

**Democratic Governance in Your Backyard
Japan and the European Union**

A Point of View from the European Commission

by

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I.

First of all, I would like to extend my thanks to the organisers of this interesting conference for giving me this opportunity to talk about governance from the perspective of EU-Japan developments.

Governance has become a **central issue** in international affairs. It includes far too many aspects of national and international policies to be exhaustive in a luncheon speech. I would therefore like to concentrate on aspects of mutual interest, drawing from my own professional experience in European policy, development policy and in the context of the bilateral EU-Japan relations. In doing so, I do not intend to ignore the organisers' intention to concentrate more specifically on the role of governance "**in our backyard**" – a phrase which hints at more specific European developments like enlargement and the relations with neighbouring countries like Russia, the Balkans and the Middle-East. But, if you will allow me, I shall try to escape from the geographical straightjacket and to address these issues from a broader perspective, taking account of their ramifications for both the EU and Japan.

Concerning **Europe's internal policies** you may recall that the European Commission, in July 2001, published a **White Paper** on European Governance, focussing on the specific features of the process of European integration and the need to improve efficiency, openness and participation in Europe's decision-making process. This paper is still the subject of under consideration by the Council, the Member States and the European Parliament.

The Commission is keen to deepen the discussion on what appears to be a rather new dimension of governance, i.e. the situation where a process of ever growing integration brings nations together to share sovereignty and to act in common in fields considered so far in classical diplomacy as the prerogative of nation states.

To organise this integration in the most efficient way, with the appropriate degree of **democratic legitimacy** and in keeping with the overall principles of good governance constitutes one of the most fascinating challenges of the European Union. In this respect, the EU is indeed a pioneer project and countries all over the world aiming at deeper regional co-operation and integration might learn from our experience.

II.

It is not my intention to enter into the difficulties of **defining** the notion of governance or to translate this now widely used English term into other languages. Professor Takashi Inoguchi has already addressed this issue thoroughly in his preparatory note.

For the sake of good order I would just like briefly to quote from the White Paper on "European Governance" which the Commission issued in 2001 :

"Governance means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and cohesion."

This is our – the EU's – concept of governance, and the basis for our policies both within the EU and in the context of our co-operation with our neighbours and other countries. It includes the notion of **subsidiarity** and **proportionality** : Indeed, before launching an initiative, the European Commission must systematically check whether public action is really necessary, whether the European level is really the most appropriate at which to act, and whether the measures chosen are proportionate to those objectives.

I shall also refrain from tracing in detail the **history** of the development of this concept since the **creation** of the European Economic Community in 1957. It should nevertheless be kept in mind that even if the notion of governance was not used at that time, the **very creation** of the European Institutions **responded to its essential demands**, in particular with respect to the strengthening of human rights, democratic rules, openness, effectiveness, coherence and the rule of law.

An inescapable precondition of **becoming a member of the European Union** is the acceptance and further development of the notion of governance. At the same time, the intention of the European process of integration was from the outset to foster principles of Good Governance in our contacts with other countries.

A more modern concept of governance is clearly linked to the **development of our societies**. This is particularly valid for notions like **participation** and the enhancement of the **role of civil society in our decision making process**.

In order to simplify a rather complex issue and to focus on the particular theme of this conference, I should like therefore to address **three aspects** of the idea of governance :

- a) the role of governance in **European policy making** and in the further development of European integration;
- b) the **application** of the principle of good governance in our relations with **neighbours, developing countries** and other countries with which we establish privileged relations;
- c) the notion of governance in **bilateral talks** and relations between the EU and Japan.

European Governance

Before teaching other countries lessons on "good governance" the EU must be ready to look at its own practices, behaviour and legal structure. There is no better way to convince neighbours and the international community about the added value of good governance than by showing the outside world the long-term advantages in terms of internal and external stability, economic prosperity, efficiency and legal security which derive from applying the principles of governance in your own constitutional settings.

