

# From Policy to Polity: Can the EU's Special Relations with its 'Neighbourhood' be Decentred?\*

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## Abstract

The article investigates the institutional and policy choices regarding the EU's relations with the countries and regions covered by the European Neighbourhood Policy (ENP). It juxtaposes the notion of special relationship inaugurated by the Lisbon Treaty to three models for organizing relations with proximate countries: pre-accession, the European Economic Area (EEA) and association. The convergence-access paradigm is found to be the basic pillar of the EU approach. The article brings in a series of dilemmas concerning the design and the implementation of the ENP as well as perceptions from selected partner countries. As a potential way to manage tensions and dilemmas inherent in the EU strategy, the article proposes an altogether novel dimension: decentred integration geared towards polity-building that could partially delink convergence and access. The last section maps out four scenarios for the future directions of the ENP that cover the whole continuum from piecemeal enhancement of the policy to the creation of a European Partnership Area underpinned by a new tier of institutions.

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## Introduction

Special partner, protector, sponsor, regional hegemon, big brother? How should the relationship between the EU and its neighbours be defined and operationalized? These questions reflect fears and hopes of EU citizens and the expectations of those inhabiting the Union's neighbourhood stretching from the Arctic to the Maghreb. However, the answers favoured by each side are often in sharp contrast. There is little doubt that there is an expectation gap between the EU and its neighbours which has grown with the completion of the fifth round of EU enlargement in 2007.

The former Soviet republics in eastern Europe and the Caucasus want and need more from the EU in light of their close relationship with the new Member States, their rising democratic aspirations, and changing geostrategic maps. If anything, the recent war in Georgia and the gas crisis between Kiev and Moscow have demonstrated the precariousness of belonging to the overlapping neighbourhoods of Russia and the EU. The littoral countries of North Africa and the Middle East, part of a plethora of EU-initiated schemes the latest of which is Nicolas Sarkozy's Union for the Mediterranean, fear being relegated to 'second class neighbour' status and generally feel more uneasy with the idea of 'neighbourhood' altogether. At the same time, the publics in a number of 'old' Member States seem to be experiencing integration fatigue. The fear of competition from less prosperous parts of the Union makes voters all the more resistant to potential competition from beyond the EU. Eurobarometer data indicate that while a majority supports the substance of the Union's policy in its neighbourhood, they are weary of its uncertain implications. Furthermore, 63 per cent of respondents in old Member States disagree strongly with the proposition that the neighbourhood countries share the same values with the Union (Eurobarometer, 2007).

The response to this gap in expectations is the European Neighbourhood Policy (ENP), a Janus-faced framework devised by EU decision-makers (Commission, 2004, 2006; Emerson *et al.*, 2007). To constituents within the EU, it appears to discharge goals such as secure frontiers, energy supplies, controlled immigration and cross-border environmental protection *without* membership and, to a lesser degree, *without* the threat of full competition. To the neighbours, ENP promises access to the Union's internal market and institutions in exchange for fulfilling conditions related to human rights, political institutions and, especially, economic governance (Commission, 2007). Its core feature is open-endedness. As EU dignitaries such as former Commissioner Benita Ferrero-Waldner put it, the ENP is 'membership-neutral' in the sense that it assists the partners in implementing

EU-compatible reforms but neither offers nor rules out the perspective of future accession.

The Lisbon Treaty institutionalizes ambiguity much further by anchoring the ENP in the new Article 7a inserted into the Treaty on the European Union (TEU). The article speaks of a ‘special relationship’ – or *relations privilégiées* according to its French version – between the EU and its neighbours.<sup>1</sup> Yet, the article in question, much like the ENP per se, raises questions as to the meaning of special or privileged relations. What can be so ‘special’ outside the Holy Grail of pre-membership status? Clearly, at least in the short term, an EU expansion beyond the Western Balkans and Turkey is not politically viable given the current process of internal consolidation and institutional reform. Therefore, the EU faces the challenge of crafting new types of integration arrangements with the whole range of neighbourhood countries, which stop short of enlargement but go beyond the association or co-operation templates which are in place at the moment.

In this article, we survey the legal and political implications of the new Article 7a TEU, both at the macro and micro level. At the macro level, we seek to define the broad strategic options that could inspire the complex web of (special) relationships between the EU and its neighbouring states. At the micro level, we assess the institutional frameworks that might underpin such relationships. First, the article maps out the dilemmas faced by the EU in bringing special relationship onto the neighbourhood agenda. It then takes a closer look at the ENP’s workings, bringing in perspectives from selected partner countries. Thirdly, we proceed to analyse ‘the menu for choice’ critically by juxtaposing the different types of existing arrangements with third countries along the continuum linking access and convergence. We then sketch out the concept of decentred integration to use it as an additional benchmark for a future special relationship. The final section puts forward four distinctive scenarios for the development of the EU’s relations with its neighbourhood.

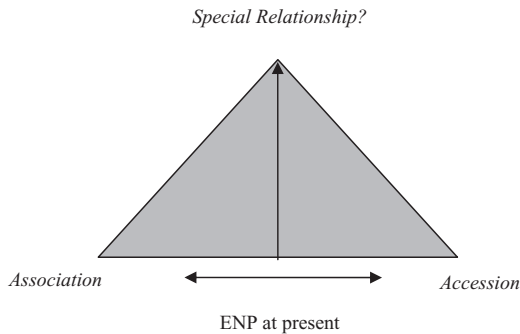
<sup>1</sup> Article 7a TEU (as introduced by Article 1 Para 10 of the Lisbon Treaty): (1). The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on co-operation; (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.

## I. The Notion of Special Relationship

Owing to its Janus-faced nature, the ENP itself builds on two pillars, namely the accession process and the association model. It seeks to chart a middle way between the two, while borrowing instruments from both sides. It is based on a series of Association or, in the case of eastern Europe, Partnership and Co-operation Agreements, which themselves are based on the Treaty establishing the European Communities (TEC). However, as with the accession process, the ENP pushes a comprehensive and ambitious agenda for domestic political, economic and institutional reform converging towards what is seen to be an ‘EU model’ even when the standards of convergence do not belong to the realm of the *acquis communautaire*. Instruments like the Action Plans, the annual monitoring reports or the twinning exercise are borrowed liberally from the accession toolbox. It is fair to say that, at least for the likes of Ukraine, the special relationship under Article 7a TEU is conceived as a de facto short-term substitute for accession (whether temporary or structural), which still provides a robust external anchor. For the partners, the envisaged privileged status is expected to act as an incentive for domestic transformation and co-operation with the EU. For EU publics, the very existence of this alternative framework can, rightly or wrongly, be seen as a way to set the final outer borders of the Union.

