

# Whither Enlargement? The European Neighbourhood Policy\*

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## **Abstract**

*In this paper I argue that the European Neighbourhood Policy (ENP) is likely to create an integrationist dynamic within the European Union that may push Ukraine, Moldova and other countries further down the road towards eventual membership in the Union. The 'governance approach' in EU studies is well-equipped to explain the development of this process as a form of the externalization of EU governance. In May 2004, the EU enlarged to encompass ten new member-states and thus acquired a new neighbourhood, notably in Eastern Europe, where Ukraine, Belarus and Moldova now share a common border with the EU. Since 2001/02, the EU has been developing the ENP to cope with the challenges resulting from this new political landscape, and as such, in this paper I argue that the ENP is now the primary instrument through which EU governance is externalized. With the exception of Belarus and Russia, the European Union's Eastern neighbours are intent on acquiring EU membership in the near future. The EU, in turn, is keen on maintaining its Eastern borders safe and secure from external risks such as illegal migration, environmental degradation and economic crisis. In order to meet these objectives, the EU promotes democratic and economic reforms in the countries located along its Eastern border and in doing so strives to foster political stability and security in these neighbouring states. The ENP comprises a number of policy instruments to promote closer mutual relations below the line of EU membership providing them with 'a stake', but no influence on European integration.*

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## I. Introduction

The 2004 enlargement of the EU did not only result in the addition of ten new member-states, it also pushed the EU much closer towards a ‘new neighbourhood’.<sup>1</sup> In 2001, prior to the EU’s most recent enlargement, the EU started to ‘flesh out’ its European Neighbourhood Policy (ENP) with the ultimate goal of creating a “ring of friends surrounding the Union and its closest European neighbours, from Morocco to Russia and the Black Sea” (Romano Prodi 2002). Similar to the policy of enlargement, this ‘proximity policy’, which later became the ENP, aimed at enhancing the EU’s overall relationship with each of these neighbouring countries by fostering “both political and economic interdependence [which] can itself be a means to promote stability, security and sustainable development both within and without the EU” (European Commission 2003: 4).<sup>2</sup>

Since the end of the Cold War, the EU has been confronted with the task of redefining its relationships with the states of Central and Eastern Europe. So far, the EU has pursued a policy of gradual and differentiated *rapprochement* prior to ultimate inclusion. According to the Treaty of Rome, ‘every European nation may apply for membership to the European Union’.<sup>3</sup> However, the Treaty does not speak out what ‘European’ means. Instead, it has become conventional wisdom to loosely conceptualize the borders of Europe within a matrix of multiple factors encompassing geographical, geopolitical, cultural, religious, historical, economic and political considerations.<sup>4</sup> While no specific description exists for this criteria for EU membership, it seems that a geographical approach to the concept of ‘Europe’ prevails as long as it is clear and simple to devise (which is relatively easy for the Southern Mediterranean, but increasingly difficult with regards to EU’s new ‘Eastern Europe’ where borders tend to acquire the notion of a moving ‘frontier’).<sup>5</sup>

European post-Cold War relations must be analyzed within the context of the increasing institutional supremacy, ‘presence’ and ‘actorness’ (Allen/Smith 1990, Gänzle/Sens 2007) of the European Union. On a regional level, following the collapse of communism in Europe, the CSCE/OSCE gradually lost its potential to foster pan-European relations and to offer a model for the ‘New Europe’ institutionally. In a nutshell, integration into Western Europe became the ultimate policy goal of Central and Eastern European states. By and large, it was integration into the EU and NATO – the centrepieces of the Euro-Atlantic structures of welfare, peace and prosperity (with the European Union as the core institution of European political order) – that became the *mantra* and *telos* of the Central and Eastern European countries’ foreign policy aspirations. According to Karen E. Smith, the history between the EU and its neighbours in Central and Eastern Europe can be interpreted as the “EU coping with the exclusion/inclusion dilemma by eventually choosing inclusion” (Smith 2005: 57).<sup>6</sup> However, while this is true for the EU’s neighbours in Central and Eastern Europe, one should not overlook the fact that the EU opted for a ‘dual track policy’ that separated the Central and East European countries (including the Baltic States) from the Newly Independent States (NIS).

Without downplaying the importance of economic considerations, EC/EU enlargement in the 1990s acquired a distinctly political element following the southern enlargement of the 1980s (Greece, Spain and Portugal). These three countries had just

emerged from military dictatorships which had severely constrained both domestic and foreign policy. Similarly, the so-called second ‘northern’ enlargement encompassing formerly neutral - or more accurately, non-aligned - states such as Austria, Finland and Sweden entailed a distinctly political message. Whereas in the case of the South European countries EC/EU membership boosted primarily internal security (the EC helping to adjust to domestic democratization), the EU was foremost perceived as a (additional) provider of external security in the case of Austria, Sweden and Finland. When the ‘big bang’ enlargement of 2004 swept 10 new member-states into the EU, clearly, inclusion won out over exclusion. Even with this most recent expansion complete, there are still several states waiting in line for EU admittance: Bulgaria and Romania may join in 2007 or 2008<sup>7</sup>, and Croatia and Turkey entered into negotiation talks with the EU in October 2005. The countries of the Western Balkans (Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia-Montenegro) have a membership perspective provided that they meet the various forms of conditionality set out by the EU. Clearly, the EU will continue to encompass new member-states over the next years. By all means, a wider EU of up to 35 member-states will stretch well beyond Europe’s geographical borders. At the same time, it is likely that in the future the EU will continue to *not* include some countries that are considered to be part of Europe – at least as far as Europe is defined in terms of geography.

