

## **The Dynamics of Widening on the Deepening of the European Union —The Constitutionalization of Enhanced Cooperation\***

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### **Abstract**

On the subject of enhanced cooperation within the EU, few scholars have tried to exploit its probable correlation with the eastward enlargement. A key question with regard to this correlation is how eastward enlargement contributed to the constitutionalization of enhanced cooperation. In the explanation of this correlation, the author argues that liberal intergovernmentalism (LI) prevails over those approaches that fail to take into account the factor of widening in the European integration. However, intergovernmental bargaining or institutional development does not happen in an *epistemological anarchy* as LI assumes. They take place under the normative influence of the European integration paradigm of that period. Then, based upon the LI and taking into account that normative influence, the author presents a

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'reluctant runners model' to correlate the widening and deepening trends in the EU. It is argued that this normative influence obliged those political leaders reluctant to the eastward enlargement to give a green light, which has contributed to the transformation of the integration paradigm since the mid-1990s. It was then under the influence of this new paradigm that enhanced cooperation was first legalized and later, constitutionalized. The aim of this article is not to come up with a new theory, but cast light on the normative dimension in the European Union and the probable contribution of widening to the European integration.

**Key Words:** enhanced cooperation, EU enlargements, integration theory, liberal intergovernmentalism

## I. Introduction

On the subject of enhanced cooperation, few scholars have tried to exploit its probable correlation with the eastward enlargement. A key question with regard to this correlation is how widening can contribute to deepening; in other words, how eastward enlargement contributed to the constitutionalization of the enhanced cooperation. In search of such correlation and contribution, a framework of analysis deduced from an appropriate approach must be established. This theoretical debate will proceed in the first section, based upon which, a framework of analysis will be presented. In the second section, I intend to employ this framework to draw insights from the inductive case study of how the eastward enlargement contributed to the constitutionalization of enhanced cooperation. In conclusion, the correlation between widening and deepening will be discussed, which might challenge those approaches that explain European integration without taking into account its successive enlargements and its normative dimension.

Before all, three key concepts must be redefined: widening, deepening and constitutionalization.

### Key Concepts

#### 1. Widening

In the broad sense of the term, enlargement is defined as a gradual and formal horizontal institutionalisation “which takes place when institutions spread beyond the incumbent actors, that is, when the group of actors whose actions and relations are governed by the organisation’s norms becomes larger” (Schimmelfennig & Sedelmeier, 2002: 503). Such a definition differs from the narrow sense of the term, which qualifies enlargement as a ‘simple increase of formal membership’. In this paper, I employ the latter because the former tends to focus its

attention on the expansion of EU governance rather than European integration itself. Only the expansion of EU governance that constituted a prelude to the later accession of new members will be taken into account in this paper.

## 2. Deepening

As for deepening, in the narrow sense of the term, it refers only to the development of 'Community method'. This method is characterized by a strong agenda-setting role for the Commission: the right of the European Parliament (EP) to amend proposals, decision-making by Qualified Majority Vote (QMV) in the Council, co-decisions by the EP in a majority of cases, and the introduction of oversight by the European Court of Justice (ECJ) (Wallace, 2000: 28-29). In other words, only the development of the European Communities (EC), not the EU as a whole, constitutes further European integration. I reject such a narrow definition of deepening.

First, such a definition as inspired by unification through common legislation at the Europe-level does not correspond to European integration since the early 1990s. Instead of searching for a uniform regulation through legal harmonization and supranational law-making, European integration now aims to create efficient and transparent governance that draws it closer to its citizens (De Búrca & Scott, 2001: 2-4). Second, throughout the history of European integration, a majority of those inter-governmental mechanisms or loosely integrated policies between member states have been transformed into a prelude to the expansion of a later integration. Such an evolution is best illustrated in the development of cooperation in the area of the former Justice and Home Affairs (JHA). Established outside of the Community method by the Treaty of Maastricht, it is now incorporated into the body of the new Union in the Constitutional Treaty. The Council of Ministers will be able to adopt 'European regulations' or 'European decisions' according to 'ordinary legislative procedure' to regulate all measures

concerning the issues of freedom, security and justice (AFSJ), with the exception of those impinging on several politically sensitive areas.<sup>1</sup>

I therefore prefer to define deepening in the broad sense of the term, based upon Schimmelfennig and Sedelmeier's institutionalist concept. Deepening is viewed here as 'vertical institutionalisation' (Schimmelfennig & Sedelmeier, 2002: 503), which includes all the institutionalising developments of inter-governmental cooperation, common policies and Community methods inside the EU.

### 3. Constitutionalization

The third key concept in this paper is constitutionalization, which is now widely used in the current debate on EU constitution-making. A majority of literature bases its definition of constitutionalization in two contexts. From a historical viewpoint, constitutionalization is defined as a process that aims to establish a constitution like that of a state. "Increasingly, however, attempts have been mounted to view the European polity through the prism of constitutionalism, but again this tends to take the form of a direct translation from the paradigm of the state" (Walker, 2001: 23). In other words, the EU constitution-building can be seen as part of its federation-building, of which the most important dimension is the transfer of national sovereignty to the EU. In the legal context, constitutionalization means the construction of a constitutional order, based upon which a legal hierarchy has been organized inside and between the EU and its member states. Legalization consequently becomes the predominant indicator of progress

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<sup>1</sup> These fields are the establishment of the European Public Prosecutor's Office (Article III-175), judicial cooperation in the field of family law (Article III-170), the identification of new areas of judicial cooperation in criminal matters (Article III-172) and the adoption of other instruments of judicial cooperation in criminal matters (Article III-171) and police cooperation (Article III-176, 178), where unanimity is required.

for constitutionalization. Nonetheless, neither of these two approaches relates constitutionalization to the legitimacy of the EU, a key issue in the European integration in the post-Cold War era. Therefore, Shaw and Weiler both suppose that neither of them is suited well to constitutionalism in the context of the EU, where 'we the people' does not exist at all (Shaw, 2001: 356; Weiler, 2002: 568). Constitutionalization of the EU thus concerns not only its federation process or legal construction, but also reconstruction of EU legitimacy. This causes me to employ the three-pillared institutionalism concept presented by Scott and developed by Laffan to analyze the constitutionalization of enhanced cooperation of the EU (Scott, 1995: 33-62; Laffan, 2001: 709-727). In the constitutionalization of enhanced cooperation, I focus on the legalization of its regulatory pillar, justification of its normative pillar and internalization of its cognitive pillar. In other words, the constitutionalization of enhanced cooperation happens when the latter is incorporated into the regulatory pillar of the EU, explained as compatible with its fundamental values and norms, and accepted by a majority of its members as an integral part of European integration.

