COM(2006) 26 final)	Successor of the AENEAS Programme, Technical and Financial Assistance to Third Countries in the Areas of Migration and Asylum (2007 - 2013)	(9)	Jan. 2006
Communication: Policy Priorities in the Fight Against Illegal Immigration of Third Country Nationals (COM(2006) 402 final)	Integral Part of the EU´s Comprehensive and Structural Approach towards Effective Migration Management and Complements Recent Policy Initiatives in this Area	-	July 2006
Communication: The Global Approach to Migration One Year on: Towards a Comprehensive European Migration Policy (COM(2006) 735 final)	Evaluation of the Global Approach to Migration	(11)	Nov. 2006
Council: Progress Report on the Implementation of the Strategy for the External Dimension of JHA: Global Freedom, Security and Justice (15363/06)	Evaluation of Progress Made within the Framework of the Strategy for the External Dimension of JHA	(11)	Nov. 2006
Communication: Towards a Common Immigration Policy (COM(2007) 780 final)	Explains Why an Effective European Immigration Policy Is Important, Looks at What Has Been Achieved so Far, Analyses Some of the Remaining Gaps and Weaknesses, Sets Out Core Elements of What is Needed to Take Forward the EU's Common Immigration Policy Over the Coming Years	-	Dec. 2007
Council: Second Progress Report on the Implementation of the Strategy for the External Dimension of JHA: Global Freedom, Security and Justice (9391/08)	Second Evaluation of Progress Made within the Framework of the Strategy for the External Dimension of JHA	(11)	May 2008
Communication: A Common Immigration Policy for Europe - Principles, Actions and Tools (COM(2008) 359 final)	Common Principles Underlying the Further Development of the Common Immigration Policy	-	June 2008
Council: European Pact on Immigration and Asylum (13440/08)	Five Basic Commitments: – To Organise Legal Immigration and to Encourage Integration – To Control Illegal Immigration – To Make Border Controls More Effective – To Construct a Europe of Asylum – To Create a Comprehensive Partnership with the Countries of Origin and of Transit	-	Sep. 2008
Council: The Stockholm Programme - An Open and Secure Europe Serving and Protecting the Citizens (17024/09)	Defining Strategic Guidelines for Legislative and Operational Planning within the Area of FSJ in Accordance with Article 68 TFEU; Time Period 2010-2014	-	Dec. 2009
BARCELONA PROCESS: EURO-MEDITERRANEAN PARTNERSHIP			
Final Declaration of the Barcelona EU-Mediterranean Ministerial Conference	Establishes a Comprehensive Euro-Mediterranean Partnership to Turn the Mediterranean into a Common Area of Peace, Stability and Prosperity	(4)	Nov. 1995
Regulation: Financial and Technical Measures to Accompany (MEDA) the Reform of Economic and Social Structures in the Framework of the Euro-Mediterranean Partnership (1488/96)	Implement the Cooperation Measures Designed to Help Mediterranean Non-Member Countries Reform their Economic and Social Structures and to Mitigate the Social and Environmental Consequences of Economic Development	(9)	July 1996
Decision: Euro-Mediterranean Agreement Establishing an Association between the EC and their MS and Morocco (2000/204/EC)	Laying Down the Objectives, Issues and Common Principles for Cooperation	(1)	March 2000