In light of the language adopted by the Lisbon Treaty, it is worth asking whether a special relationship can be defined which is not simply ‘in between’ the accession and the association policy options (e.g. an ‘association plus’ or ‘accession-minus’ template). Can such a relationship constitute an altogether different dimension in the EU’s external governance (see Figure 1)?

Figure 1: Beyond ‘In-Between-ness’: Special Relationship as a Novel Dimension



Source: Authors.

The proposed Article 7a TEU is fairly elusive when it comes to the nature of the agreements mentioned in its second paragraph. Considering the scope of economic integration, future bilateral treaties might range from the association agreements signed with the states of the Western Balkans or indeed with the Mediterranean to the comprehensive arrangements contained in the European Economic Area (EEA) agreement of 1992, involving, *inter alia*, clauses on free movement of people, or indeed the privileged status enjoyed by Switzerland (Tovias, 2006).

The issue of how special the special relationship is opens the door to yet another set of critical questions. These reflect the tension between the ENP as an incremental policy approach and the larger, institutional or even polity-building overtones inherent in the discourse of special relationship. In short, the ENP involves both policy- and polity-making and the actors involved have not decided where to lay the emphasis. This is in part because behind this straightforward dichotomy lies a series of tensions or trade-offs concerning the neighbourhood which reflect interests that are often hard to reconcile. They include:

1. *Hegemony vs. Partnership*: At the heart of the EU's relationship with surrounding countries lies a fundamental asymmetry of power which in turn feeds the EU-centric nature of the enterprise. The initial labelling of the initiative betrayed this bias on the part of the EU itself: 'Wider Europe' – a Europe expanding in concentric circles centred on Brussels (Weber *et al.* 2007). Even its successor concept – the more inclusive notion of 'neighbourhood' – still reflects the centrality of the EU in the enterprise, an exercise of a central power 'managing' its periphery. In this frame, Egypt or Ukraine exist as the EU's 'neighbours' rather than as the centre of their own 'world'. It was in part to dispel this connotation that the Euro-Mediterranean Partnership (EMP) introduced in the 1990s the notion of greater (symbolic) equality or symmetry, even if the instruments attached to the partnership were themselves a function of the fundamental power disparity.<sup>2</sup> This is also why some Mediterranean countries cling to the partnership idea. The easterners, for their part, dislike the notion of neighbourhood as, in their view, it assigns them to the non-European world. They call for symbolic recognition as potential members of the club rather than a grey zone on its edges.

<sup>2</sup> The EMP was launched in November 1995 at a summit held in Barcelona by the 15 EU Member States and 12 countries from the southern and eastern Mediterranean (Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestinian Authority, Syria, Tunisia and Turkey). Since the 2004 and 2007 enlargements of the Union, CEE countries have been part of the process, while Libya has had observer status since 1999. The EMP aims at the promotion of stability, economic integration and cultural dialogue across the two sides of the Mediterranean.

2. *Conditionality vs. Ownership*: This tension derives from the previous one but manifests itself at a more micro level. The ENP is clearly perceived by partner countries as a European policy to deal primarily with European anxieties. Yet, as EU actors readily acknowledge, the key to ENP's long-term success is the sense of ownership by both the partner governments *and* the respective societies. At the same time, ownership, at least in the short term, can dilute or dampen the effectiveness of the Union's conditionality based on stringent criteria coupled with incentives. A relationship based on conditionality always lies somewhere on a spectrum between coercion and consent, force and contract (Burnell, 2008). Replacing 'negative' by 'positive' conditionality has recently been seen as one way to square that particular circle; but this distinction is only valid when the object of the positive 'reward' is not itself a fixed pie whereby one actor's gain is another's loss. Other avenues for reflection for managing this tension between the muscle of conditionality and the call for ownership include much more differentiated and negotiated conditions, local generation of options and local triggers. In short, conditions may retain the logic of incentives manipulation but these very incentives can be developed in tandem with (some of) the actors who are to become the object of such conditions. And such bargains can include determining which local circumstance or achievements will serve as triggers for alternative 'rewards' (from market access to visas).
3. *Bilateralism vs. Multilateralism*: The EU tends to relate to the rest of the world as a hub in a complex web of bilateral agreements, loosely constrained by global multilateral rules (Grilli, 1994; Lister, 1998; Holland, 2002). Starting with the EMP in 1995, it has tried to create a dynamic of regional multilateralism in its neighbourhood. While commonly associated with the spirit of partnership and ownership, such multilateralism, as exemplified by the EMP, is also hostage to lowest common denominator constraints or stalled by local disputes such as the Israeli–Palestinian conflict. The question today is to what extent the multilateral spirit can be extended to the whole neighbourhood while much greater emphasis is put on bilateral negotiation in order to engineer convergence with the EU standards. Article 7a TEU could be read as an extension of the logic of bilateralism in search of ever greater effectiveness but such a reading might also further undermine the sense of participation and, even more important for the EU, the notion of even-handedness in granting 'special relationship' status that would obtain in a multilateral setting.
4. *Differentiation vs. Homogeneity*: Here again this tension has a macro dimension that is between the overall idea of neighbourhood and that of more circumscribed differentiated communities, but also a micro

dimension pertaining to the specificity of bilateral relations within the overall neighbourhood idea. The language of Article 7a TEU seems to conceive of a single type of special relationship, but the truth is that the ENP brings together a great variety of countries and sub-regions and therefore pursues a systematic policy of differentiation deemed better equipped to match local needs and aspirations. This is reflected in the 2008 round of reports by the European Commission which stressed Ukraine, Moldova, Israel and Morocco as the ENP's best performers to be rewarded with more advanced integration packages (Commission, 2008). A more homogeneous approach, on the other hand, whether at the level of the entire neighbourhood or involving smaller groups of countries (e.g. Maghreb, Caucasus, eastern Europe), is more compatible with a strategic outlook geared towards polity-building and perceptions of even-handedness.