## II. Theoretical Debate and the Framework of Analysis

### A. Theoretical Debate

Few scholars have tried to correlate the development of enhanced cooperation with the eastward enlargement. Stubb introduced a useful typology of differentiated integration (1996: 283-295), while Philippart and Edwards presented a detailed analysis of closer cooperation, article by article, of the Treaty of Amsterdam (1999: 87-108). Warleigh adopts Mitrany's functionalism which "provides a means of understanding the current state and likely future of European integration, both

normatively and empirically, which is beyond the scope of other international relations-based theories” (2002: 26). He, nonetheless, aims to justify rather than explain his favorable flexible integration approach of *Europe à la carte*, which “allows for continual difference between member states’ capacity and will to participate on an issue-by-issue basis”. “It neither assumes all member states seek essentially the same goal nor rules that out” (2002: 87). Walker adopted some neo-realist viewpoints in his explanation of enhanced cooperation. “It is not the product of a single fixed or even evolving vision. Rather it has unfolded in a sequence of strategic negotiations and gambits, of policy-driven initiatives within discrete sectors, and of accommodations of new geopolitical forces” (2001: 11). Shaw intends to illustrate the coexistence of enhanced cooperation with that of constitutionalization. Based upon his analysis of the Canadian Supreme Court’s judgment on the *Reference on the Session of Quebec*, Shaw insists that constitutionalism and flexibility are “complementary rather than contradictory elements of the emergent EU polity” in the post-national context, for the constitutionalization not only anchors common societal values within a stable framework of divided powers, but also formalizes the recognition of cultural differences within multi-national and often divided polities (2001: 343). Shaw’s thesis finds an echo in Weiler’s conception of ‘constitutional tolerance’ in which ‘otherness’ replaces ‘constitutional demo’ as the cornerstone of EU constitution-building (Weiler, 2002: 568).

A review of the related literature obliged me to search for a framework of analysis deduced from an approach appropriately suitable to the subject of this paper. As it can take into account the factor of widening as a dynamic of deepening, liberal intergovernmentalism (LI) seems more suitable than other approaches to explain the correlation between widening and deepening in the EU. In an explanation of the dynamics of integration, rational choice institutionalism puts an emphasis on

supranational leaders and institutions, while the historical institutionalism underlines the path-dependency (Hall & Taylor, 1996: 936-957). With 'spill-over' as the core concept, neofunctionalism intends to explain European integration from the inside out (See Burley & Mattli, 1993: 41-77; Corbey, 1995: 253-284; Tranholm-Mikkelsen, 1990: 1-22).

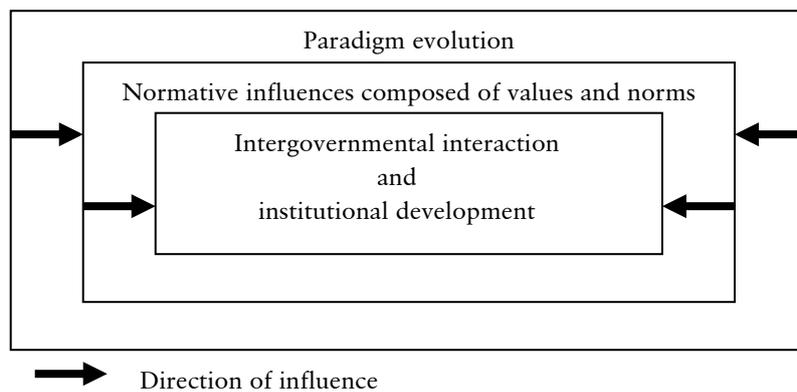
Furthermore, as widening and constitutive deepening are highly political issues that must result from intergovernmental negotiations, as LI argues, the member governments or leaders without doubt play a dominant role in this process. Although LI's rational assumption, economic determinism and negligence of non-static actors are fiercely criticized by other approaches, nobody denies the dominant role member states play in such a constitutive and structural process as regional integration. "It would be folly to suggest that the member states do not play a central part in policy development within the European Union" (Pierson, 1996: 123-163). No eastward enlargement or enhanced cooperation can happen without a consensual agreement of member states.

Even LI's assumption that member states act as a unitary actor in this process is not always put into doubt in the enlargement process and in the development of enhanced cooperation. In contrast to most EC/EU policies, decisions both on enlargements and the establishment of enhanced cooperation are under taken by leaders at the highest level, in which political consideration consequently prevails over economic, sectoral and regional interests. Among successive enlargements of the EC/EU, none of the decisions made among its member states were driven by economic interests, rather, all were taken based upon political or strategic considerations, thus thwarting economic, sectoral or regional considerations (Deubner, 1982: 45-47; Gerbet, 1983: 348-349; Grant, 1994: 128; Guigou, 2000: 59; Macmillan, 1971: 435; Maillard, 1995: 268-269; Ross 1995: 28; Young, 2000: 155). Throughout the 1990s, the average rate of support in the EU for eastward

enlargement was never above 50% (Standard EB 46), but this could still not prevent European leaders from enlarging the EU toward their Eastern neighbors. Regarding enhanced cooperation, member governments agreed to the ‘grand idea’ of flexibility once the three European powers endorsed it even though they did not detail their exact positions on this issue at the IGC 1996-1997 (Tuytschaever, 1999: 34). They seemed to prefer to make clear their ‘red lines’ on this novel issue while waiting for its implementation and later development. No evidence exists that any interest group, local authority or ministerial bureaucracy exercised influence on the formulation of policy preferences regarding enhanced cooperation.

However, LI’s rationality of member states and their leaders should be bounded, as some sociological institutionalist approaches insist, because no widening, deepening and contextual influence from within or outside the EU exists in an *epistemological anarchy*. They work under the normative influence of the European integration paradigm of that period, which structures intergovernmental bargaining and the institutional

**Figure 1 LI Under Normative Influences of European Integration Paradigm**



development afterwards. This normative influence consists of values and norms. Values indicate the moral dimension and fundamental objectives of the polity while norms establish a framework for behavior, indicating how things should be done and which are the legitimate means to pursue certain ends (Scott, 1995: 37; Laffan, 2001: 714-717). The normative influence evolves as the European integration paradigm changes (Figure 1). Before analyzing correlation between widening and deepening according to LI, it is therefore necessary to clarify the evolution of European integration paradigms and its normative influences.

## B. Evolution of Peace-Building Paradigms in Europe

Europeans have been competing in the race for the construction of a durable peace on the continent for centuries. In European History, paradigms based upon different values and norms have successively dominated peace-buildings (Table 1).

In the century following the Peace of Westphalia of 1648, the doctrine of *raison d'Etat* grew into the guiding principle of European diplomacy, which led later to the establishment of an *equilibrium* strategy which resulted from the process of thwarting a particular country's attempt to dominate (Kissinger, 1994: 58-67). The doctrine of *raison d'Etat* was reshaped by nationalism emerging as a normative force in eighteenth-century Europe, while *equilibrium* developed into the balance of power mechanism (Kissinger, 1994: 78-102; Knutsen, 1992: 163-167; Duroselle, 1991: 121-124). The Concert of Europe, based upon the balance of power, was endorsed by the Vienna Conference in 1814 and became the paradigm in the search for peace-building in Europe. This paradigm collapsed with the onset of World War II, leaving space for Europe-building in this aftermath.