Up until recently, the EU’s approach to the countries of the former Soviet Union was shaped by the fact that the EU accepted the pivotal role played by Russia in influencing the relations between the NIS and the West. Whereas the Central and East European States aspiring for EU membership subscribed to extensive ‘Europe Agreements’ as the legal base of their relations with the EU in the mid-1990s, most of the Newly Independent States signed so-called Partnership and Cooperation Agreements (PCAs) with the EU. These PCAs were less comprehensive than the European Agreements and reflected the role played by Russia in shaping EU relations with the former Soviet Union’s closest neighbours. While the Europe Agreements were much more asymmetrical in terms of the EU opening its market to the CEECs (at an earlier stage than most of the CEECs’ markets *vis-à-vis* EU products) as well as the unilateral acceptance of EU conditionality by the CEECs, the PCAs tended to be much less ambitious. Furthermore, in a second stage of bilateral relations, the EU spelt out so-called ‘Common Strategies’ towards Russia and Ukraine in an attempt to unify its approach – at both the individual member-state and the EU level – with regards to its emerging foreign policy in general. Most recently, in the course of the introduction of the ENP, Russia opted out of any further agreements established under the same heading as other ‘European neighbours’ and instead insisted on having a single EU – Russia policy. As a consequence, both the EU and Russia have agreed upon the creation of the so-called ‘Common Spaces’ which basically mirror the pillar structure of the EU itself (encompassing economic cooperation as well as cooperation in the fields of external and internal security, plus education and research). While the EU was aiming at establishing a comprehensive approach in dealing with its immediate vicinity, the fact that the EU’s policy *vis-à-vis* the new Eastern Europe re-created a dual track policy in the East – ENP and EU Russia policy – may spur the aspirations of Ukraine, Moldova, and other countries to become members of the European Union.

How can we study the European Union's relations with its immediate vicinity from a governance perspective? The governance approach – as I discuss in this paper – draws our attention to the inherent dynamics of Europe's political order and provides a theoretically informed guide to understanding the EU's oscillating politics between inclusion and exclusion. In section II, I will set out the contents of the European Neighbourhood Policy. This is followed by section III where I will briefly sketch out the governance approach with regards to the EU's external relations. Finally, in section IV of the paper I will apply the lens of the governance school to the development of ENP and its potential to modify boundaries of governance and thus ultimately contribute to a transformation of the political order in Europe.

## **II. The European Neighbourhood Policy: Objectives, Principles and Instruments**

In May 2004, the European Commission published its Strategy Paper on European Neighbourhood Policy. In this document, the Commission laid down the principles and objectives that would govern all future ENP partnerships. The European Neighbourhood Policy aims at “sharing the benefits of the EU's enlargement in 2004” with its immediate vicinity in order to “prevent the emergence of new dividing lines in Europe”. Clearly, at the time of enlargement some East European leaders had qualified the establishment of Schengen-borders as “future paper curtains”. ENP aims at addressing these concerns and hopes, ultimately, to contribute towards greater security. At a scientific conference in December 2002, Commission President Romana Prodi declared: “We have to be prepared to offer more than partnership and less than membership, without precluding the latter” (ECSA). ENP offers its partner countries the “chance to participate in various EU activities through greater political, security, economic and cultural cooperation – albeit below the membership line.” Prodi emphasized that the “aim is to extend to this neighbouring region a set of principles, values and standards which define the very essence of the European Union” (ECSA). In March 2003, the European Commission explained that the EU's neighbours should be offered the prospect of “a stake in the EU's Internal Market” (European Commission 2003: 4).

The European Neighbourhood Policy rests upon several key principles: First, ENP is build into the existing institutional framework of the EU's bilateral relations with a respective ENP partner country. Thus the European Union avoids any duplication of existing institutional structures. In terms of the EU's associational outreach beyond its boundaries, this means that the Partnership and Cooperation Agreements (which were developed in the first half of the 1990s to serve the NIS) as well as the more classical Association Agreements with the Mediterranean countries provide the platform on which ENP may develop. Ultimately, this is also a commitment to a strict and differentiated bilateralism in terms of inter-institutional relations despite the fact that ENP also encourages its neighbouring countries to engage in sub-regional cooperation.<sup>8</sup> Second, the Commission has declared that ENP constitutes a case for “joint ownership” of the institutions and of the process in general - albeit this ownership is “based on the awareness of shared values and common interests” (European Commission 2004(373):8). Although the European Union does not argue explicitly that the normative model is to be taken from the EU itself, it is clear that ENP countries are expected to converge towards

the normative model of the EU.<sup>9</sup> This is clearly due to the internal constraints of EU governance which make it extremely difficult to unpack agreements that have been painstakingly developed for the 15 member-states that made up the EU before the 2004 accession. Furthermore, the EU reiterates what is already part of the PCAs. Thus, in the case of Ukraine, Art. 51 (1) of the PCA affirms that Ukraine needs to approximate its “existing and future legislation to that of the Community.”<sup>10</sup> The PCAs that entered into force in 1998 have only been agreed to for an initial period of ten years. Therefore the strong focus on these legal documents will make it more likely that the PCAs will be renewed, avoiding another lengthy discussion and ratification of new treaties.<sup>11</sup> Third, the ENP sets up a procedure for monitoring the success as well as short-comings of agreements made under ENP.