5. *Functional vs. Geostrategic Vision*: Much of the EU agenda in the neighbourhood is shaped by the day-to-day tasks of economic integration and functional co-operation. The basic bargain here is simple, even while its implementation is complex: adoption of standards and compatibility with the EU in exchange of access to the EU's resources, markets and institutions. This chimes with Javier Solana's characterization of the Union's objective in its neighbourhood as the creation of a ring of well-governed countries. But when, for his part, Romano Prodi speaks of a 'ring of friends' he suggests a rather different vision for the neighbourhood. Being a friend is not wholly synonymous with being a well-governed country (Youngs, 2001). Indeed partnerships aimed at enhancing the EU's energy security, controlling illegal migration and fighting terrorism are possible and often pursued with countries falling short of the democratic and governance standards flagged by the EU. Geostrategic considerations might dictate closer ties with some countries in spite of lack of some elements of functional convergence (say Turkey), while they might dictate looser ties in spite of functional convergence (possibly relevant one day in Russia's neighbourhood).

These challenges are very much present in the day-to-day operation of the ENP. Given that the neighbourhood has already generated a considerable body of 'Brussels-centric' literature, the article reverses the optic and looks at the issue from the vantage point of the recipients of the policy.

## II. Special Relationship as Seen from the EU's Edges

The ambiguous nature of the ENP has been received as a mixed blessing in the target countries. For one, the EU is accused of not being sufficiently



generous in its offers. The launch of the ENP raised expectations in the east which were partly fuelled by various EU actors. This includes the European Parliament which adopted on 13 January 2005, at the height of the Orange Revolution, a non-binding resolution calling for the Ukraine to be given 'a clear European perspective [. . .], possibly leading ultimately to the country's accession to the EU' (European Parliament, 2005). Such signals, muted as they might be, account for the fact that some eastern partners have demonstrated a significant level of commitment to the institutional and legislative reforms listed in the Action Plans, especially in comparison to the bulk of the Mediterranean countries. Yet expectations and demands *vis-à-vis* the Union are often unrealistic in light of the political situation inside the EU and the ongoing enlargement towards Turkey and the Western Balkans. Even so, expectations do shape foreign policy. Symptomatically, the Ukrainian foreign minister did not attend the ENP summit held in Brussels on 3 September 2007 and was substituted by the ambassador to the EU. This was meant as a signal that Kiev wants a clear accession perspective and is not interested in broad pan-ENP bodies. In this case, and despite talk of membership neutrality, the ENP is seen as an alternative to accession (Phinnemore, 2006). Partners have gained little on issues like free movement of people or access to the EU agricultural market (e.g. Moldovan or Georgian wines which are not allowed in the EU and were excluded from the Russian market in March 2006). This leads to widespread frustration (interview with a European Commission official, Oxford, March 2008). Easterners are also resentful of the fact that the balance within the ENP aid allocation, measured in euro *per capita*, favours the southern tier.

Another key grievance common in the target countries is that the ENP is too asymmetric and inappropriate for local conditions. In the south, the policy is seen as intended for post-communist states of the former Soviet Union. Long-term observers of Euro-Mediterranean relations view the policy as 'pouring old wine in new bottles' in that, compared to the EMP, it neither improves access to the EU market, particularly in sectors such as agriculture or services, nor does it increase financial assistance transfers. Countries like Egypt have been lukewarm towards the ENP, in no small part because of the fear that the ENP's political conditionality is far more intrusive in the country's domestic affairs in comparison to the Barcelona Process. As a result, the Egyptian government negotiated its Action Plan over a long period of time, with the Egyptian political and bureaucratic elites rationalizing their acceptance of the EU's transformative agenda through reference to the country's own domestic efforts at economic reform, especially since 2004 (interviews at the Ministries of Foreign Affairs and Trade, Cairo, 11–20 March 2007).



The asymmetric relationship can result in a sense of disempowerment. In the south, this is related to the fact that interactions with Brussels take place on a one-to-one basis rather than as part of the broader regional format embraced by the EMP. Countries like Egypt regret the demise of the EMP and argue that the notion of partnership is superior to that of neighbourhood in that it eschews, even if only symbolically, the sense of hierarchy and subservience *vis-à-vis* the EU. As one high-ranking Egyptian official sighed, 'the ENP places Europe at the centre of the relationship as opposed to the Euro-Med framework whereas the Mediterranean was the centre'; he concluded: 'one is a neighbour by geography, one is a partner by will'.

In the east, the sense of disempowerment is rooted in the perception that the EU's preferred strategic partner is Russia. In the view of countries which are part of both the EU and Russia's 'near abroad', grand bargains between Brussels and Moscow over energy flows and security threaten their efforts to seek their fortunes westwards (interviews with diplomats and think-tank researchers in Kiev, 10–17 March 2007, and Tbilisi, 6–10 May 2007). In a similar vein, Palestinian officials allege that the ENP unjustly rewards Israel thanks to its exceptional level of economic development and governance capacity, even though the country continually obstructs the peace process. As they see it, the political dimension of conditionality is hostage to geostrategic considerations which favour Israelis over Palestinians (interviews in Ramallah and East Jerusalem, 13–21 May 2007).

Importantly, the shift towards bilateralism is not universally perceived as an instrument to cement EU hegemony. In many instances, it is considered consistent with national interest. ENP has, by and large, been embraced by Israel and Morocco as an opportunity to move beyond what those countries perceive to be the lowest-common-denominator approach of the Barcelona Process (the EMP), thus improving access to European markets and gaining privileged status with the Union. As in the east, quasi-accession elements such as twinning are recognized as a success. There is hope that the ENP framework is more likely to liberalize the services market or facilitate visa regimes with the EU, as it is not as constrained as the EMP with obligations to multilateralize benefits and access to the EU market. In a nutshell, a number of countries in the south favour the ENP and view it as a step towards a 'special relationship' awarded on a case-by-case basis rather than as a 'one-size-fits-all' arrangement. Even sceptics like Egypt emphasize the role of the Action Plan as an external anchor for economic reforms at home. There is, therefore, a measure of support, hence a sense of ownership, for a policy of differentiation and conditionality which provides effective incentives to the frontrunners in the ENP. This includes competition for the financial aid

disbursed under the European Neighbourhood and Partnership Instrument (ENPI) conditional on reforms.