After 1945, Europe-building became the paradigm in the



search for a durable peace, at least in Western Europe, and to this end, numerous approaches were presented. The Council of Europe represents a classical intergovernmental approach; the EC, an integration movement; and European Free Trade Association (EFTA), a free tradist solution. All of them claimed to pursue European unity to some degree, and insist upon the common value of co-prosperity among Europeans. The Council of Europe aims to “achieve a greater unity between its members” (Article 1-a of the Statute of the Council of Europe). EFTA intends to establish “closer economic cooperation” (preamble to the Stockholm Convention), while the EC serves unity and peace, for “[a] united Europe was not achieved and we had war” (Schuman Declaration). However, as early as 1961, the EC prevailed over the other two approaches, as even the leading country of the intergovernmental and free tradist alternatives, Great Britain, decided to accede to the EC. The period 1945-1961 ended with the triumph of the integrationist approach. “British policy towards Europe has frequently been influenced by the expectation that the initiatives of its continental partners would fail.” (Dell, 1995: 284) This British policy fails only when the initiatives of its continental partners succeed.

Since then, the EC integration has been crowned the paradigm of Europe-building, representing the legitimate path towards the consolidation of peace and reconciliation, and a unique counterbalance to the once omnipotent nationalism. Integration was viewed as the development of a centralized regulatory power guaranteed by its institutional mechanism as well as a new legal order. It was also an elite-driven building based upon the Monnet mode, well illustrated in the preparation for intergovernmental negotiations and an inter-institutional balance of power (Wallace, 1997b: 42-45). Before each IGC, a ‘wise men’ committee and expert group were charged to present a draft as the basic document of negotiations; in essence, the EP was an advisory assembly rather

than a legislative parliament.

The end of the Cold War as well as the prospect of enlargement seemed to transform the EC integration approach. Instead of searching for a uniform regulation through legal harmonization and supranational law-making, European integration now aims to create efficient and transparent governance that gets closer to its citizens. The elite-driven movement has stepped down to be replaced by a popular-supported construction, while uniform integration has been mitigated by flexible integration (De Búrca and Scott, 2001: 2-4). The wise man committees mentioned earlier are now replaced by the parliamentary convention before each IGC, and the EP is on the way to becoming a full participant in the EU decision-making process. “While it is not possible to identify a specific point in time,” said De Búrca and Scott, “it can broadly be said that over the past ten years, the paradigm of uniformity, homogeneity and one-directional integration is gradually replaced by one of flexibility, mixity and differentiation. (2001: 1-2)”

### C. Framework of Analysis: The ‘Reluctant Runners’ Model in Widening and Deepening of the EC/EU

The integration paradigms exercise their normative influences on intergovernmental interactions as well as institutional development throughout widening and deepening in the European integration.

As the widening process involves assessments from the Commission, opinion—and now approval—of the EP, and a consensus of all Member states, all members act as equal participants in the ‘race,’ and each holds veto power. Widening the process starts as states outside of the EC/EU, attracted by its success, decide to apply for its membership. Such an application triggers a new round of intergovernmental interaction between member states. If the applicants are numerous enough or some

applicants are politically influential, such a widening would trigger or contribute to a transformation of the integration paradigm.

Throughout such interaction and transformation, participants are divided into three groups. Group I consist of supporters of the enlargement, who tend to advocate widening without deepening, and argue that openness to all European countries is an essential part of the values and norms of European integration. The existence of supporters is indispensable to the initiation of the widening process; however, it is far from being a sufficient condition. Others, usually led by the Commission, constitute Group II and may be reluctant to widen the EU, for widening is, in their eyes, a threat to the Community *aquis*. No widening should take place without equivalent deepening efforts. The rest, Group III, stand against the widening, which represents a threat to their vital interests. A coalition between Group II and III constitutes the 'reluctant runners' in the race towards enlargement. (Table 2)

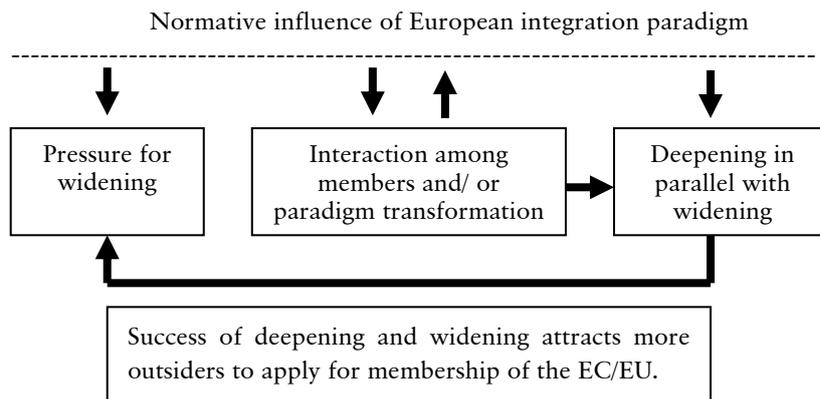
**Table 2 Reluctant Runners in the Race Towards EC/EU Enlargements**

Groups	Runners	Widening and deepening
Group I	Motivated Runners	Widening without deepening
Group II	Reluctant runners	No widening without deepening
Group III	Reluctant runners	No widening

Bargaining then begins among these runners, who compete to defend their interests not only under the institutional structure of the EU but also under the pressure of values and norms imposed by the European integration paradigm of that period. In other words, they have to defend their positions inside the EC/EU as well as 'in the name of Europe,' for EC—or EU—constructions have become the dominant paradigm in the search for a durable peace in Europe since the early 1960s.

“Europeanization refers not only to the institutionalization of action, but also to the institutionalization of meaning. (Lavenx, 2001: 853)” As a result, only a proposal to deepen the EU in parallel with widening can ally Groups I and II, thus dividing and isolating Group III. According to LI, this proposal must also compromise the British, French and German positions on the issue of enlargement. Isolation grows as widening is viewed more and more as a symbol of the success or failure of European integration. Under the pressure of the values and norms of the European integration paradigm of that period, those who were in opposition to the enlargement are easily condemned as ‘anti-European,’ ‘selfish nationalists,’ or ‘irresponsible Europeans,’ poisonous to all mainstream political leaders in Europe. Moreover, they are under the threat of exclusion from further integration. “Once an international institution has been created,” said Moravcsik, “exclusion can be expensive both because the nonmember forfeits input into further decision making and because it forgoes whatever benefits result. (1991: 26)” Isolated opponents to widening are consequently inclined to reconcile in exchange for some guarantee of their interests.

**Figure 2 Correlation between Widening and Deepening According to the ‘Reluctant Runners’ Model**



In the end, all runners will agree upon a compromise that gives a green light to widening and institutional adaptation but that also is able to satisfy the reluctant runners with some side-payments. These side-payments are offered quite often in terms of financial promises or institutional arrangements that permit the smaller member states to feel compensated. Deepening then proceeds in parallel with widening in the EU. (Figure 2)

### III. How Widening Furthers Deepening: The Constitutionalization of Enhanced Cooperation

In this section, I will analyze the development of enhanced cooperation in the EU based upon the above mentioned frame—work and also focus on its correlation with eastward enlargement. The first sub-section will illustrate the reluctance of a majority of national and supranational leaders of the EU to respond to demands for eastward enlargement in the early 1990s. The second will explain how the normative influence forced those reluctant runners in the EU to participate in the race towards eastward enlargement in spite of their reluctance, and how, then, widening triggered intergovernmental interaction and paradigm transformation in the EU, in which the enhanced cooperation was legalized and began the process of constitutionalization. In the third sub-section, the process will be detailed from the legalization of enhanced cooperation to its constitutionalization.