In doing so, one has to **distinguish** between **three layers** of action :

First the layer of the **application of democratic rules** and of the **rule of law**. This is a notion which has from the very beginning constituted the basis of European construction and which the EU will never be ready to water down as far as its own structure is concerned. Countries which want to adhere must be able to demonstrate in an unambiguous and credible way that these principles, as laid down in the Treaty's objectives and also more recently in the Charter of Fundamental Rights, are deeply anchored in their national Constitutions and daily

political life. Respect of these rules is therefore the **litmus test** for adhesion to the EU, as confirmed in the Copenhagen Summit Conclusions of 1993.

Second, the **application** of rules of good governance **in the daily management** of the EU. This is a question of particular concern to all the European institutions, but in particular for the European Commission and the Council as they share the responsibility for further developing the legal framework and the **executive powers** of the EU.

It is true that the EU is **not** considered to be a **nation state**. Nevertheless, it has most of the ingredients of a state with **limited sovereignty** according to international law. Legal experts by and large agree that the Treaties of the EU do in fact already constitute a sort of basic law in the sense of a **Constitution**. If, as a result of the Convention's proposals, the Council should now decide on a European Constitution, we might witness a highly symbolic act. Legally speaking, however, this would only be the "cherry on the cake" of a legal network which in fact can already be considered to be a Constitution.

The principle of "good governance" as a guideline for reliable, efficient, open and rules-based administration of the EU is therefore **helpful and appropriate**. Since it is not easy to bring 15 and soon 25 different administrative traditions, legal systems and mentalities under one roof, constant pressure and control to apply good governance is essential not only for the smooth functioning of the European integration process but also to engender public confidence. To achieve this objective, transparency is of the essence to control a bureaucracy which, on occasion, takes advantage of the extreme complexity of some of the European policies in order to limit interference from national governments and Parliaments.

The Commission's White Paper on European Governance addresses this issue in detail. **Priority setting, adaptability and rapid response, transparency** as a means to control the system and to **fight** any form of explicit or implicit **corruption**, are part of these efforts. European integration can move forward successfully if the citizens of all member states trust each new development as being more efficient than the national framework, bringing about more opportunities in terms of the economy and commerce, ensuring internal and external security and sticking to the fundamental principles laid down in the **European Charter**.

Drawing from the White Paper, the Commission has most recently launched specific implementation actions to **modernise and strengthen** the "**community method**", e.g. the simplification and improvement of our regulatory framework. This will involve the implementation from 2003 of **impact assessments** for all major legislative and policy initiatives, the review of our comitology system, setting the criteria for the **creation** and the **functioning of regulatory agencies**, and in addition drafting a communication on **reinforcing the Commission's preventive approaches** to breaches in Community law and their relation with infringement complaints.

One can also assume that the **broad reform process** aimed at improving the workings of the European institutions, namely the Commission and the Council, are also closely linked to the imperative of responding adequately to the need for good governance within the EU. Beyond the efforts to improve effectiveness, fight fraud and corruption and to cut red tape, this process addresses in particular :

- the need for **better decision-making**,
- **greater transparency** through access to documents for the Parliaments and the public,
- **priority setting** through more forward-looking strategic planning (annual strategic planning - ASP), activity based budgeting (ABB) and management (ABM), and the integrated resources management system (IRMS)
- improved output via **financial control**.

Through its vast reform programme, the Prodi Commission has accomplished an impressive modernisation in order to respond to the exigencies of good governance at the European level.

The **third layer** in the context of European Governance concerns the important question of **broad participation** and, more generally, the **role of civil society in the European decision-making process**. This is certainly the most complex aspect of governance. At this stage there seems to be no easy answer to it, despite the fact that everybody agrees on the need to improve the level of and quality of citizens' involvement in the process of European integration. If we want this process to last, European policy making needs to take on a much more **bottom-up approach** and not, as is currently too often the case, mainly a matter of the élites or an "enlightened bureaucracy". The Commission's White Paper also tries to indicate possible actions to cope with a number of "**systemic**" **problems**, namely: the lack of an established civil society on a European level, the complex nature of European policies; the obvious gap between the European decision-making structures, the grass root activities of NGOs and *ad hoc* initiatives from the midst of civil society; and, finally, the role of the European Parliament and national Parliaments in this context.