However, in order to bear fruit and be accepted as legitimate, conditionality also must be linked to long-term commitment on the EU side. In all ENP countries, both in the east and in the south, there are voices calling for a status-oriented rather than incremental approach. The argument is that the Action Plans would benefit from greater legitimacy if the deal on offer were clearer. For example, Israeli officials interviewed for the purposes of this article believe EU demands tend to focus on politically sensitive areas while the pay-offs (technical assistance, admittance to specific EU bodies such as the European Environmental Agency, etc.) have too low a profile to catalyse action. In the context of an incremental policy, gains are spread over the years and they are too negligible or at least politically invisible to have a real impact on actors' preferences or behaviour (interviews at the Israeli Ministry of Foreign Affairs, 13–21 May 2007).

The situation is similar elsewhere, leading observers to call for giving the ENP a higher political profile. Thus, it would be far off the mark to expect that ENPI or the twinning exercise would solve the Transnistrian question or push the regime in Egypt towards democratic reform. In fact, in March 2007, the parliament in Cairo amended the country's constitution to extend presidential powers and limit the scope of judicial supervision over elections only a few weeks after the adoption of the Action Plan under the ENP. In other cases, governments would welcome more stringent linkages and conditions. Georgian officials and analysts regret that the country's Action Plan fails to address, in concrete terms, issues related to the recently 'unfrozen' conflicts in South Ossetia and Abkhazia. The bottom line here is that a bolder approach linked to status would advance much further the transformative agenda and collective interest of the EU than the ENP does at present. It would surely, however, be more risky and prone to resistance within the EU.

### **III. Special Relationship in Perspective: A Typology of EU–Third Countries Integration**

If the ENP, at its most fundamental, is not to be only about policy-making efficiency but about future status and therefore the shape of the European polity-to-come, one needs to take a step back and consider the options which the EU currently has at its disposal. In order to put the provisions of Article 7a TEU into context we can scrutinize the various existing institutional arrangements with third countries in the EU's proximity along two dimensions:

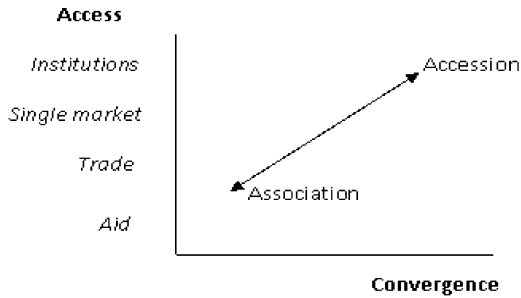
- First, the extent of convergence with the Union's *acquis* as well more broadly with more or less precise economic and political criteria, conditions or 'standards'. Obviously, the standards used to assess such convergence range from specific technical norms for, say, product quality, to more qualitative assessments in cases such as professional qualification, to broadly subjective criteria when it comes, for example, to the democratic functioning of a country.
- Second is the extent of access to the EU, from aid and other resources, to the single market for goods and services, the labour market and ultimately inclusion into the Union's decision-making process and institutional structures, e.g. full membership.

We generally expect these two dimensions to be highly correlated: the greater the convergence with EU standards, the greater the access to internal market – and logically but not uncontroversially the greater the participation in the Union's decision-making process. The received wisdom is that the above relationship is linear: the more one converges, the more one integrates and therefore the bigger stake one demands – and is granted – in the Union's institutions. But this is not necessarily the case. The linear progression from socio-economic access to access to the decision-making which affects the environment for integration is of course at the heart of the tensions associated with the neighbourhood challenge. It is fair to say that with the ENP, the EU aims to increase current degrees of convergence of the partner countries without the corresponding levels of access, especially institutional access. Conversely, the new Member States in central and eastern Europe may still be excluded from certain policy areas due to the transition periods in force after 2004/2007 – but are fully represented in the Union's institutions.

Even when convergence and access match in a linear fashion, there are multiple equilibrium points along the continuum, from association (at the bottom left) to membership. The kind of relationship described by Article 7a TEU (and therefore the ENP) currently falls in between. It is a political decision dependent on EU stakeholders and the partners' capacity to define where on the continuum the enhanced ENP and any particular country should be located. The problem described today as 'integration capacity' however signals that there might currently be a limit to 'access' (or 'integration') irrespective of the degree of convergence (or lack thereof) of the partner countries. To put such an inquiry into context we first review the various models of integration between the EU and the third countries in its periphery by placing them on these two dimensions.

Looking at the three models at hand, it becomes clear that the EEA may serve as an ideal type of a special relationship, distinctive from full-fledged

Figure 2: Access vs. Convergence



Source: Authors.

membership. One should also note that currently the three EEA/EFTA countries are more deeply integrated into the single market than the CEE Member States whose workers face restrictions in the labour markets of a number of 'old' Member States (for example, Germany and Austria) subject to a transition period. Norway and Iceland are also part of the Schengen area while the new Member States are likely to implement the agreement in 2008 (Bulgaria and Romania are expected to do so in 2011).<sup>3</sup> So the difference that matters is the perennial level of inclusion into the Union's decision-making process. Although the three EEA/EFTA states are obliged to comply with or transpose the bulk of EU legislation, they are not represented in the EU institutions and have a limited say on the Union's policies and legislative output. EEA associates have no right to vote on community laws while ECJ rulings on the *acquis* apply to EEA/EFTA countries although of course they have no right to appoint judges to the Luxembourg court. This is why in the early 1990s several EFTA members such as Austria, Sweden and Finland chose to pursue full membership in the EU instead of joining the more limited EEA arrangement.

The benefits of the above arrangement have been clear to EU politicians who have on occasion spoken of the ENP as offering 'everything but institutions'. But taking into consideration the access dimension of Figure 2, the EEA not only provides access to the EU market but also goes some way in terms of integrating Norway, Iceland and Liechtenstein into the legislative process, unlike any other country outside the Union. Indeed the trio enjoys the right to *be consulted by the European Commission on legislative proposals related to the single market* (See Table 1). This right is not granted to the fourth EFTA member Switzerland which has chosen to stay outside EEA and have its separate special bilateral agreement with the EU.

<sup>3</sup> Switzerland also acceded to Schengen in 2005.