#### A. The Reluctant Runners Vis-à-vis the Eastward Enlargement

In the 1990s, liberated from Soviet tutelage, the Central and Eastern European Countries (CEEC) showed the same zeal for joining the EU as did as Greece, Spain and Portugal for the EC in the second half of the 1970s. Polls showed that a

majority of the populations were in favor of membership in the EU, though some disadvantages were seen in the form of threats to domestic production or price increases (Müller-Graff, 1997b: 22-24). Such hesitation was powerless in the face of a general zeal for going 'back to Europe,' as their accession to the EU and NATO demonstrated. Despite this zeal from Eastern Europeans, the majority of West European leaders were reluctant to enlarge the EU.

**Group I:** Led by the UK, the former EFTA states, which intended to build the EU into a loosely integrated market, welcomed the enlargements which would widen the market and loosen integration. They welcomed these enlargements, without considering any deepening steps prior to widening. Since the very beginning, argued Young, London adopted a minimalist attitude towards any proposal to strengthen the EC/EU institutions (Young, 2000: 155). As early as November 1989, British Prime Minister Margaret Thatcher demanded that the EC offer the CEEC a model of association which includes a promise of membership (Financial Times, November 15, 1989). She was reported to have mentioned to Mitterrand at the European Council in Strasbourg in December 1989 that "the collapse of the Berlin Wall meant the EC should slow down European integration." (Forster & Wallace, 2001: 132) The Irish government also stated in April 1990 that the "process of association [with CEEC] will end in full membership." (Financial Times, February 6, 1990) Denmark saw no problem in admitting the CEEC to the EC/EU and regarded the enlarged EU as an opportunity to strengthen its influence in the North and East of Europe, which they hoped would, by no means, be dominated by the newly unified Germany (Lee & Ackelsbert, 1993: 7-8).

**Group II:** Germany, Benelux, the Commission and the EP worried about the impact of these enlargements upon European integration as a whole. An immediate enlargement, they supposed, would put the EU structures in jeopardy. They

preferred to consolidate the existing Union structure and, in parallel, build partnership or associative frameworks with the applicants in order to stop or, at least, retard the accession process. Delors was reported to be alerted as early as fall 1989 that even the CEEC might one day apply for membership in the EC. Therefore “he thought it urgent to reinforce the EC’s institutions before new members joined the club” (Grant, 1994: 128). At the General Affairs Council meeting of 12 November 1990, the Dutch and Belgian ministers opposed any reference to future membership of the CEEC, even if such a reference was non-binding (Torreblanca, 2001: 105). As for the German government, it was in a dilemma. To make German unification acceptable to its Western neighbors, it had to offer to strengthen the EC; to make it acceptable to Eastern Europe, particularly Poland and Czechoslovakia, it could not refuse any prospect of future membership of the CEEC. In the end, however, German leaders chose the satisfaction of their Western partners as their policy priority. Foreign Minister Genscher told the CEEC leaders in December 1991 that Germany, as well as other member states, should first endeavor to conclude the Maastricht Treaty before considering any widening steps towards the East. A divided and loosely-articulated Community, said Genscher, would be unable to prevent disintegration, economic collapse and nationalist tendencies from spreading through the whole of Central and Eastern Europe (Financial Times, December 9, 1991).

**Group III:** All the southern countries worried about the shift in the centre of gravity towards North and East Europe after German unification and the future eastward enlargement. Nonetheless, their opposition differs in degree. Spain and Portugal showed therefore a strong reluctance to widen the EU towards the CEEC. As early as in December 1989, Spanish Prime Minister González understood that his natural desire to support democratization in the CEEC contradicted the interests of Spain in the EC. Competition from low salaries in Eastern

Europe, German 'distraction' in the East and the shift of the centre of gravity in the EC eastward represented real threats to Spanish interests (Torreblanca, 2001: 65). Portuguese leaders shared the same worries with Spain. Both Spanish and Portuguese leaders therefore argued that financial aid given to the CEEC should not be greater than that granted to developing and Mediterranean countries (Torreblanca, 2001: 117). In fact, they even preferred to extend the EU first to the two Mediterranean islands, Malta and Cyprus.

As for Greece, it would have been expected to align with Spain and Portugal; however, its position in the Eastern Mediterranean justified its more proactive attitude toward the probable enlargement towards the CEEC. In particular, given that its resources and capacities were limited, it had to rely on the EC to pursue its interests, which easily resulted in its acceptance of a strengthened and widened EC, if its interests were guaranteed (Torreblanca, 2001: 66).

Italian leaders shared the same worry. "In a common market always weighted towards the centre-North of the continent," said De Michelis, then Italian Foreign Minister, "we run the risk of remaining attached to Europe by only a strip of border with France." (Freedman, 1990: 515) However, for Italy, the priority was first to enlarge the EC/EU to Austria and then to tie Italy, Austria, the then Czechoslovakia and even some Yugoslavian states closer together. Only with such a group in support, could Italy hope to compete with Germany and France in an enlarged EU. Italy could therefore accept an enlargement that permits it to organize a group of member states as a power base vis-à-vis France and Germany (Torreblanca, 2001: 64).

As for France, it hesitated to oppose enlargement vigorously so as not to damage the Franco-German tandem, which had been the French policy priority since March 1983 (Guigou, 2000: 72-73; Védrine, 1996: 290-291). On these issues, France was inclined to make a deal with Germany rather

than intransigently oppose a new German oriented Europe. “De Gaulle was opposing to the British accession for ten years,” said a leading French political scientist, “but he failed completely in the end. French leaders never forgot that lesson. They now prefer to make a deal with Germans on the issue of eastward enlargement rather than oppose it stubbornly.”<sup>2</sup> As early as September 1990, Mitterrand and Kohl solemnly declared that France and Germany would adopt a common policy on the subject of enlargements (Parzymies, 1999: 71).