Council: Common Strategy on the Mediterranean Region (2000/458/CFSP)	Pursues Cooperation between the EU, the Mediterranean Region in Areas Including Security, Democracy, Justice and the Economy	(4)	June 2000
Regulation: Amending Regulation (EC) No 1488/96 on Financial and Technical Measures to Accompany (MEDA) the Reform of Economic and Social Structures in the Framework of the EMP (2698/2000)	Successor of MEDA I	(9)	Dec. 2000
Council: 10th Anniversary Euro-Mediterranean Summit - Five Year Work Programme (15074/05)	Implementation of the Objectives Agreed at the 10th Anniversary Euro-Mediterranean Summit; Basis for Euro-Mediterranean Cooperation for the Next Five Years	(4)	Nov. 2005
Euro-Mediterranean Regional Strategy and Indicative Programme 2007-2013	The Regional Strategy Paper (RSP) for the Mediterranean Region Defines the Objectives and Concrete Action Programmes for Cooperation; the RSP and the Regional Indicative Programme (RIP) Present the Terms of Implementation for the Period 2007-2013	(3)	2007
Communication: Barcelona Process - Union for the Mediterranean (COM(2008) 319 final)	Improve the Efficiency of the EMP	(4)	May 2008
Council: Relations with Morocco - Adoption of the EU's Position for the Seventh Meeting of the Association Council (13653/08)	Advanced Status for Morocco?	(1)/(5)	Oct. 2008
Council: Eight Meeting of the EU-Morocco Association Council (17233/09)	General Exchange between Both Parties	(1)/(5)	Dec. 2009
Council: Joint Statement EU-Morocco Summit (7220/10)	Illustration of the Degree of Maturity and Confidence Attained; Highlights the Strategic Importance of EU-Morocco Partnership	(5)	March 2010
THE EUROPEAN NEIGHBOURHOOD POLICY			
Communication: Wider Europe - Neighbourhood: A Framework for Relations with our Eastern and Southern Neighbours (COM(2003) 104 final)	Strengthens the Framework for the Union's Relations with those Neighbouring Countries that Do Not Currently Have the Perspective of EU Membership	(3)	March 2003
Commission Staff Working Paper: ENP Country Report - Morocco (COM(2004)373 final)	Assessment of Bilateral Relations Between the Union and Morocco Reflecting Progress under the Association Agreement, and Describing the Current Situation in Selected Areas	(11)	May 2004
Communication: Action Plans under the ENP (COM(2004) 795 final) / EU-Morocco Action Plan	A More Targeted Implementation of the Instruments Provided for in the EU-Morocco Association Agreement and Support of the Moroccan Objective of Bringing its Economic and Social Structures More in Line with Those of the Union	(3)	Dec. 2004
Regulation: Laying Down General Provisions Establishing an ENPI (1638/2006)	Financial Instrument for the ENP 2007-2013	(9)	Oct. 2006
Commission Staff Working Paper: Progress Report 2006 ENP-Morocco (COM(2006) 726 final)	Evaluation of Progress Made in Morocco within the Framework of the ENP	(11)	Dec. 2006
Communication: A Strong ENP (COM(2007) 774 final)	Concentrates on the Actions Needed and Foreseen by the EU in 2008	(3)	Nov. 2007
Commission Staff Working Paper: Progress Report 2007 ENP-Morocco (COM(2008) 164)	Evaluation of Progress Made in Morocco within the Framework of the ENP	(11)	April 2008
Commission Staff Working Paper: Progress Report 2008 ENP -Morocco (COM(2009)188)	Evaluation of Progress Made in Morocco within the Framework of the ENP	(11)	April 2009

Source: own compilation

Table 8: Projects under AENEAS Programme in Morocco

PROJECT	SUB-SECTOR	LOCATION	BUDGET/ EC SHARE	POLICY INSTRUMENT	DURATION
MIGR/2005/103-417: Accompagnement à l´Amélioration des Conditions d´Accueil et de Protection des Mineurs de 14 Ans Regroupés en Provenance du Territoire de la Communauté de Madrid/Espagne	Return & Reintegration	Morocco	€ 3.104.978 / € 1.999.999	(9)	24/12/2005 - 23/12/2008
MIGR/2005/103-456: Programme de Renforcement et de Soutien au Dialogue et la Gestion des Migrations Irregulieres et de Transit au Maghreb en Provenance de l'Afrique de l'Ouest	Irregular Migration	EU, Maghreb, Cameroun, Ghana, Mali, Niger, Nigeria & Senegal	1.977.245,56 / 1.561.245,56	(9)	14/12/2005 – 14/12/2008
MIGR/2005/103-534: Project Réseau Afrique/Migration : Renforcement de l'Engagement Opérationnel et de la Collaboration Régionale des Acteurs de la Société Civile sur la Gestion des Flux Migratoires de Transit dans le Maghreb	Migration Management	Algeria, Morocco, Tunisia & Libya	€ 1.637.804 / € 1.307.131	(9)	16/12/2005 – 16/12/2008
MIGR/2005/103-558: Enhancing Civil Society Participation in Human Rights Management of Migration and Asylum in the Southern Mediterranean and Middle East	Migration & Asylum Management	Morocco, Algeria, Tunisia, Egypt, Jordan, Syria, Palestine, Lebanon, Libya	€ 669.499 / € 535.598	(9)	2/12/2005 – 2/12/2008
MIGR/2005/103-564: Programme de Gestion Intégrale de l´ Immigration Saisonnière » Entre la Province de Benslimane et la Province de Huelva	Labour Migration	Morocco (& Spain)	€ 1.495.000 / € 1.196.000	(9)	11/12/2005 – 11/06/2008
MIGR/2005/103-569: PROJECT SEAHORSE	Irregular Migration/ Border Management	Morocco, Mauritania, Senegal, Cap Verde	€ 2.507.968 / € 2.000.000	(9)	14/12/2005 – 14/12/2008
MIGR/2005/103-573: Promotion d'une Migration Responsable à travers les Circuits Légaux dans la Région	Legal Migration	Morocco	€ 1.085.268 / € 868.214,40	(9)	11/12/2005 – 10/12/2008