Table 1: Models of Integration in ‘Wider Europe’

Model	Countries involved	Scope of convergence	Access
I. Accession	Central and Eastern Europe (members since 2004/7); Cyprus and Malta (members since 2004); Turkey (1999–); Western Balkans (2002–).	Copenhagen Criteria (political, economic, <i>acquis communautaire</i> ). Comprehensive governance reforms are demanded, often in areas outside EU competences (minorities, administrative capacity, judiciary, anti-corruption). No opt-outs from the <i>acquis</i> but transition periods.	<p><i>Pre-accession:</i> Asymmetric trade liberalization, financial assistance (PHARE, ISPA, SAPARD, CARDS and, as of 2007, IPA), visa-free travel to the EU; political dialogue with the EU, mostly at the bilateral level.</p> <p><i>After accession treaty is signed:</i> Active-observer status in Council and Parliament.</p> <p><i>After ratification:</i> full membership rights in institutions but delayed entry into Schengen and the eurozone, transition period for access to labour markets in some old members.</p>
II. European Economic Area	Iceland, Liechtenstein and Norway (EFTA) plus the EU-27.	The EFTA3 adopt all <i>acquis</i> excluding the common agricultural policy, fisheries, tax harmonization rules and external trade relations.	<p>Extensive access to the single market. Consultation procedures within the Commission regarding draft legislation.</p> <p>EEA Council meetings twice a year.</p>
III. Association	EMP countries; soon to include Ukraine, Moldova, Armenia, Azerbaijan, Georgia (Partnership and Cooperation Agreements expire in 2007–2008). Russia?	Limited harmonization with the <i>acquis</i> (e.g. public procurement, customs, transport and telecommunications, financial services). Democratic conditionality clauses inserted in the Association Agreements but rarely invoked.	<p>Asymmetric trade liberalization in industrial goods. Limited concessions in agriculture for EMP. Financial assistance (MEDA, TACIS and, as of 2007, ENPI). Political dialogue at bilateral but also multilateral level.</p>

Source: Authors' own data.

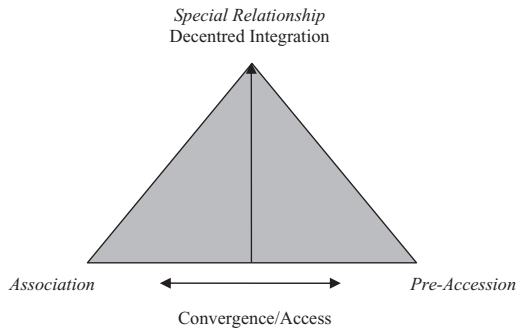
Why not then apply the EEA model to the ENP countries? The answer to this lies in the fact that above all, and particularly in some cases, it may be appropriate to question the basic model presented above which systematically correlates access with convergence. The three EFTA countries are under the obligation to take on board the full body of the single market *acquis* including any future amendments and extensions. At the same time, they are not parties to the common agricultural policy, the tax harmonization rules or the external trade relations of the Union. They do not participate in the EU cohesion policy nor do they contribute to the EU budget with its redistributive dimension (as does also non-EEA Switzerland). The adoption of the *acquis* is rather costly and cumbersome, requiring substantial administrative capacity along with relatively advanced level of economic development. At present, only Israel out of the ENP group could conceivably take the burden of convergence without the direct pay-off in the form of membership understood as full access (Tovias, 2006).

Nevertheless, we would argue that the EEA model is potentially relevant to the ENP, in that it entails an *additional tier of institutions* bringing together the EU and the three EEA/EFTA countries. It is a model of integration into but also *together with* the EU. EEA is steered by the EFTA Surveillance Authority in Brussels and the EFTA Court in Luxembourg. During the negotiations of the EEA agreement in 1992 the European Court of Justice (ECJ) issued a special letter to the Council arguing against the initial plans to entrust the European Commission with the role of a guardian of the EEA treaty and to give the ECJ jurisdiction over disputes arising from it. These ad hoc institutions include a Joint Committee comprising the European Commission and the governments of the three EFTA countries which has a consultative function in respect to the alignment with the *acquis*, as well as the EEA Council meeting twice per year. The above bodies go beyond political dialogue and in effect constitute a model of shared governance on the part of the EU and the three EEA/EFTA states.

#### IV. Introducing a New Dimension: Decentred Integration

We have described how the EU's relationships with its neighbours rest somewhere in between the kind of association available to the rest of the world and pre-accession per se and how it reflects the convergence vs. access logic. But, as discussed through the EEA example, there are limits – temporary or structural – to this seemingly logical progression. Limits on the convergence side are due to domestic constraints or the very nature of EU standards. Limits on the access side are due to the EU's current 'access fatigue' in 'real' terms

Figure 3: Special Relationship – Adding Decentring to the Convergence/Access Dynamic



Source: Authors.

(for example, access to its markets), or with regard to institutions (for example, access to decision-making procedures). Finally, there are limits on the link between the two as increased convergence may fail to be rewarded with equivalent ‘access’.

We believe and hope that ‘access fatigue’ will not last forever, but even if EU citizens found themselves bursting with a new inclusive spirit, countries in the neighbourhood are likely to be uncomfortably stuck ‘in between’ (association and accession) for the times to come. This is where we come back to our initial triangle. We take the access/convergence baseline as a given, that is obviously we do not deny here that special relationships are indeed ‘in between’. In addition, however, we believe that the EU’s relationship with its neighbours can be enhanced by more explicitly introducing another dimension, our vertical axis, which is about pulling the EU’s relations with its neighbours slightly out of this ‘in between logic’. Convergence and access are both EU-centric by definition: the bargain is about ‘access (to)’ in exchange for ‘convergence (with)’ the EU, and what either of these terms actually entail is defined mainly by the EU itself.

In contrast, this new dimension could be called ‘decentred integration’ and covers approaches that are not bound by the convergence/access bargain, including both on the policy- and on the polity-making side (see Figure 3). The need for more decentred integration stems from a recognition that convergence and access as they relate to the EU and its Member States are not the only measure of co-operation here.