**Table 3 Reluctant Runners in the Race Towards Eastward Enlargement and Constitutionalization of Enhanced Cooperation**

Groups	Runners	Widening (eastward enlargement) and deepening (constitutionalization of enhanced cooperation)
Group I	Motivated runners: UK, Ireland, Denmark	Widening without deepening
Group II	Reluctant runners: Germany, Benelux, EP, Commission	Widening with deepening
Group III	Reluctant runners: Spain, Portugal, Greece, France, Italy	Neither widening nor deepening

Source: With reference to Stubb, 2000: 167; Torreblanca, 2001: 21-134

Jointly supported by the second and third groups, before the first half of 1993, the then EC and its member states tried their best to deter the enlargements by offering the applicants for accession a framework of association or partnership as an alternative to full membership. The EC/EU therefore offered some aid programs as an immediate response to the CEEC and, later, association links packaged under the Europe agreements as a long-term strategy. The Europe Agreements, based upon

<sup>2</sup> Interview by author with Philippe Moreau Defarges in Paris on May 10, 2003.

the former Article 238 EEC Treaty, in the first place emphasized the need for political dialogue, laying down the basic framework for cooperation and the incorporation of the EC's competition rules inside the CEEC. Though such practices would help 'Europeanize' the CEEC, it never guaranteed future accession to the EU, as in the similar agreements with Greece and Turkey (Maresceau, 1997: 3-23; Müller-Graff, 1997a: 27-40). The Europe Agreements thus aimed to enlarge the EU governance without increasing its membership.

## B. The Normative Influence That Triggered Widening and Deepening

Refusing the accession demands of the CEEC found justification in the defense and consolidation of European integration. No widening prior to deepening should be allowed lest those *acquis* be shaken. In a survey conducted in mid 1995, 55% of all European citizens agreed that "existing Member states should take more joint action" in the EU while only 13% gave priority to immediate enlargement (Standard EB 45: Fig. 4.1).

However, in the first half of 1993, the above mentioned designs proved to be a failure in stopping or even deferring the accession process. The Europe Agreements did not succeed in building a 'concentric Europe' as expected, and, in fact, a green light was given to eastward enlargement by the Copenhagen European Council in June 1993, in which Germany played a key role. Some scholars argue that financial consideration might have persuaded German leaders to launch an immediate eastward enlargement, which would better meet German interests than an association settlement (Schmidt, 1996: 214-215). Between 1991 and 1992, the German government found it financially impossible to simultaneously take responsibility for the reconstruction of its East *Länder*, aid eastern neighboring countries and continue making financial contributions to the EC. German insistence upon the eastward

enlargement could have launched a debate on the financial reform of the EU and obliged other European countries as well as the EU to directly participate in the reconstruction of the East.

Nonetheless, it is the normative pressure that played a dominant role. On the one hand, the Kohl government tried to use the eastward enlargement to negate the supposition that a reunified Germany intended to build the CEEC as its own *einflussphäre* (Schmidt, 1996: 214-215). On the other hand, uncertain attitudes toward the CEEC resulted in more and more criticism in Europe, which obliged all member states to review their policies toward the CEEC (Sjursen, 2002: 502-504). "Postponing enlargement would just create greater uncertainty for all European countries in the era that has succeeded the cold war" (Dewatripont et al., 1995: 2). In particular, Germany was more sensitive than any other EU member state to a possible return of authoritarian regime change in the CEEC (Hendriks and Morgan, 2001: 47-48). "No German political leader has ever opposed to eastward enlargement," said a German diplomat in Brussels, "but they were afraid that Germany was not well prepared before this process was triggered."<sup>3</sup> The German government was therefore forced to consider a formal eastward enlargement, which resulted in its new position in the Copenhagen European Council in June 1993.

The possible eastward enlargement's entry into the agenda immediately cast doubts upon the forty year long integration model. Considering the differences between the CEEC and their western neighbors, the search for uniform legalization throughout the enlarged and more heterogeneous EU was called into question. These doubts echoed some drift elsewhere on the part of elites pushing for good governance, which can now be separated from a unified government. Efficiency is no longer necessarily equated with uniform integration through

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<sup>3</sup> Interview by author with Michael Reuss in Brussels on May 8, 2003.

centralized regulation and distribution, but with coordination through more limited or different modes of regulation. ‘Subsidiarity’ was therefore created to implement a vertical flexibility into the renewed EU governance, while the ‘open method’ was launched to implement a horizontal flexibility. Both subsidiarity and the open method are EU strategies to accommodate diversity among member states in the post-Cold War period (Philippart & Ho, 2001: 305).

It was under such circumstances, and in the shadow of their eastern neighbors’ accession demand that the EU leaders and elites began talking about differentiated integration, which constituted part of the new integration model while also existing as a strategy in the post-enlargement era. Preparatory steps for eastward enlargement were then taken in parallel with the development of enhanced cooperation in the EU.

As early as June 1994, the Corfu European Council decided to establish a Reflection Group, one of whose missions was to examine measures “deemed necessary to facilitate the work of the institutions and guarantee their effective operation in the perspective of enlargement” (European Council, 1994: 16). In 1994-1995, numerous projects or ideas about flexible integration were presented. German leaders were then faced with two multi-integration scenarios presented by the French and the British, respectively. During the campaign in Ellesmere Port and later in his Leiden speech in June 1994, John Major made clear the differentiated integration favored by the British: a Europe *à la carte*, which would allow each of its member states to pick and choose the policy area in which it would like to participate, while at the same time maintaining a minimum number of common objectives (Stubb, 1996: 288). With the exception of a few core issues like the Common Market, other issues were to be dealt with bilaterally between member states (Muscardini, 2003: 4). The French leaders, in spite of their political inclinations, preferred to create a ‘smaller Europe’ in an enlarged EU, of which France and Germany would

constitute the *noyau d'ur* and enjoy joint leadership to some degree. Delor's concentric Europe, Mitterrand's *géométrie variable* and Balladur's *eccentric circles* all confirmed this trend. In order to safeguard its influence inside the EU after its enlargement, the French government designed a long-term strategy that aimed to establish a Europe of 'three circles'. The third circle would consist of the Commonwealth of Independent States (CIS) in the East and those Mediterranean countries in the South; they will be partners, not members of the EU. The second circle would consist of the enlarged EU, which could one day encompass thirty member states including those in Central and Eastern Europe, the Balkans, Baltic States, Slovenia, Malta and Cyprus. The first and core circle, named '*zone de solidarité particulière*' or '*circle de coopération renforcée*,' would be created among those self-selected groups of existing EU members orbiting the Franco-German coalition. The two primary policy areas targeted by French leaders to serve as the foundation for this core circle were military cooperation and monetary union (Niblett, 2001:106-107). "The French dreamed to re-establish a core group based upon the Franco-German cooperation," said a leading French historian, "and supported by its neighboring countries inside the enlarged EU to counterbalance the shift of centre of gravity to North and East after the northern and eastward enlargements."<sup>4</sup>

The Germans, in general, embraced the French version, which constituted one of the few French victories at the 1996 IGC (Moravcsik & Nicolaidis, 1999: 75). In Kohl-Chirac's joint letter in December 1995, the two leaders insisted that "willing and able member states should not be prevented from closer cooperation so long as cooperation remained within the established institutional framework and was open to all Member states of the EU" (Stubb, 2000: 160). The British