Following this comprehensive step towards achieving the overarching policy goals of ENP, the European Commission refined the existing country strategies which were either based on TACIS or MEDA regulations. Thus, the ENP is being reshaped in order to be compatible with the existing framework of relationships between the EU and its neighbours. Each country strategy paper subsequently supplies a strategic framework for the period 2002-2006. Furthermore, these strategy papers set out EU cooperation goals, policy responses as well as those areas for cooperation which are defined as key priorities; in addition, the country strategy papers provide an assessment of the partner countries’ policy agendas and political and socio-economic situations. Attached to the strategy is the national indicative program, which entails information about “the EU response in more detail, highlighting programme objectives, expected results and conditionality in the priority fields of co-operation for the period 2002-2004” (Euro-Med Partnership Jordan, Country Strategy Paper 2002-2006:2).

While the primary objective of the strategy papers was to define the scope and modes of cooperation, underpinned by financial aspects, the European Commission drew up concomitantly a first set of country reports. Country reports were published in May 2004 on the first seven of the ENP countries which have Association or Partnership Agreements with the EU in force; a further five country reports were published in March 2005 on the next countries to be included in the policy (Georgia, Azerbaijan and Armenia), as well as with those countries whose Agreements had already come into force (Egypt and Lebanon). The reports provide an outline of the political, economic and social situation of the ENP countries. They will provide the space for future assessments on the achievements of each of the EU’s partner countries. The Commission has announced that the first assessment is going to be released in 2006, to be followed by another round of country reports in 2007.

The next stage in the development of ENP saw the conclusion of ENP Action Plans with each of the countries. In June 2004, the Council of the EU endorsed the Commission’s proposal: “Action plans should be comprehensive but at the same time identify clearly a limited number of key priorities and offer real incentives for reform. Action plans should also contribute, where possible, to regional cooperation” (Council of the EU 2004). Action plans were negotiated with each country, based on both the individual country and the EU’s interests. The action plans lay out a number of core priorities at the beginning of each policy document; subsequently, a wide range of other areas are emphasized. They jointly define an agenda of political and economic reform by means of short and medium-term (between 3 and 5 years) priorities. They cover political

dialogue and reform, economic and social cooperation and development, trade-related issues and market and regulatory reform, cooperation in justice and home affairs, cooperation in sectors (such as transport, energy, information society, environment, research and development) as well as a human dimension (people-to-people contacts, civil society, education, public health). The incentives that the EU offers in return for progress on relevant reforms are greater integration into European programs and networks, increased assistance and enhanced market access.

Finally, the implementation of mutual commitments and objectives agreed upon in the action plans are subject to regular monitoring through sub-committees with each country, dealing with those particular sectors or issues. In addition, the European Commission is expected to issue periodic reports commenting on progress as well as shortcomings. This procedure clearly reinforces elements of conditionality by offering reviews of the relationship in exchange for compliance with jointly agreed commitments. In this respect, one can understand the Deputy Head of Ukraine's Mission to the EU's statement on "under-promising, but over-delivering" (Author's interview 2005).

Currently, EU assistance to the countries covered by the European Neighbourhood Policy is channelled through various geographical programs.<sup>12</sup> From 2007 onwards, the European Commission has proposed an increase in funding for ENP to €14.93 billion. This is conceived as a part of the reform of EU assistance instruments, primarily the MEDA and TACIS programs that will be replaced by a simplified structure and a single instrument – the European Neighbourhood and Partnership Instrument (ENPI). This will be a much more flexible and "policy-driven instrument" (ENPI 2004: 3) designed to target sustainable development and approximation to EU policies and standards, as well as supporting the agreed to priorities in the ENP Action Plans. One of the most innovative features is that it entails "a radical simplification to the current situation where cross-border cooperation at the external EU border is hampered by interfaces between internal and external funding instruments operating through different rules" (ENPI 2004: 3). This means that cross-border cooperation with non-EU countries will be considerably eased along the EU's external land and sea borders in the east and in the south, putting partners under the same regime of funding instruments. Hereby, the EU attempts to substantiate its aim of avoiding the emergence of new dividing lines.

ENPI also envisages extending forms of technical assistance to partner countries that had previously been used in the process of the CEECs *rapprochement* towards the EU, such as Technical Assistance and Information Exchange (TAIEX), long-term twinning arrangements with EU Member States' administrations (national, regional or local), as well as participation in Community programs and agencies. Moreover, the Commission expects that the priorities identified in the action plans, which are agreed to with the authorities of the country, will have a lighthouse effect in terms of guiding the programming of other assistance programs from other donor countries and institutions. After difficult negotiations on the financial perspectives for the years 2007-2013, a compromise was reached at the European Council in December 2005. The Council of the EU determined that funding would be made available for the EU's external action – including Pre-accession, Stability, Development Cooperation and Economic Cooperation, ENP, Humanitarian aid and Macro-financial assistance – to the tune 50,010 million Euro (2006 prices).<sup>13</sup> The Council of the EU and the European Parliament will now have to decide about the allocation of funding to each of these four new instruments (Council of

the EU 2005, Financial Perspective 2007-2013, CADREFIN 15915/05 Brussels, 19 December 2005:26). It remains to be seen whether the European Commission's original proposal to commit 14,929 million Euro to ENP is likely to remain the bottom line for the financial perspective of ENP.