Perhaps more fundamentally, it ought to reflect an increased awareness both in the EU and in the partner countries that criteria or standards of convergence sometimes uncomfortably echo the ‘standards of civilization’ of



a bygone era, as does constrained access to the metropole with its glass ceilings and second-class citizenship. If that were the case, at least in the world of perceptions and historical legacies, it would be up to the EU and its partners jointly to devise modes of relationships that truly express what we can call a ‘post-colonial agenda’, reflecting the simple fact that ours is no longer a ‘European world’ forged by European legal precepts and political imperatives. To be sure, such a state of mind is not about denying the realities of power and the demands of effective policy-making, but on the contrary embedding them in their historical context.<sup>4</sup>

Exploring such a new, ‘decentred’ dimension would chime with the language of Article 7a TEU which implies an upgrading of the relationships in question but in a manner that is embedded in a strategic vision rather than ad hoc decisions. In the context of the ENP, this would bring about more consistency even if the price for consistency may well be a decrease in the EU’s transformative capacity inherent in the differentiation and conditionality toolbox.

Decentring can mean many things and be pursued at several levels:

1. *Co-development*: Regarding policy-making, special relationships can be seen as ‘partnerships for co-development’ which may accommodate the EU and its partners’ shared strategic goals in innovative ways. Perhaps the most politically salient dimension of co-development has to do with the management of movement of people. Intelligent policy on access to the EU should be about organizing the back and forth movement of individuals, temporality and fluidity and creating the right incentives to do so – acknowledging the desirability of ‘semigrants’ in other words.
2. *Empowerment*: Such a philosophy of co-development would, in turn, have significant implications on the security front, the so-called fight against terror, as well as on the political front in terms of the accommodation of political Islam and democracy. Suffice to say that to a great extent it boils down to empowering individuals or groups to do what they decide themselves to do. It can often be pursued through a policy of conditionality regarding local *processes* – from rights of association to legal due process – rather than *substantive* rules framed in Brussels or the Member States’ capitals.
3. *Ownership*: despite the very asymmetric relationship between the EU and its neighbours the latter ought to be involved as much as possible in defining the scope and contents of the special relationship under Article 7a TEU. But it is clear from listening to people on the ground that ownership

<sup>4</sup> For a discussion of such a post-colonial agenda see for instance Kleinfeld and Nicolaïdis (2008), Nicolaïdis (2004) and Mayer and Vogt (2006).

need not necessarily be opposed to conditionality. The challenge rather is for the conditions to be co-owned by local actors, both in the governmental sector and outside it. In Georgia, even officials complained that conditions were not consistently enforced (in time or across partners), demanding in effect that the commitment be shared and contractual in the deepest sense of the term.

4. *Decentralization*: One of the recurrent themes heard in the partner countries is that of the complexity of the EU and the frustrations associated with dealing with the Brussels maze. But EU complexity cannot be wished away as it simply reflects the subtle power balancing and the layered inter-state and inter-institutional bargains that have been arrived at over time. Decentring away from Brussels is one solution but this does not always mean doing away with European governance. The Union's local delegations are better able to engage and fine tune as well as listen to the partner actors through their more intimate knowledge of the country and its actors. Their involvement in policy-shaping empowers them in *ex post* monitoring which in turns adds to the credibility of policies. This process has recently started and we have observed some of its fruits in the cases of Egypt, Ukraine and Israel. But it could be systematized and extended beyond delegations in innovative ways.
5. *Autonomous institutions*: Rules and forums underpinning the relationships need not all emanate from Brussels. Joint institutions, equal rotation and 'decentred summits' can be devised to reflect greater symmetry in the relationships. Alternative polity-making (see scenario IV in the following section) is the most radical version of this spirit of decentring. The agency or agencies managing special relationships (as opposed to political meetings) could be located outside Brussels or even in the partner countries.<sup>5</sup> One radical idea has been to create a capital of the EMP in the Mediterranean itself.
6. *Status*: The demand for status on the part of the EU's partners has been a leitmotif of our investigation. But we also acknowledge that the access-for-convergence logic, while fundamentally sound, may reach its limits due both to the 'integration capacity' (real or perceived) constraints as well as to the drawbacks of 'EU-centrism without membership'. If this is the case, it might be worth thinking of 'status' as a category well decoupled from access and indeed the corollary standards of convergence. If the EU functions through rewarding convergence with access which ultimately suggests membership, it might do well to explore an altogether different type of status linked to joint polity-building rather than only convergence.

<sup>5</sup> For instance, the secretariat of the Union for the Mediterranean located in Barcelona.

In this spirit, labelling matters. It matters to a country to be considered as a member of some voluntary alliance, union or confederation of countries, with a label and a sense of equality. Simply being Europe's neighbour is a geographical reality and a hierarchical construct, not a political project.

7. *Geopolitical Vision*: And finally, decentring might allow us to address better regulatory/technical and geostrategic concerns each in their own right, as well as the priorities of the Mediterranean and east Europeans separately. The geopolitics of the 21st century will not be Euro-centric as the EU becomes increasingly provincialized in an emerging world order of rising powers and shifting balance of power. In this context, the EU's geostrategic interest may very well be a part, indeed a driver of a wider strategic community, stretching from 'Gibraltar to Kars' or alternatively overlapping security community. A geopolitical vision is crucial for the EU's future, including in its relations with Turkey, and cannot remain hostage to the hard constraints of regulatory and technical convergence.

#### V. Four Scenarios for the 'Special Relationship'

We can now turn back to our analysis of the EU's unfolding network of special relationships in the ENP area. If the exploration of the new Article 7a TEU must start with an analysis of the ENP, a move towards a special relationship would require focusing not only on *policy-making* as the ENP does at present but also on *polity-building* in a more strategic and long-term perspective. Such an exploration requires supplementing (not replacing) the 'in between' character of the ENP bound by the convergence/access logic with an exploration of various forms of decentred integration.

This article suggests four scenarios or alternatives, most of which relate to the future constitution and shape of the EU or 'Europe' rather than simply aiming at the effective short-term promotion of stability in its periphery (Table 2).