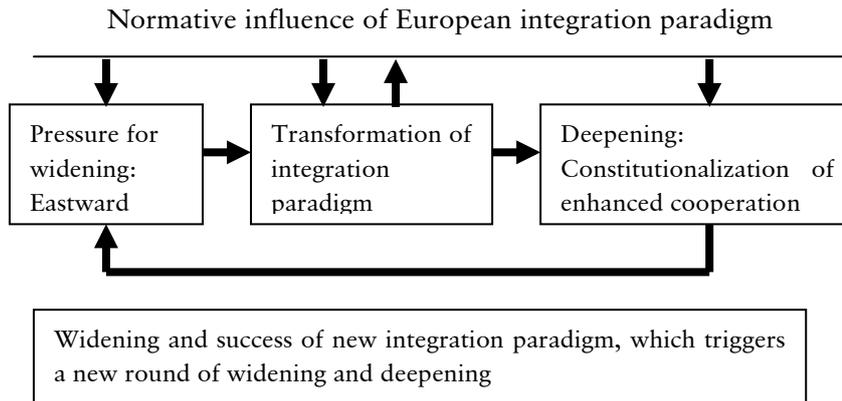
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<sup>4</sup> Interview by author with Georges Soutou in Paris on November 9, 2004.

government, though afraid of being excluded from the closer cooperation demanded by Franco-German coalition, because of the prevailing internal division inside ruling and opposition parties on the European issue, failed to present any alternative that could win support from other member states to counterbalance the Franco-German initiative (Foster & Wallace, 2001: 134-144). The British could now only fight in retreat, requiring stricter conditions to launch future enhanced cooperation. In the end, the Amsterdam and Nice treaties formalized the provisions on enhanced cooperation.

Agreement on enhanced cooperation contributed to the coalition between France and Germany on the issue of eastward enlargement, which in turn led to a collapse of the alliance between Groups II and III, who, as reluctant runners, opposed this enlargement. On the one hand, the probable contribution of enhanced cooperation to the consolidation of the EU persuaded members of Group II to consent to this enlargement. On the other hand, without the French firm support, Group III was finally obliged to accept the enhanced cooperation and give a green light to eastward enlargement in exchange for such side payments as the Euro-Mediterranean Partnership (EMP) (Xenakis & Chrysochoou, 2001: 64-65). The EMP consists of political, economic and socio-cultural baskets that aim to establish a political dialogue at regular intervals between the EU and those non-EU Mediterranean countries, and install a Mediterranean Free Trade Area (MEFTA) principally on industrial goods by the year 2010. In order to achieve these goals, the EU promised to grant at least 1,700 million ecu or euros per year from structural funds and development policies to the Mediterranean region (Xenakis & Chrysochoou, 2001: 74-82). At Madrid in December 1995, the European Council called on the Commission to draw a 'composite paper on enlargement.' At this request, the Commission presented its famous 'Agenda 2000' in June 1997. Negotiations on accession of the CEEC were opened in March 1998. (Figure 3)

**Figure 3 Eastward Enlargement and Constitutionalization of Enhanced Cooperation**



### C. From Legalization to Constitutionalization of the Enhanced Cooperation

Based on Scott and Laffan's institutionalism, the constitutionalization of enhanced cooperation shall include legalization of its regulatory pillar, justification of its normative pillar and internalization of its cognitive pillar. All three pillars began their constitutionalization processes in the mid-1990s in parallel with the preparations of the EU for eastward enlargement.

#### (A) Legalization

Though it is repeated by Scott and Laffan that the regulatory pillar is dominant among the three institutional pillars, neither of them has defined it as clearly as the other two pillars. As regulation is based upon the rule of law, and the EU is often identified as a 'transnational rule-of-law governmental system' (Sweet & Caporaso, 1998: 101), it could be concluded that this regulatory pillar consists of legal acts combined with institutional design. The former is a tool that can only be

mobilized with the help of the latter.

The first step to legalize enhanced cooperation inside the EC/EU occurred at the IGC 1996, which aimed to put an end to the partial cooperation outside the EC/EU. The enhanced cooperation was then established in the first and third pillars with the so-called emergency brake which is similar to the Luxembourg Compromise. The Treaty of Nice extended this cooperation to the CFSP, while the emergency brake was lifted in the first and third pillars. The Constitutional Treaty (CT) made a further step in lifting this brake regarding the CFSP.

According to the current treaties and future CT, enhanced cooperation shall be initiated and implemented inside the same EC/EU institutional structures. In the Communities, any member state shall submit its request to the Commission, which then forwards its proposal to the Council. With regard to police and judicial cooperation in criminal matters, the member states submit their demands either to the Commission or directly to the Council if they are neglected by the Commission. In both cases, the Council shall then act by QMV on a Commission's proposal or the member states' initiative. If any member state requests that the matter be referred to the European Council, the Council can only act by QMV after the matter has been raised in the European Council (TEU Art. 40b and TEC Art. 11.2). The Constitutional Treaty (CT) groups the two fields into one outside of 'exclusive competence and the CFSP,' where authorization shall be "granted by a European decision of the Council, which shall act on a proposal from the Commission and after obtaining the consent of the EP" (CT Article III-419.1).

In the area of the CFSP, member states that wish to establish enhanced cooperation shall address a request directly to the Council. The request is then forwarded to the EP for information and to the Commission for reviewed opinions on the consistency between the request and EU policies. The Council then acts by QMV. Nonetheless, if any member state

intends to oppose its adoption by the QMV, the Council may act by QMV to refer this matter to the European Council, which shall decide the issue by unanimous vote (TEU Art. 23 and 27c). Any member state can consequently issue a *de facto* veto at the Council and later at the European Council, although no matter shall contain military or defense implications (TEU Art. 27b). The CT maintains the vote by unanimity, abolishing any referral to the European Council. A *parasselle* is also established which permits the Council to pass the vote by unanimity to the QMV regarding enhanced cooperation, where only those “decisions having military or defense implications” are excluded (CT Article III-422).

The CT also allows those member states, “whose military capacities fulfill higher criteria,” to establish “permanent structured cooperation” in the Common Security and Defense Policy (CSDP) (CT Art. I-41.6). The member states shall notify their intention to the Council and EU Foreign Minister. The Council shall then act by a QMV after consulting the EU Foreign Minister (CT Art. III-312).

Any member state that wishes to participate in the enhanced cooperation shall notify its intention to the Council and the Commission. In principle, within four months, the Council shall act by QMV if it concerns the CFSP or former JHA (TEU Art. 27e & 40b). In the Community field, the Commission, instead of the Council, shall be the arbiter (TEC Art. 11a). The CT modifies the rules of participation, as regarding the participation in the enhanced cooperation of the CFSP, member states shall notify the Council which “shall act unanimously” (CT Article 420.2). As regards CSDP, the Council composing of participant member states can act by QMV to confirm participation of any other member state after the structured cooperation is created. Different from the enhanced cooperation in the CFSP, a participant member country in the structured cooperation in CSDP may risk being expelled if it “no longer fulfils the criteria or is no longer able

to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation” (CT Article 312.4). In this case, the Council, composed of participant member states, shall adopt a European decision suspending the participation of the member state concerned.

On issues other than the CFSP, the Commission shall decide on whether to “confirm the participation”. However, if the demand of participation is rejected, member states concerned can refer it to the Council, which shall act by QMV (CT Article III-420.1).