de Tadla Azilal - Maroc					
MIGR/2005/103-579: International Migration from Middle East and North Africa and Poverty Reduction Strategies	Migration Management	Algeria, Morocco, Tunisia (& possibly Egypt)	€ 916.963/ € 733.570	(9)	29/12/2005 – 28/09/2009
MIGR/2005/103-626: Action Collective de Soutien à la Réintégration des Migrants de Retour dans leur Pays d'Origine	Return & Reintegration	Algeria, Morocco & Tunisia	€ 1.347.403/ € 1.076.000	(9)	20/12/2005 – 20/12/2008
MIGR/2005/103-632: ALBAMAR" Integrated Support towards Returning Migrants in Albania and Morocco	Return & Reintegration	Morocco & Albania	€ 1.668.216 / € 1.334.572	(9)	15/12/2005 – 15/12/2008
MIGR/2006/120-132: Système d'Observation, d'Analyse et de Veille en Matière Migratoire dans la Région Afrique du Nord et Méditerranée Orientale	Migration Management	Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Mauritania, Palestine, Syria, Tunisia, Turkey	€ 1.764.780 / € 1.411.824	(9)	1/02/2007 – 31/01/2009
MIGR/2006/120-179: Project SEAHORSE NETWORK	Irregular Migration/ Border Management	Morocco, Mauritania, Senegal & Cap Verde	2.502.577,68 / 1.999.043,07	(9)	19/12/2006 – 19/08/2008
MIGR/2006/120-199: Sharing Learning for a Better Migration Life	Labour Migration	Egypt & Morocco	€ 649.166,50 / € 519.333,20	(9)	21/11/2006 – 31/07/2008
MIGR/2006/120-243: Barcelona – Tangier Programme" Programme of Co-operation and Co-Development with Morocco for the Training of Minors who Have Embarked, or are Considering Embarking, on an Unaccompanied Migration Process	Irregular Migration	Morocco	1.988.306,48 / 1.000.316,99	(9)	29/12/2006 – 29/12/2009
MIGR/2006/120-280: Lutte contre l'Immigration Illégal et le Traffic des Etres Humains à travers la Participation des Familles Victimes de l'Émigration Clandestine, des Association Organisée de la Société Civile et des Institution Locales	Irregular Migration	Morocco	1.081.779,95/ € 865.423,96	(9)	1/03/2007 – 28/02/2010

MIGR/2006/120-284: Renforcement et Integration du Centre d'Accueil des Migrantes dans une Dynamique Locale et Regionale	Migration Management	Morocco	€ 625.345,93/ € 500.276,74	(9)	1/01/2007 – 31/12/2009
MIGR/2007/130-386: Strengthening the Criminal Justice System Response to Smuggling of Migrants in North Africa	Irregular Migration	Algeria, Egypt, Libya, Morocco & Tunisia	€ 1.870.681/ 1.496.544,80	(9)	1/12/2007 – 1/12/2010
MIGR/2007/130-038: Fit for Europe - Training for a Positive Migration	Legal Migration	Morocco, Senegal & Cap Verde	€ 887.177,73/ € 709.742,18	(9)	5/12/2007 – 5/12/2010
MIGR/2007/130-076: Promotion des Principes et des Valeurs Humanitaires de Lutte contre les Actes de Racisme et de Xénophobie à l'Égard des Migrants	Migration Managemen/ Protection	Morocco	€ 899.936,67/ € 719.949,34	(9)	18/12/2007 – 18/12/2009
MIGR/2007/130-391 Women Migration from Morocco to EU: a Warp Yarn for the Development.	Migration & Development	Morocco	€ 702.733,20 / € 561.975,74	(9)	6/12/2007 – 6/12/2010
MIGR/2007/129-774: Mise en Place du Plan d'Action de la Confèrence de Rabat	Migration Management	Morocco, Senegal, Mauritania, Mali & Niger	1.519.986,75/ 1.215.989,40	(9)	07/01/2008 - 06/01/2010
MIGR/2007/129-840: Création d'un Environnement Favorable Permettant de Profiter des Effets Positifs de la Migration pour le Développement Économique de la Région de l'Oriental du Maroc	Migration & Development	Morocco & Oriental Region	1.499.417,02/ 1.199.533,62	(9)	01/04/2008 - 31/03/2011

Source: own compilation