But these difficulties are no reason to sit back and wait for the emergence of a better-organised European civil society. In fact, the Commission has come to the conclusion that a lot can be done at this juncture. While it is obvious that openness and transparency are prerequisites for broader participation, they are also the tools for furthering the development of common aims and interests. In promoting instruments like **e-Government** or the setting of general principles and **minimum standards for public consultation of interested parties**, the way is open for a broader public debate on European issues and governance. To consolidate public confidence and to ensure that Commission departments mobilise the most appropriate expertise, the Commission has now also drafted principles and guidelines for the **collection** and the **use of public expertise**.

The **internet** and **public hearings** are particularly important instruments for broadening the debate on key issues of European decision-making. Target-based tripartite contracts and agreements are other means to go beyond the dialogue between EU institutions and to bring about better **involvement of regional and local authorities**. The Commission has launched some pilot projects in these fields.

EU Policy on Governance in Relation to Third Countries

The European Commission has made "good governance" a key request in its bilateral relations with third countries. This was not always the case. The basis for such an approach was laid in the late 80's and early 90's.

There was at that time an interesting debate within the EU on how to address the issue. The Commission proposed to consider the respect of human rights, the rule of law and the democratic principles as **essential elements** of each partnership and co-operation agreement. According to the rule laid down in the **Vienna Convention on the Law of Treaties**, a breach of an essential element of such a treaty would allow the EU to withdraw from the agreement within three months. However, some Member States wanted to go further and establish the right to withdraw **immediately** from such an agreement. Whereas the Commission wanted to deal with the issue by approaching all third country negotiating partners on the basis of the principles of "equal treatment" and "non-discrimination" – and the reform of the Vienna Treaty Convention was an elegant way to do so – the insistence by some Member States on more muscular treaty provisions perpetuated a situation of case-by-case treatment of third countries, according to the degree of pressure the EU wanted to exercise in that particular case.

But this is all history now. Today the EU approach is "mainstream" and responds to practices well established in G8, DAC and OECD terms. Good governance has become part of the clearly defined policy of **poverty reduction** and is contained in all partnership and co-operation agreements. Examples include the Cotonou Agreement, the Barcelona Declaration, the individual partnership agreements with the Mediterranean or Latin American countries, as well as in the "enhanced" co-operation agreements with the Balkan countries and the countries of the former Soviet Union. The Commission actively contributes to the ongoing work within the DAC to draw up appropriate **governance indicators** and to establish a suitable governance **network** in the framework of aid allocation and the Millennium Challenge Account.

When one looks at the **governance agenda today** and the way in which it is built into the development and co-operation policy in a broader sense, one is struck by the **comprehensiveness** of this approach compared to former practice. It not only comprises government and administration activities but is part and parcel of the basic policy of poverty reduction, gender policy, social policy, policies to protect the environment and to achieve sustainability, the activities of the private sector (for example: codes of conducts for private business, the "conflict diamonds" issue), and the role of the civil society in decision making.

The **World Bank** rightly states :

Governance can no longer be considered a closed system. The state's task is to find a balance between taking advantage of globalisation and providing a secure and stable social and economic domestic environment, particularly for the most vulnerable. Globalisation is also placing governments under greater scrutiny, leading to improved state conduct and more responsible economic policies.

Because each domain of governance – state, private sector, civil society – has strengths and weaknesses, the pursuit of good governance requires greater interaction among the three to define the right balance among them for sustainable people-centred development."

The **Cotonou Agreement of 23 December 2000**, one of our key co-operation agreements with developing countries, addresses the issue of governance in three ways :

- Capacity building and involvement of civil society

- Peace building and conflict prevention at regional level
- The issue of migration.