What kind of legal instruments will be employed to implement the enhanced cooperation? Title VII of the TEU allows the member states to participate in the enhanced cooperation to adopt ‘acts and decisions’ for such an implementation. According to Articles 27a.2 and 40.1 of TEU, Article 11.3 of TEC and Article III-422 of CT, all legal instruments in the EC/EU shall be respectively employed to implement the enhanced cooperation. In the execution of enhanced cooperation in the EC, the ECJ shall continue to have jurisdiction over all these acts. Such a jurisdiction is excluded from the enhanced cooperation in the field of the CFSP and any law-enforcement activity of any member state (TEU Art. 35 & CT Art. III-337).

This mechanism resulted from a compromise between France and Germany, which together sought to institutionalize the enhanced cooperation, and the other countries led by the UK, which tried their best to handicap the functioning of the CFSP (Moravcsik & Nicolaidis, 1999: 80). As a result, enhanced cooperation was legalized in 1998, but has not yet been put into application.

#### (B) Justification

However, for France and Germany, the real victory on the subject of enhanced cooperation at Amsterdam and Nice was its justification rather than legalization. The key issue here is how

to justify and pursue enhanced cooperation in the context of European integration.

From the very beginning, the authors of the Amsterdam and Nice treaties tried their best to find a solution by superimposing upon enhanced cooperation the mission to further the objectives of the EC/EU, the protection of their interests and the reinforcement of the integration process (TEU Art. 43 & CT Art. 44.1). Nonetheless, this firm statement does not mitigate worries that enhanced cooperation will result in a two-leveled European integration, leaving some countries in the second tier. “Non-participant member states,” said a British leading MEP, “especially, would never be quite sure that their interests were being protected by the arrangements, and the suspicion of discrimination would be ever present.” (Duff, 2003: 3) Enhanced cooperation needs more than a textual statement to consolidate its values in the context of European integration.

Above all, enhanced cooperation was incorporated into the TEU and TEC in order to ‘delegitimize’ cooperation among member states outside the EU structures. The Shengen accords are a key example here. They were set up outside the TEC in order to pursue, paradoxically, one of the main objectives of the Treaty as a result of opposition from certain member states. Without enhanced cooperation, cooperation outside the EU may grow strong enough to replace or threaten EU structures. “Enhanced cooperation already exists outside the Treaties (Eurocorps, EUROFOR, EUROMARFOR, etc.);” said Dini at the Constitutional Convention, “formalizing it would allow these initiatives to be brought into the Union. (2002a: 4)” For a majority of the member states, institutionalizing flexibility or enhanced cooperation “within the Union’s institutional system [is] more attractive than interstate cooperation outside the institutional system. (Kiljunen & Vanhanen, 2003: 5)” Enhanced cooperation aims therefore to save rather than destroy the European integration.

More importantly, enhanced cooperation was developed

from the opt-out practices of the late 1980s, when Great Britain was allowed not to sign the Social Protocol and the UK and Denmark were not privileged to implement the single currency. As any commitment to the European Monetary Union (EMU) would deeply divide the Tory Party, the Thatcher and Major governments were keen to play a full role in negotiating the Maastricht Treaty with the aim of securing an agreement on a procedure of 'opting-in and -out,' so that the UK could maintain its discretion about whether and when to participate. Initially, the British and Danish delegations required a general clause permitting all member states to opt in or out the EMU. This proposal was rejected however by ten other member states, which were afraid that such a clause would weaken their commitment to the EMU. In the end, the ten agreed to insert separate protocols permitting the UK and Denmark to opt out of the EMU in exchange for their support for monetary integration (Dyson, 1994: 139-154). Those opt-outs proved not to destroy or deter European integration as a whole; quite on the contrary, the single currency would never have been launched without those opt-outs (Warleigh, 2002: 4-5). Following the same logic, the partial integration based upon enhanced cooperation could contribute a great deal to the European integration as well.

Thirdly, like the subsidiarity and open methods, enhanced cooperation was created as a result of the new integration paradigm developed since the early 1990s in order to reconstruct the legitimacy of European integration. This new paradigm calls into doubt the uniform regulation model developed in the 1950s and 1960s and emphasizes its respect for the diversity of member states as well as their independence in implementing the European integration (Warleigh, 2002: 4-6; Phillpart & Ho, 2001: 334-335). According to this logic, an Italian delegate at the Constitutional Convention insisted that enhanced cooperation should be extended to the ESDN [European Security and Defense Policy]. "[The EU] is too big

and heterogeneous, especially in the light of its future enlargement. Only a minority of countries in such a large Europe will have the political will and the material means to take part in military actions” (Dini, 2002a: 7).

The behavioral code in pursuit of enhanced cooperation continues this justification effort. The first principle is equality without equity, similar to that of the design of weighted votes in the Council. All member states can require the establishment of enhanced cooperation among themselves if they are more than eight according to TEU (Art. 43) or one-third according to the CT (Art. I-44.2). Enhanced cooperation, once established, “shall be open to all Member states” “at any time” (TEU Art. 43b and CT Art. III-418.1). Another important principle is the reinterpreted solidarity that emphasizes the mutual respect between participant and non-participant countries in the enhanced cooperation. Although some member states can launch enhanced cooperation, they have to respect “the competences, rights and obligations of those Member states which do not participate therein” (TEU Art. 43 & CT Art. III-417). Moreover, those participating in enhanced cooperation “shall ensure that as many Member states as possible as encouraged to take part” (TEU Art. 43b). In other words, those involved with enhanced cooperation shall make some effort to help outsiders qualify to participate in partial integration. When participating member states adopt acts and decisions to implement the enhanced cooperation, the non-participant member states “shall not impede the implementation thereof by the participating Member states” (TEU Art. 44 & CT Art. III-417). Last but not least, all effort to establish enhanced cooperation shall respect what the EC/EU has achieved. It shall respect treaties, institutional structures, community *acquis*, and the exclusive competence of the EC (TEU Art. 43). The TEU puts particular emphasis upon the internal market, free movement and fair competition among the member states. Furthermore, enhanced cooperation shall not

form part of the Union *acquis* that accession countries all have to accept (TEU Art. 44 & CT Art. III-416). This guarantee is essential to the CEEC, which were already denied the privilege of opting out of the implementation of the Shengen Accords as were the UK and Ireland, or out of single currency as were the UK, Denmark and Sweden. Under this guarantee, the CEEC would be engaged in a scheduled process, where full participation is made conditional upon meeting convergence criteria.

### (C) Internalization

According to Laffan, the cognitive pillar consists of symbols and collective identity. The former is “constitutive of reality, connecting individuals to the social and political order, establishing orientations for interpreting the world around us.” The latter indicates the characteristics of the newborn polity that distinguished it from others, particularly from its constituent units (2001: 710-723). The key issue here is whether a majority of Europeans accept the enhanced cooperation as an integral part of Europe-building or regard it as a contributor to the construction of the symbols and identity of the EU. Owing to the fact that this mechanism has not yet been used, opinions are based upon evaluation of its institutional design and possible consequences.