### III. EU governance and boundaries

Governance can be defined as 'a system of rule' with the ultimate objective of establishing political order for a political space. This concept posits that those problems and challenges that are outside of the scope of a state's regulatory capacity need to be solved collectively, involving other states as well as non-state actors at various (multi-level governance) or specific (global governance, European governance) levels. Governance entails that state-like activities not only be confined to states, but also be generated beyond the level of the nation-state in a dynamic interplay comprising various actors and institutions. Consequently, governance is not confined to territories – in sharp contrast to the domestic action of state governments. Instead, it focuses much more on political spaces defined by political activities and cooperation. Thus governance focuses on the establishment of a 'system of rule' amongst these actors ultimately providing a script for sustainable coordination of their activities and outputs.

The European Union generates two distinct varieties of governance (Friis & Murphy 1999: 214f): soft and hard governance. As it is not restricted to formal interaction, EU governance may be fostered in the evolution of 'European' norms and values which are not necessarily limited to the realm of the member-states. These concerns reflect the core values of the EU itself as entailed in Article 6 (1) TEU (democracy, rule of law, market economy). This mode of soft governance is complemented by hard governance, which emphasizes the role of governing through negotiations. It mirrors the EU's role as a negotiation system (V. Schmidt 1995), which entails various distinctive features, such as a bargaining, path dependent and non-strategic decision style, tentatively producing sub-optimal outcomes.

Due to the protracted nature of the EU's internal decision-making style, EU governance tends to mirror internal patterns of decision- and policy-making. In a nutshell, the EU attempts to externalize its own system of governance beyond its external borders (Friis & Murphy: 215; Gänzle 2002), or bluntly put, to make its immediate vicinity more like itself. Consequently, EU governance eases interaction (thus reducing transaction costs), manages expectations *vis-à-vis* the scale and scope of a relationship (ultimately controlling of adjustment costs for the EU) and maximizes EU influence on policy-making processes in those outside countries. Governance does not require any direct match between membership and territory. Ultimately, boundaries delimit rights of access to and participation in EU policy-making *vis-à-vis* areas of Europe's political order.

Governance structures establishing political order may increase and decrease, and are ultimately subject to boundaries. In this context Zürn conceives governance in terms of a continuum stretching from governance by government (state-centric), governance with government (mixed-actor constellations) to governance without government (societal self-regulation).<sup>14</sup> Drawing on Smith (1996), four types of boundaries of governance are distinguishable which are of critical importance to the European Union and its 'outside'. First, a geopolitical boundary – which produced a definitive dividing

line during the Cold War; second, a cultural boundary that is “relatively permeable, as established between the inside and the outside on grounds of democratic and political values” (Filtenborg et al. 2002: 395), giving the EU the Deutsch’s image of a ‘security community; third, a transactional boundary – by which the European Union allocates privileges in terms of market access for ‘third’ countries; fourth, an institutional and/or legal boundary that defines the institutional core of EU governance, thereby creating the EU’s image as a ‘community of law’. It is evident that these ideal type-like boundaries are analytical, rather than empirical. Essentially, EU governance is becoming capable of underwriting an inclusive but loosely constructed policy space with third countries are able to upgrade their problem-solving capabilities and generate intermediate forms of dynamic associations below the membership line.

#### **IV. The Making of the European Neighbourhood Policy**

Between the 1950s and the late 1980s, the European Community (EC) was confronted with alternative models and modes of political and economic integration in Europe. To give just one example: The European Free Trade Agreement (EFTA) was conceived of by European states, such as the UK, which explicitly did not wish to subscribe to the EC’s far-reaching regional integration scheme – politically and economically – in terms of policies and decision-making style. While the alternative model, in this particular case, was brought together from ‘outside’ the EC, the perspective changed considerably in the wake of the end of the Cold War, marking the general recognition of the EC/EU as Europe’s central institution for bringing the continent’s constituent parts – the West and the East – together. In this light, the creation of the European Economic Area (EEA) in 1989 aimed at providing an alternative and differentiated model of smooth integration into the EC/EU, which came primarily from ‘inside’ the Community itself. Without offering any sort of participation in the law-making process, the European Economic Area (EEA) extended the single market to those countries that were members of the EFTA. Yet, by this time it was already clear that a number of EFTA countries (Austria, Sweden and Finland) were about to apply for or had already applied for full-fledged membership in the EU, while at the same time a number of the remaining EFTA countries were considering doing the same and are closely associated with various policies of the European Union.<sup>15</sup>

In terms of its foreign policy, the EC/EU has devised throughout the 1990s three basic, sometimes interlinking models for dealing with its immediate neighbourhood:

- 1) Comprehensive, all-inclusive models of pan-European cooperation (which ultimately leave non-EC/EU-members outside the institutional core of the Community);
- 2) Differentiated approaches of gradual and conditional integration of individual countries<sup>16</sup> into the EC/EU (based on so-called Europe Agreements) or cooperation/integration with the EC/EU (based on the Partnership and Cooperation Agreements);
- 3) Geographically focused approaches of EU foreign policy involving the EU and some other non-EU countries (particularly in the context of the Barcelona process and the Northern Dimension Initiative).