Lessons drawn from EU governance assistance indicate the particular importance of linking operational programmes with **upstream dialogue** and **national governance strategies** in order to achieve greater input. This should include decentralisation programmes which aimed at disadvantaged groups and ensure effective legislative, administrative and budgetary acts to implement decentralisation.

Another lesson relates to the positive effects of **participatory processes** and the involvement of the civil society and NGOs in governance, whether in the areas of human rights, justice, parliament or elections, as well as in the process of defining clear strategies for poverty reduction. On all these issues the EU has also worked very closely with **UNDP**, in particular with respect to our policy toward African countries, e.g. in **co-operation programmes** such as access to justice and strengthening of human rights, decentralisation, support of parliaments, electoral assistance, as well as crisis prevention and recovery.

EU-Japan Co-operation on Governance

The issue of governance has not so far figured on the agenda of **EU-Japan consultations** at Summit or Ministerial level, or on the occasion of meetings in the framework of the **Enhanced Political Dialogue**. There might be reference to it in the forthcoming discussion on African development in the context of the Tokyo International Conference on African Development (TICAD).

The **EU-Japan Action Plan** also does not specifically refer to co-operation in this field but reference – at least implicit – is contained in many chapters. The chapter on "Development and the Fight against Poverty" has wide enough coverage for the issue through more specific co-operation schemes such as "the joint comparison of each other's development policies", "increasing the effectiveness of international financial institutions", "support to developing countries" or "co-operation in African developments".

As a matter of fact, both the EU and Japan co-operate closely on issues of governance in **international organisations** such as the United Nations (in particular through UNDP), OECD and the DAC, G8, IMF or WTO. They both recognise the importance of governance in development policy and economic co-operation. Differences of view, if they occur, relate not so much to substance but more to questions of tactics or procedure.

Much more complex than in multilateral relations is the discussion on governance related questions in our **bilateral relations**. As I said earlier, the issue of governance is addressed also when dealing with domestic policies or corporate behaviour which might have a spill-over effect on the economic development of our countries.

As far as its own development is concerned, the EU sees good governance as an **ongoing process** and addresses this issue in its **internal reform programme**, for instance in studies like the one on "European Governance", or in its discussions with Member States or future Member States. The Japanese Government addresses similar issues in the framework of its

own policy on structural reform. To improve specific governance issues like effectiveness, openness, cutting red tape or regulatory reform, the EU and Japan consult each other and compare notes. There is, for example, a regular input from the European Union to the Japanese Government's Council on Regulatory Reform.

From the European point of view, the process of globalisation and increasing interconnection force our **domestic policies** and **economies**, if we want to remain competitive, to strive towards **better performance**. If for instance the Japanese Prime Minister Koizumi recognises the need for Japan to receive more foreign direct investment, he is certainly aware that this issue is also linked to governance related questions such as **access to information** or **legal advice, corporate accountability** or **non-discrimination**. The need to involve civil society to a greater extent into the decision-making process, to control better the public service through the Diet, to cut red tape and to fight corruption in all its forms are other issues where the EU and Japan should work even more closely together and share views and experience. I am deeply convinced that this can only be in our mutual interest.

Let me **conclude** : Governance is an important prerequisite of a modern, rules based, open and competitive political and economic environment. It has to be addressed in the domestic context not only to cope with phenomena like globalisation, but also in our own interest in order to achieve and preserve prosperity and international reliability. It is not only an economic issue, to be addressed by the public and the private sector but, far above and beyond that, the basis of our success as a democratic and stable society.

It is important to press other countries to stick to the principle of good governance. But we gain more credibility for our political objectives if we control thoroughly our own behaviour. The EU and Japan share have common interests in this regard. In co-operating in the field of governance, in comparing notes and expressing openly our views, we are able not only improve our own performance but act as pioneers in the revitalisation of our economies.