##### *Scenario I: The Incremental Approach Towards an ENP Plus*

The present incremental approach can be seen as a way to 'muddle through' the challenges in the EU neighbourhood. The key benefit is the policy's flexibility allowing for differentiation between 'good pupils' and laggards. As such it has a measure of transformative potential when it comes to the administrative capacity of the partner countries, less so at the level of their political systems or their societies at large. These gains however are and will likely remain rather modest. Witness the case of the Ukraine, the flagship country within the ENP, going through a series of crises since 2006. In more

Table 2: Four Scenarios for the Future

	<i>EU-centred scenarios</i>	<i>Decentred scenarios</i> Polity-building
Tiered scenarios	<i>Scenario 1</i> Incremental approach (ENP plus)	<i>Scenario 2</i> Decoupling (pre-pre-accession in the east, revitalized EMP)
Holistic scenarios <i>Polity-building</i>	<i>Scenario 3</i> Modular integration (Variable membership in a broad EU)	<i>Scenario 4</i> Alternative integration (European Partnership Area)

*Source:* Authors.

formal terms, incrementalism also means that the provisions of Article 7a TEU would have largely symbolic value and would not bear directly on how relations with the partner countries are structured. The TEC articles governing association will continue to be of greater relevance. The current Action Plans or their future versions would also continue to be the key vehicle driving forward the process. The end result would be a web of bilateral relations between the EU and the partners characterized with a variable degree of intensity in terms of trade integration and legal harmonization. A key element in this differentiated web would, no doubt, be Russia which is currently not part of the ENP but bases its relations with the Union on a strategic partnership structured around the so-called common spaces (economy; co-operation in justice, visa policy and combating illegal trafficking; research, education and culture; and, not least, security) (Antonenko and Pinnick, 2005). The web also includes countries in the EU's 'near abroad' that currently do not have a contractual relationship with the Union such as Belarus or Libya which co-operate on an ad hoc basis with Brussels and key members such as Italy.

Even within this approach, there could also be marginal improvements to achieve more by way of convergence and provide more ample opportunities for improving access to the EU's market and institutions. Both the European Commission and various think tanks have proposed measures such as the conclusion of 'deep free-trade' agreements based, *inter alia*, on harmonization with the EU *acquis*, inclusion into EU-supported networks in fields like energy, visa facilitation and expanded opportunities for participating in the Union's common foreign and security policy or agencies such as FRONTEX (Commission, 2006; Grant, 2006; Emerson *et al.*, 2007).

Such incremental integration would definitely serve to enhance relations between the EU and its neighbourhood but also present problems. Above all,

the very structure of the EU as a 'linkage machine' makes it hard to give up 'packaged access'. Can a country participate in costly initiatives when it does not contribute to the EU budget? Is it effective for a country to take part in one phase of a debate in say, the Council, but not for instance in the Parliament? And what of linkages across issue areas if a country is present in some policy debates but not the others?

However, selective upgrading of the ENP, a process already under way, is bound to increase the differentiation between the frontrunners and the laggards and jeopardize consistency in the name of effectiveness. In addition, frontrunners will put forward the status issue and request institutional affiliation which goes beyond the 'association plus' level. This is rooted, in effect, in the quasi-enlargement logic built into the ENP. If the EU can avoid the question of status at present it might not be in a position to do so in the mid-term.

### *Scenario II: Decoupling East and South*

This scenario, which is incipient in the recently inaugurated Eastern Partnership as well as Sarkozy's Union for the Mediterranean (UfM), acknowledges the structural differences that exist between the southern and eastern neighbours (Commission, 2009; Council, 2009).

A decoupling approach would recognize, one way or another, easterners' long-term aspiration to become EU members and thereby link their fortunes more closely with the Copenhagen criteria, including, of course, the integration capacity requirement. Under this scenario, Article 7a TEU would function for some states as a 'pre-pre-accession' stage. With the accession perspective, the differentiation principle already present within the ENP could be harnessed even more effectively by the EU to reproduce, again in the long run, the 'regatta' dynamic observed in CEE and maximize the Union's transformative capacity.

By contrast, for southern partners decoupling could mean much more radical decentring including through polity-building. This in turn would mean that the EU would be less capable of applying a tough political agenda. It would however signal a return to what some at least believe was the vision of the 1990s. This would include the rehabilitation but also rethinking of the EMP, which is already happening courtesy of the UfM (Bechev and Nicolaïdis, 2008).

The main disadvantage of the scenario at hand is that while resolving the south vs. east tension it would introduce greater institutional complexity in the EU's relations with the neighbourhood, making it difficult for the Union to elaborate and pursue a coherent strategy. It would also undo the political

bargain of 2003–04, which linked the Union's eastern policy with a renewed commitment to the south in the institutional framework of the ENP, and thus possibly causing friction amongst Member States. Finally, the eastern dimension, insofar as it would be structured on the reinforced principle of (pre)accession conditionality, would be certainly rebuffed by Russia which would continue to insist on a separate privileged relationship with the Union and its big members.

*Scenario III: Variable Membership in a Broad EU*

This scenario would build on the previous one, but – to simplify – move the signpost 'accession' to an earlier stage on the road of convergence. It would involve a more open-ended and functional approach to the question of EU borders. The starting assumption here is that the issue of membership in the EU should be stripped of its essentialist connotation (Geremek and Picht, 2007). If the EU is not a Christian club, if geographic boundaries are thick, fuzzy and constructed, and if historical legacies ought to be about transcending rather than reproducing past conflicts, then there is no deciding *a priori* what are to be the EU's borders.

In this broad context, not just hopefuls like Ukraine but all the neighbouring countries in the east, with the likely exception of Russia, could theoretically and eventually become 'members' of the EU over a long period of time. But membership would be variable in the sense that acceding countries would be excluded from certain institutions or policies for more or less extended transition periods. Even more radically, the idea of variable geometry could be extended beyond issues such as Schengen or EMU to cover most areas of integration. In simplistic terms as stated at the outset, there is a continuous spectrum of partial inclusion and access on the line from association to accession and this scenario labels 'membership' stages that are still 'special relations' in the first scenario (ENP plus). The basic features of a similar approach have been elaborated in some detail by Andreas Maurer and Max Haerder (2007) who name it 'modular integration'.<sup>6</sup>

Variable membership would partly address public perceptions as well as 'ease the pain' of such radical enlargement but we would argue that this scenario would make the Union's institutional architecture and decision-making extremely complex. Yet, it is fair to note that the EU has not ground to a halt since the last enlargement – in fact it has never been more efficient

<sup>6</sup> They envisage full participation in the European Parliament and in most Councils of Ministers (except in the Councils on Environment, Agriculture and Employment, Social Policy, Health and Consumer Protection European Commission). There is no right however to appoint commissioners, judges to the ECJ or directorships in Union agencies.