As early as January 1990, French President François Mitterrand tabled the idea of creating a European Confederation providing links between all European states –

including the Soviet Union. Ultimately, this idea would have brought the EC very close to the Conference on Security and Cooperation in Europe, which at that time was preparing negotiations for the Charter of Paris (November 1990). Although Mitterrand's proposal did not trigger the establishment of concrete policies, it later clearly resounded in a proposal put forward by Frans Andriessen, then European Commissioner for External Relations. In April 1991, he suggested creating the status of 'affiliated membership' – in a sense the status that the Community had awarded to Germany's Eastern *länder* following the reunification of Germany (until 1994, East German MEPs were granted observer status in the European Parliament). 'Affiliated members' were supposed to have a seat, yet no vote at the table of EC/EU decision-makers in a number of specified areas (e.g. foreign policy, transport, environment, monetary affairs, research, etc.). In both cases, the CEECs rejected these suggestions fearing firstly the presence of the Soviet Union, and secondly the creation of a long-term waiting room and anti-chamber for EC/EU membership. This last concern would come to play an increasingly key role in their foreign policies throughout the 1990s.

In June 1992, the European Commission sketched out the idea of a 'European Political Area' which would provide a forum for regular meetings of EU member-states and associated countries from Central and Eastern Europe. One year later, in June 1993, this suggestion developed into the Copenhagen European Council's initiative to create the 'structured dialogue', a "framework for discussions on all areas of EU business" (Smith 2005: 761). However, at the very same time that the CEECs were finally awarded the perspective of joining the EU in the future, they were required to accept unconditionally the EU rules of the game regarding integration into the Community.

At the Essen European Council in June 1994, the EU heads of state and governments launched the so-called pre-accession strategy, providing additional financial resources for the CEECs on their path towards market economy and democratization. In mid-1995, the Commission's White Paper for integration into the internal market of the EU provided guidance for the adaptation of EC regulations and directives in this particular area. Last but not least, between 1998 and 2002, all candidate countries were accepted in the negotiations on the terms of their accession to the European Union.

Concomitantly, the EU fleshed out a similar, but less ambitious policy *vis-à-vis* those countries of Eastern Europe that were likely – for various reasons – to be left out of the enlargement process for the foreseeable future, specifically Russia and Ukraine. Most important in this regard were the Partnership and Cooperation Agreements signed in 1994, and the launch of Common Strategies at the end of that decade. While both agreements set-out a plethora of inter-institutional relations and called upon Russia and Ukraine to pursue political and economic reforms, none of them created a perspective for the relationship that once might transcend the creation of a common market with the European Union.

In 1997, during the run-up to the launch of the 2004 accession negotiations, the European Union decided to upgrade the structured dialogue to a 'European Conference', thereby including countries such as Switzerland, Iceland, Turkey and Norway in the process. European conferences involved regular meeting of heads of state and government to discuss a wide range of policy issues which were of mutual interest. The conferences were primarily offered in order to mollify Turkey for not being considered as a candidate for EU enlargement at the Luxembourg EU summit; yet, for a number of

years, Turkey refused to participate. At the Göteborg European Council of June 2001, the EU member states decided to invite Ukraine, Moldova, and Russia as well as the countries of Western Balkans to the European Conference. Yet, running short of any political decision-making capacities, the European Conference largely remained an exercise in symbolic politics which did not yield any major success.

Last but not least in this regard is the Northern Dimension initiative, which was launched by the Finnish government in 1997 in order to raise EU-wide awareness of the particular needs (especially with regards to the environment) of Northern Europe and its immediate vicinity (Russia, the 'Baltic States' and Poland). Similar to the European Conference, albeit limited in its geographical scope, Finland and Denmark organized Northern Dimension conferences involving Russia in the context of a 'partnership approach'; yet as holds true for all comprehensive approaches, neither the European Conference nor the Northern Dimension conferences allowed non-EU members a seat at the decision-making table.

Although ENP is best grasped as an offspring of the EU's dual track approach in terms of managing Eastern enlargement since the early 1990s, the first concrete steps were taken following a letter from the UK foreign minister to the then Spanish Presidency of the European Union in January 2002. In this document British Foreign Minister Jack Straw suggested to offer Ukraine, Belarus and Moldova "clear and practical incentives" for proceeding with political and economic reform. Furthermore, his proposal included granting these countries the status of "special neighbour" based on a firm commitment to democratic governance and free market principles. At this stage, the countries of the Southern Mediterranean area were not addressed as potential candidates for such an inclusive approach. More interestingly, it was Swedish Foreign Minister Anna Lindh and Trade Minister Leif Pagrotsky who suggested to extend the geographical scope of the new policy to include both Russia as well as the Southern Mediterranean countries, according to the formula "from Russia to Morocco". Clearly, this step came very much in anticipation of the southern EU member-states' dislike of distinctive sets of policies geared towards non-EU East and South of Europe countries. In December 2002, the European Council of Copenhagen approved of the idea in principle: "The enlargement will strengthen relations with Russia. The European Union also wishes to enhance its relations with Ukraine, Moldova, Belarus and the southern Mediterranean countries, based on a long-term approach promoting democratic and economic reforms, sustainable developments and trade and is developing new initiatives for this purpose. The European Council welcomes the intention of the Commission and the Secretary-General/High Representative to bring forward proposals to that end" (Presidency Conclusion 2002:8).