A majority of the European academics listed as references in this paper seem to support this newly designed mechanism owing to the increasing diversity after the eastward enlargement. Europeans can now construct their unity only on the basis of recognition and acceptance of the diversity among them. No regulatory model, soft law, benchmarking and policy transfer contributing to diminish diversity “indeed have [such] a genuine potential” as the “flexible approaches over the 1990s” (Philippart & Ho, 2001: 333-334). Intergovernmentalists, supranational functionalists and supporters of multi-level governance all agree that constitutionalization of enhanced

cooperation would have a fairly positive consequence on European integration as a whole: Member states would retain a greater control over the process of European integration, functional integration would keep advancing despite opposition from some member states, and efficiency of governance would be improved (Philippart & Ho, 2001: 330).

Furthermore, the birth of the Euro and the Shengen Space have refuted those arguments, according to which any partial integration shall inevitably weaken the EU as a whole and put into doubt such core values as solidarity and equality. It is without doubt that the common currency has strengthened the common identity of the EU. Even people of those three opt-out countries “do not believe their feeling of belonging to Europe has weakened following the introduction of the euro in the other participating countries” (European Commission, 2002). According to the most recent Eurobarometer, a majority of European Union citizens (61%) “rather agree with a proposal according to which the Member states that so wish could increase their cooperation without waiting for the others” (European Commission, 2004). We even see a firmer rate of acceptance for this proposal in countries that tend to be more ‘Euro-sceptical’ like the United Kingdom (67%) or Poland (72%) (European Commission, 2004). “The British elite and people do not seriously fear that enhanced cooperation damage their core interests. For example, partial integration on taxation shall merely result in more FDI [foreign direct investment] fleeing to the UK.”<sup>5</sup>

Nonetheless, at the Constitutional Convention in 2002-2003, several representatives from the CEEC did not hide their deep worries and fears that such flexibility will lead to a structured discrimination against small and late-coming member states in the EU. They cast doubt on the enhanced cooperation

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<sup>5</sup> Interview by author with a Belgian official in the COREPER in Brussels on November 10, 2004, who insisted on anonymity.

in general and this partial integration in CFSP/CSDP in particular. According to them, Article 312 of the Constitutional Treaty that permits a Council composed of participant member states to expel by QMV a participant member state that no longer fulfils the criteria or is no longer able to meet its commitments has confirmed the domination of France, Germany and the UK in the future of the CSDP. “A mechanism of solidarity with those remaining outside the enhanced cooperation,” said Mr. Adrian Severin, MP from Romania, “should be guaranteed with the European Commission playing a stronger role as a mediator” (2003: 1). According to the Bulgarian government, in the area of CFSP/CSDP, the possible right of veto for any member state referring to important reasons of national security should be kept (Kuneva, 2003: 1). Such discrimination is accompanied by a deep fear of being dominated by their powerful Western neighbors. “The Union can only be as strong as are all the Member states together,” said Hololei, alternate representative of the Estonian government. “[E]nhanced cooperation in the area of defense should not be allowed” (Hololei, 2003: 1). A representative from Malta at the Convention insisted on the inclusion of a solidarity clause which ensures that “no one falls behind unnecessarily, particularly in the case where the member state is ‘willing but unable’ to meet the exigencies of a particular aspect of the *acquis*, at that particular point in time” (Frendo, 2003: 4). “On account of the qualified majority required for the adoption of common legislation,” said Voggenhuber, “there is no further need for enhanced co-operation, with its risks for the internal unity. (Voggenhuber, 2003: 4)”

The British MEP, Mr. Duff, also emphasized probable negative impacts upon the EU structures (Duff, 2003: 2-3).

First and foremost, enhanced cooperation would rupture decision-making in the Council. But the collegiality of the Commission would also be under threat, and how MEPs

would cope with being divided between the ins and outs is not self-evident. The Court of Justice would have to insist on the necessity of upholding the corpus of EU law, and would be wholly justified in fearing the development of two separate *acquis*.

Evidently, it still takes time and needs experimental implementation to persuade Europeans, particularly those from the CEEC, that enhanced cooperation could further integration as a whole, which, in turn, benefits all of the EU and its member states. The constitutionalization of enhanced cooperation is thus far from completed.

#### IV. Conclusion

On the subject of enhanced cooperation, few scholars have tried to exploit its probable correlation with eastward enlargement. This paper begins with a conceptions of widening, deepening and constitutionalization, terms commonly used but seldom defined. Then, based on a critical review of theoretical approaches, I present a 'reluctant runners model' inspired from the LI. This model permits me to examine the correlation between the widening and deepening of European integration, particularly the eastward enlargement and constitutionalization of enhanced cooperation. This model also successfully highlights the normative influence running throughout the widening and deepening process. This normative influence of European integration obliged those reluctant political leaders to give a green light to eastward enlargement; then the pressure for widening contributed to transformation of the integration paradigm, under which the enhanced cooperation was legalized and later began to be constitutionalized.

The reality that EU widening tends to deepen European integration has significant consequences for the theoretical debates in European integration. The demonstrated correlation between widening and deepening challenges the assumption

that only such factors as sector spillover, institutional autonomy, compromises between member states, and external pressure can produce integration. This connection between deepening and widening reveals how the external relations of the EU, with its candidate and neighboring countries, can become a source of the dynamics of integration under normative influence. As 'open to all Europeans' is a basic tenet of the EU, enlargement would continue to oblige actors—often reluctantly—to adapt and then accelerate European integration.

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## 論歐洲聯盟東擴與加強合作程序憲法化間的關聯性

蘇宏達

### 摘要

加強合作程序是歐洲統合運動廿世紀末最重要的發展之一，然而相關研究鮮少探索上述發展和歐盟東擴間的關聯性，尤其是關於東擴對加強合作程序的提出、建構和運作可能的影響。在解析這個廣化與深化間的關聯性時，作者認為「自由政府間主義」因為能將廣化納入歐盟深化的分析架構之內，而遠較其它途徑更具解釋力。然而，作者也質疑「自由政府間主義」植基於傳統現實主義和絕對理性選擇的假定，認為不論是政府間談判或機制的發展，都不是發生在一個價值真空的環境。相反地，在歐洲統合過程中，任何政府的抉擇、國際談判或制度建構，都深受當時統合典範的影響，典範的變遷也勢必左右上述情勢的發展。作者據此修正了自由政府間主義，並提出了「不情願跑者」模型，企圖建立歐洲統合一廣化與深化間的關聯性，再以這個模型來解釋東擴對加強合作程序的影響。依據這個模型，一九九〇年代上半期，歐盟和會員國領袖對東擴原抱持猶豫和疑慮，卻在歐洲統合典範價值的壓力下，不情願地接受了東擴。接著，東擴的壓力加速了歐洲統合典範的變革，使得加強合作程序和不等速統合變得合理且需要，並正式被建構並納入歐洲聯盟體系之內。本文的目的，不是要提出一個新的理論，而是要論證價值體系對歐洲統合的影響，以及廣化在歐盟不斷深化中的意義。

**關鍵詞：**加強合作程序、歐盟東擴、統合理論、自由政府間主義