(Dehousse *et al.*, 2006). Institutional effectiveness is not necessarily connected to numbers.

#### *Scenario IV: European Partnership Area*

The final scenario borrows both from the second (extending and deepening the logic of polity building and ‘status decentring’) and the third (implementing modular integration but not within the EU *per se*). To some extent, it echoes the proposals for a European confederation made in 1990 by the then French President François Mitterrand with regard to central and eastern Europe. In this case, instead of being about membership of the EU, ‘variable membership’ could be attached to another political and economic space which could be labelled in different ways – from Eurosphere to European Area to European Partnership Area.

This path towards a special relationship would consist in the building of a new set of institutions bringing together all EU and ENP countries, and why not Russia which even now is a key stakeholder in pan-European bodies such as the OSCE. A multilateral body, mirroring the EMP community on a broader geographical scope, would entail a radical decentring of special relationships away from the EU-oriented notion of neighbourhood and the Brussels institutions. As a polity in its own right, the European Area could have its own council of ministers (with a secretariat) institutionalizing the summits which, as of September 2007, take place at the level of EU+neighbours, sectoral ministers’ forums, expert bodies and a parliamentary assembly.

Some will argue that the problem with this scenario based on multilateralism is the danger of returning to the talk shop politics of the Barcelona Process or the OSCE. While such an ambitious edifice would maximize participation, equality and ownership, the degree of convergence with EU standards and therefore substantive integration would be more modest than under other scenarios. Providing neighbours with a status which is different from membership or even quasi-membership would likely help the Union’s pursuit of internal consolidation and external relevance but would likely blunt the ENP.

To tackle this problem, the arrangement could continue to be based on some form of concentric circles and differentiation between the partners. Economic integration, even in the context of a multilateral European Partnership Area, would likely reflect the *acquis* and not another body of standards jointly crafted by the partners. But policy emphasis, working methods and above all status would be partially freed from the logic of convergence.



## Conclusions

The aim of this article was to provide an analytical framework for rethinking or at least refining our thinking about the EU's relationship with its neighbours at a time when *integration without accession* is the name of the game. Our argument is informed by in-depth empirical investigation, and an exercise in methodological decentring, to the extent that our journey involved concentrating on the perceptions of the EU's partners. We highlighted what we consider to be the core dilemmas facing the EU (hegemony vs. partnership, conditionality vs. ownership, bilateralism vs. multilateralism, differentiation vs. homogeneity, functional vs. geostrategic vision), and argued for a number of ways to address these questions. In short, the classic correlation between convergence and access may have reached its limits, at least for the time being. If it cannot be supplanted, it must be supplemented by new decentred policy prescriptions.

Each of the four approaches to the special relationship which we have presented here has strengths and weaknesses related to the basic dilemmas outlined at the outset of this article. No scenario can buy 'the right balance' on all these counts. But a few basic conclusions have emerged from our investigation. The first is that any special relationship should recognize the status aspirations of the neighbouring countries. Short-term policy measures such as the ENP provide only a temporary solution to that challenge. At the symbolical level, the EU should introduce institutional frameworks which signal to the neighbours that they are seen as partners rather than as apprentices when it comes to special relationships.

The second is that the EU must find ways to convince its neighbours of its good faith when we talk of 'partnership' and 'shared ownership'. One way to do that is to radically decentre the neighbourhood concept and associated practices away from Brussels. The Union must also, thirdly, delink this policy area from accession: 'special relationships are not accession minus'. Pushing the issue of the ENP's *finalité* into the spotlight could open up a Pandora's box and restart the controversy over Europe's borders. This would, no doubt, jeopardize the European Commission's step-by-step policy which is already producing some palpable, though arguably modest, results. In order to be received as something positive rather than a consolation prize in lieu of full membership, special relationships should address key issues that top the partner countries' agendas such as free movement of people and access to EU markets, including agricultural markets.

This in turn implies that these relationships be presented not as pre- or non-accession but as the advanced dimension of Europe's engagement with the world at large, the testing ground on which to promote a new brand of EU-niversalism (Nicolaïdis and Howse, 2002). The real issue at stake here is Europe's capacity to persuade its neighbours that co-operative polity-building, rather than the build-up of defensive walls, inspires its action – even if positive impacts on curbing migratory flows are welcome by-products.

This also means that the case of Turkey and its accession to the EU should not highjack the fate of 'privileged partnerships'. A special relationship may or may not be on the cards for Turkey down the road, but it is not on the cards today, nor should it be until the end of the current accession negotiations has been reached. If that is the case, it will be much clearer to partners that such relationships are not alternatives to membership. Such clarity would in turn reassure Turkey that taking a stake in the ENP, a notion resisted by policy-makers in Ankara, ought not to affect its accession bid. On the contrary, it can strengthen its case for 'indispensability' as a country linking the 'eastern' and the 'southern' tiers in the EU's 'neighbourhood'. Otherwise, we are likely to witness the paradox that some neighbours, not unlike the EEA countries, might be more closely associated with the EU in some areas than a Turkey which chooses to pursue exclusively the all-or-nothing logic of accession.

Finally, how can the EU remain open and inclusive in an era of integration fatigue and depleted 'integration capacity'? We find that special or privileged partnerships do not come on the cheap. ENP is certainly no low-cost alternative to the enlargement policy if it is expected to pay back dividends to the Union. EU policy-makers should realize that the issue of integration capacity is as relevant to the ENP and be prepared to sell the latter to their reluctant electorates. Apart from additional financial and human resources (e.g. through the expansion of the EU delegations in partner countries), this would mean concessions in sensitive areas such as agriculture, free movement of people and access to the Union's decision-making process. Ultimately, neighbours rather than being perceived as potential drains on the EU's integration capacity could be seen as potential contributors to it. Better integration means both more effective and more humane control of flows of people. It means refusing the stark dichotomy between a Europe-fortress and a Europe-refuge. Organizing fluidity in the eurosphere, by facilitating temporary and back and forth movements and investment in the home country would constitute a preventive strategy against extremism and terrorism more effective than any crackdown in recent history.

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