It is towards this backdrop that the European Security Strategy, presented by Javier Solana in December 2003, declared that "building security in our neighbourhood" (EES 2003:7) is one of the three strategic objectives<sup>17</sup> of the EU. With regards to Eastern Europe, the Strategy upholds that "[i]t is not in our interest that enlargement should create new dividing lines in Europe. We need to extend the benefits of economic and political cooperation to our neighbours in the East while tackling political problems there. We should now take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighbouring region."

The European Commission released its “Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours” document in March 2003. At that time – following pressure from the Southern member-states – it had become clear that this proximity policy had to encompass both the non-EU countries of the Mediterranean rim and the Western NIS, thus establishing a ‘ring of friends’ as then Commission President Romano Prodi put it. Furthermore, the Commission was still confident in also including Russia in this new policy. Interestingly, in the wording of the European Commission, a normative tone was given to this EU policy: “The EU has a duty, not only towards its citizens and those of the new member states, but also towards its present and future neighbours to ensure continuing social cohesion and economic dynamism. The EU must act to promote the regional and subregional cooperation and integration that are preconditions for political stability, economic development and the reduction of poverty and social divisions in our shared environment” (European Commission 2003: 3). In July 2003, the Commission suggested launching a number of immediate measures based on existing financial instruments and to initial a new and comprehensive neighbourhood instrument, substantially increased in terms of its budget after 2006 (within the new financial perspective until 2013). It should be noted that at the very beginning of ENP, the operational focus of EU funding focused on the neighbouring side of the external border: “Such an Instrument, capable of operating on an identical footing on both sides of the EU’s external border, would provide a more complete approach, allowing for a mix of cross-border and regional co-operation activity to be developed around the external border” (European Commission 2003: 11). It is only with the European Neighbourhood Policy Strategy Paper that the Commission subscribes to a more far-reaching policy approach and moves the initiative into “higher gear”, as is said in a Commission press release (quoted in Michael Emerson, *Two cheers*, 2004:1). One month after the Commission decided to make this initiative a top priority, the General Affairs Council decided to extend ENP to the Central Asian countries of Georgia, Azerbaijan, and Armenia (GAC June 12, 2004). This decision clearly adds to the political weight of the initiative. In the meantime, Russia had declared that it did not wish to be included in this policy; instead, it opted for a ‘strategic partnership’ approach in its own right. The Russian decision needs to be interpreted in light of a rather general foreign policy change undertaken by Moscow in the wake of EU enlargement. Russia is increasingly uneasy with the status of its relationship with the European Union. The “self-exclusion of Russia” (K. Smith 2005: 759) in terms of ENP membership may, indeed, have helped the Central Asian countries accept entering the orbit of ENP; yet, in turn, it has given the ‘neighbourhood’ approach an additional enlargement twist, as practically all countries of the ‘new East’ are likely to consider future EU membership. Thus, it is probably the fate of ENP not to fully unfold its potential as a policy stabilizing the Western NIS below the EU membership line evoked by the European Constitution.<sup>18</sup>

### *The geopolitical boundary*

The first boundary in the process of modification is the geopolitical boundary. Throughout the Cold War era, all major political initiatives were restricted by the bipolar rift dividing Central/Eastern and Western Europe. In the past decade, this rift has been blurred through the launch of a number of bilateral and multilateral cooperation initiatives. In the immediate aftermath of the collapse of the Soviet Union, both Russia

and Ukraine searched for a 'European option' of some form of integration into the European Union. Yet shortly after the arrival of Putin at the Kremlin, it became clear that Russia did not intend to pursue this option any further. For the very first time, the Russian government explicitly declared not to have membership in the EU on its political agenda. There were several reasons for this development, amongst them the most obvious: first, the Russian political elite took a nationalistic turn during the presidency of Putin and became increasingly knowledgeable about the commitments at stake in European integration in terms of sovereignty; second, Russia feels that Europe and the EU in particular are highly dependant on Russian energy supplies and therefore it would serve Russia's interests to remain outside of the EU in order to be able to benefit economically from this situation ; third, EU inclusion of the Baltic States and Poland increased scepticism and to some extent Russo-phobia in the realm of the EU. For the in-betweens, such as Ukraine and Moldova, this political development meant that they were increasingly forced into taking a stand on their position *vis-à-vis* EU membership. With the Orange Revolution and the involvement of Poland and Lithuania in resolving the dispute surrounding the 2004 Ukrainian election, two EU member-states proved to have a pivotal role in blurring the geopolitical boundary in order to encompass Ukraine. At the end of the day, the European Union was pressed to upgrade its commitments – a decision it reiterated *vis-à-vis* the Central Asian republics of Georgia, Azerbaijan and Armenia in 2004.

Thus, the decision to modify the geopolitical boundary was to a large extent spurred by external events as well as the leadership exercised by some of the new member-states. As far as this particular form of boundary is concerned, this means that the European Union is not in position to deliberately steer shifts of boundaries of governance.

### *The cultural boundary*

The second boundary to be modified in the process of ENP is the cultural boundary. The EU would like to see its neighbours adopt values such as the rule of law, democracy and respect for human rights and minority rights in accordance with the norms and standards (political pluralism, freedom of speech and media, respect for the rights of persons belonging to national minorities, non discrimination on grounds of gender, and on political, religious and ethnic ground) set forth by the OSCE and the Council of Europe (as in the case of Ukraine). The ENP Action Plan encourages a wide range of initiatives in interregional and cross-border cooperation arrangements involving the sub-national level(s), targeting public health, fostering local democracy and civil society as well as building strong national education programs.

Furthermore, with regards to education, training and youth, the Ukraine Action Plan strives to enhance "a policy dialogue between EU and Ukrainian authorities in the field of education and training" (EU-Ukraine Action Plan 2004: 39). In this case, the cultural boundary has been shifted to encompass Ukraine in a number of programs such as Tempus III and the Erasmus Mundus and the Youth programs. It also encourages Ukraine to fully subscribe to the objectives of the Bologna process in Higher Education ensuring compatibility of the Ukrainian university system with that of EU member-states. Ukraine joined the 'Bologna club' together with the other Eastern ENP countries Armenia, Azerbaijan, Georgia and Moldova in May 2005.<sup>19</sup> Compared with the EU's

Northern Dimension Action Plan of 2000, it is interesting to note that there is no further reference to the potential impact of these programs, specifically the creation of European identity based on cooperation in the field of culture (Filtenborg et al. 2002: 402).

#### *The transactional boundary*

The modification of the transactional boundary is the most obvious change in the process of ENP-based EU governance: “The perspective of moving beyond cooperation to a significant degree of integration, including through a stake in the EU’s Internal Market, and the possibility for Ukraine to participate progressively in key aspects of EU policies and programs” (EU-Ukraine Action Plan 2004: 2). Yet it is also in this particular area where the European Union calls upon Ukraine to further approximate legislations *vis-à-vis* EU norms and standards.

Two further examples will illustrate the shift of the transactional boundary towards an approach of inclusion. The first is the extension of Ukraine-EU partnership to cover Europe’s satellite radio navigation system (Galileo), which sets the framework for co-operation in satellite navigation in a wider range of sectors, particularly in science and technology, industrial manufacturing, service and market development, as well as standardization, frequency and certification. The second is the launch of the EU Border Assistance Mission to Moldova and Ukraine in November 2005, an advisory, technical body with no executive powers. It aims at providing training and advice to Moldovan and Ukrainian officials, reinforcing their capacity to carry out effective border and customs controls and border surveillance. Ultimately, it is set to contribute to building confidence and strengthening cross border cooperation, particularly in view to solving the conflict in Transnistria. This objective feature in the European Neighbourhood Action Plans was agreed to by both Moldova and Ukraine in 2004.

#### *The institutional and legal boundary*

The institutional/legal boundary is the most difficult one to alter as it comprises the very core of EU governance<sup>20</sup>; any transformation of the institutional boundary will require substantial reconfiguration of the governance system and, hence, significant transformation costs. It is understandable that former Commission President Prodi emphasized that “everything should be shared with one exception: institutions”. In general, the EU was eager to build the ENP into the existing institutional framework, based on Partnership and Cooperation or Association Agreements. Inclusion within the institutional boundary of the EU is “a synonym for full membership” (Filtenborg et al. 2002: 400) – an objective which is currently not part of the EU’s agenda. While ENP does not contemplate any movement of the institutional boundary, it is attempting to modify the legal boundary – based on a unilateral recognition of EU law by the respective outsider. If any such country complies with EU legislation, it moves further down the road towards closer cooperation with the European Union. So far, this approach is particularly fostered in those areas where either mutual or EU gains are obvious, such as in the field of Justice and Home Affairs (JHA), where the EU makes the signature of readmission agreements a *conditio sine qua non* for any further cooperation, or in the area of energy cooperation which has – in the case of Ukraine and Russia – been singled out as particular form of issue-centred dialogue. Clearly, these issues cannot be tackled in a consistent manner without considerable alignment in the legal sector. Although

Kopstein has observed a general reluctance within the EU “to use any form of membership conditionality or even aid conditionality to reshape the political landscape of the region (Kopstein 2005: 93), it is also obvious that the EU’s inclusionary approach with regards to the legal and transactional boundary may ultimately impact on the institutional boundary.

## V. Conclusion

The end of the Cold War, the 2004 EU enlargement and Russia's withdrawal from active engagement *vis-à-vis* the European Union have all had the effect of pushing the EU into a pivotal role in terms of the reshaping of the political order in Europe. The EU's system of governance enabled it to shift its boundaries towards the 'new East'. By externalizing EU governance, the European Union incrementally and conditionally includes external actors in its policy-making processes as well as parts of its policies. This observation underpins the argument made by Linjakumpu (2000:6), who argued that "[...] the more the EU is integrated into its international environments, and the more international actors and practices are integrated into the EU, the more influential and visible the EU is in the international arena." I have argued here that this strategy was intentional, but at the same time path-dependent. It needs to be matched by the readiness of key actors at both levels – the supranational and the national – in order to engage the outsiders' willingness to comply with the EU-set rules of the game and to seek a stake in European integration. The process as such is by no means irreversible; in fact a major turn in Russian politics may easily re-shift the geopolitical boundaries in Europe and ultimately re-configure the classical 'Slavic Triangle' or some form of boosted Community of Independent States (CIS).<sup>21</sup> The governance approach does not suggest that there exists an automatism suggesting some kind of link between the dismantling of the Soviet Union and, subsequently, the demise of the CIS.

Thus the governance approach is well-equipped to account for the dynamics of the European Neighbourhood Policy – despite the fact that it neglects "questions of political power" (Jachtenfuchs 2001: 258). More importantly, it develops the intellectual toolkit necessary to understand the politics of inclusion and exclusion, which is central to Europe's new political order and governance architecture.

(17/05/06)

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## Endnotes

\* Revised version of a paper presented for an International Conference at the University of Victoria, B.C. Canada on “Governance, policy-making and system-building of the European Union”, 2-4 March 2006. It is based, in part, on interviews conducted in Brussels (European Commission, EU Council and Russian Mission to the EC) in May and June 2005. This paper draws from an article which I co-authored: Mette Sicard Filtenborg, Stefan Gänzle and Elisabeth Johansson, “An Alternative Theoretical Approach to EU Foreign Policy: ‘Network Governance’ and the Case of the Northern Dimension”, *Cooperation and Conflict* 37: 4 (2002): 387-407.

<sup>1</sup> Partner countries are: Algeria, Israel, Palestinian Authority, Armenia, Jordan, Syria, Azerbaijan, Lebanon, Tunisia, Belarus, Libya, Ukraine, Egypt, Moldova, Georgia, Morocco.

<sup>2</sup> Interestingly, the term ‘interdependence’ is not being used in subsequent key ENP documents, such as the Strategy Paper (2004).

<sup>3</sup> Article 49 of the Treaty on European Union stipulates that any European state may apply to become a member of the European Union. Prospective candidates must meet the so-called ‘Copenhagen Criteria’ for membership defined at the European Council meeting in June 1993 in Copenhagen: democracy, the rule of law, human rights, respect for minorities; a functioning market economy, and the capacity to cope with competitive pressures; the ability to take on the obligations of membership (*acquis communautaire*) and to apply effectively the EU’s rules and policies.

<sup>4</sup> It was only in the case of Morocco in the 1980s that the European Commission rejected this countries’ bid for membership on grounds of not being ‘European’.

<sup>5</sup> Interestingly, ‘Ukraine’ means in Russian ‘borderland’.

<sup>6</sup> One should not downplay though the challenge of EU enlargement. As Judy Batts (2003: 57) put it: “EU enlargement threatens to widen the economic gap between the ‘ins’ and the ‘outs’. It could re-ignite old political and cultural resentments between the peoples of Central and Eastern Europe.”

<sup>7</sup> Romania and Bulgaria will have to wait until early October 2006 to hear from the Commission when they will join the EU, see EUobserver, 16.05.06: Romania and Bulgaria must wait until autumn for EU entry date.

<sup>8</sup> “The European Union is not seeking to establish new bodies or organisations, but rather to support existing entities and encourage their further development; the importance of local ownership is one of the most pertinent lessons that can be drawn from the Northern Dimension.” (European Commission 2004(373):21).

<sup>9</sup> Karen Smith refers to one exception in this context which is Israel.

<sup>10</sup> “The Parties recognize that an important condition for strengthening the economic links between Ukraine and the Community is the approximation of Ukraine’s existing and future legislation to that of the Community. Ukraine shall endeavor to ensure that its legislation will be gradually made compatible with that of the Community.”

<sup>11</sup> Article 101 of the PCA with Ukraine stipulated: “This Agreement is concluded for an initial period of ten years. The Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of denunciation of the Agreement six months before it expires.”

<sup>12</sup> These programs include TACIS (for its eastern neighbours and Russia) and MEDA (for its southern Mediterranean neighbours), as well as thematic programmes such as EIDHR (European Initiative for Democracy and Human Rights). The budgetary period covering 2000-2006 releases funds of approximately €5.3 billion for MEDA and €3.1 billion for TACIS; in addition the European Investment Bank lends approximately €2 billion to MEDA beneficiary countries and €500 million to TACIS beneficiary countries.

<sup>13</sup> This is based on the Financial Perspective 2007-20013, Brussels, 19 December and my calculation.

<sup>14</sup> See Ingeborg Tömmel (i.E.), *Governance and Policy-Making im Mehrebenensystem der EU*, p. 7 (fn. 3).

<sup>15</sup> In the case of Switzerland, there are a number of bilateral agreements on place covering Switzerland’s relations with the EU.

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<sup>16</sup> This country approach encouraged at the same time various forms of sub-regional cooperation (Višegrad states of Poland, Hungary, the Czech and the Slovak Republics; Council of the Baltic Sea States (CBSS); Black Sea cooperation, etc.).

<sup>17</sup> The other objectives are (1) to address the new threats to security, such as nuclear proliferation, terrorism and organized crime and (2) to help creating “an international order based on effective multilateralism” (ESS 2003:9).

<sup>18</sup> “1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation. 2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.” (Art.I-57)

<sup>19</sup> Communiqué of the Conference of European Ministers Responsible for Higher Education, The European Higher Education Area – Achieving the Goals, Bergen, 19-20 May 2005, p. 1.

<sup>20</sup> For the reason of limited space, I deal with both boundaries in one place – although I agree Lavanex (2004) that both boundaries should be viewed as separate.

<sup>21</sup> Although I would argue that the NIS can be seen as a successor of the Soviet Union by default.

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