Externalizing EU Governance and the European Neighbourhood Policy: Towards a Framework for Analysis

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Abstract

Since 2001/02, the EU has been developing the European Neighbourhood Policy (ENP) in order to cope with the challenges resulting from this new political landscape. With the exception of Belarus and Russia, the European Union's Eastern neighbours are intent on acquiring a perspective for EU membership in the near future. The EU, in turn, is keen on maintaining its Eastern borders safe and secure from external risks such as illegal migration, economic crisis and energy insecurity. In order to meet these objectives, the EU promotes democratic and economic reforms in the countries located along its border and, in so doing, it strives to foster political stability and security in the wider Europe. In this article I will argue that the ENP entails a dynamic which ultimately will bring some neighbouring countries closer to EU membership. To this end I will explore the 'governance approach' in EU studies demonstrating that it is well-equipped to explain the development of the European Neighbourhood Policy (ENP) as a form of 'externalization of EU governance' and to bridge external and internal policy-making of the EU.

(180 words)

I. Introduction

Since 2003/4, the European Union (EU)[1] has been fleshing out a 'European Neighbourhood Policy' (ENP) in order to address various challenges resulting from its most recent rounds of enlargements. The 2004 and 2007 expansions towards Central and Eastern Europe and the Mediterranean basin have pushed the Union much closer towards what is now conceived in terms of a 'new neighbourhood': Algeria, Israel, the Palestinian Authority, Armenia, Jordan, Syria, Azerbaijan, Lebanon, Tunisia, Ukraine, Egypt, Moldova, Georgia, Morocco have henceforth become 'ENP partner' countries.[2] The European Neighbourhood Policy subscribes to several principles. First, it is built into the existing framework of bilateral relations between the EU and each of the ENP partner countries, which serves to augment relations at both the bilateral and regional level as well as encompasses a wide range of cooperation. So far, the Partnership and Cooperation Agreements (which were developed in the first half of the 1990s to serve the NIS) as well as the 'classical' Association Agreements with the Mediterranean countries have provided the platform for ENP. Second, the EU presents the ENP as a case for "joint ownership" of the process – albeit this ownership must be "based on the awareness of shared values and common interests" (European Commission, 2004a, p. 8). Although it does not explicitly state that the normative model is to be taken from the EU itself, it is clear that ENP countries are expected to converge towards the Union rather than *vice versa*. Third, the ENP sets up a procedure for monitoring the success as well as shortcomings of agreements made under ENP.

Towards this background, the EU has been described as a "gated community" (Zaiotti, 2007) and ENP as an instrument to police the dooryards.[3] Historical institutionalist analyses suggest that the European Neighbourhood Policy is as much determined by its path-dependant framework and normative practices inherited from EU enlargement (Kelley, 2006; Magen, 2006; Tulmets, 2007) as it is reminiscent of EC trade and, in particular, development policy (Börzel and Risse, 2007). The primary goal of ENP is to provide guidance and support for domestic political reform and economic transition in (neighbouring) third countries, without compelling the EU to immediately promise future membership. Given wide-spread 'enlargement fatigue' in the EU, it is difficult to imagine any further expansion beyond the circle of those candidate countries whose aspirations have already been recognized in principle.

Throughout the process of EU enlargement, eventual membership has always been made conditional upon the compliance of candidate countries with a number of economic and political criteria. Schimmelfennig (2008) has shown that EU political conditionality is effective when it includes a credible membership perspective, is based on a consistent normative approach and involves low domestic power costs in the target country. The conundrum that evolves from this is the following: *How can the European Union take advantage – if at all – of enlargement-tested 'conditionality' and, for that matter, expect compliance from neighbouring countries without relying on the 'golden carrot' of membership? Or*

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1 In general, I use the term EU to refer to the European Union after the introduction of the Maastricht Treaty. 'European Community (EC)' specifically refers to the first pillar of the European Union or the time prior to the Treaty of Maastricht.

2 Because of their weak democratic records, Libya and Belarus, however, have not yet been admitted to the ENP.

3 For a comprehensive overview on the EU's policy towards the East European countries of this 'grey zone' (Belarus, Ukraine and Moldova) as well as Russia, see Gänzle (2008), Kubicek (2007), Schmidtke and Chira-Pascanut (2008).

does the European Neighbourhood Policy enable the European Union to rely on a 'silver carrot' of a naught but privileged relationship of some kind? Is the ENP hence in a position to create a stable relationship below the level of membership, or does it act as a catalyst which may push some of the partner countries further down the avenue towards accession?

In order to answer these questions, I propose to conceptualize the European Neighbourhood Policy as a form of *externalized EU-centred governance in order to partially integrate third countries of the immediate vicinity into 'policy-taking' rather than 'policy-making' processes of the EU.* Governance itself, as I will demonstrate, is delimited by a set of distinguishable and manipulative boundaries which ultimately define the degree of participation and recognition of a third country within policy-making processes of the European Union. I argue that by modifying its boundaries of governance, the European Union seeks to effectively influence neighbouring countries – which may also be understood as a form of 'external Europeanization' (Bauer, Knill and Pitschel, 2007; Schimmelfennig, 2007). In this line of research, two logics of behaviour are discernible (March and Olsen 1996): First, rational actors follow the 'logic of consequentiality' based on cost-benefit calculations; second, actors may subscribe to a more cognitive 'logic of appropriateness' and are guided by collective understandings about appropriate behaviour according to established rules and norms. Distinguishing a set of six different, albeit interconnected types of boundaries (geopolitical, discursive, cultural, transactional, legal and institutional) which are critical to EU governance, *I hypothesize that the increasing pertinence of a logic of appropriateness through various stages of EU 'external governance' (a) circumvents the significance of consequentialism and (b) that in the context of ENP conditionality resides within the transactional/legal rather the institutional boundary.* By so doing, I combine sociological approaches with Europeanization research in the area of EU enlargement and external relations, the central objective of which is to explore the opportunities of applying EU conditionality without the prospect of (immediate) EU membership. While processes of governance along the discursive and cultural boundaries are strongly structured by the logic of appropriateness, the logic of consequentiality will determine the scope of modification of the institutional boundary.

In this paper, I first sketch out the governance approach in the EU's external relations. Then, the development, contents and principles of the European Neighbourhood Policy are briefly analyzed. Finally, I apply the governance model to the development of the European Neighbourhood Policy in order to assess its potential to modify the boundaries of EU governance and ultimately contribute towards a transformation of the political order in Europe.[4]

II. EU governance and the post-2004 political order in Europe

As argued by various scholars (Jachtenfuchs, 2001; Rittberger and Kohler-Koch, 2006) the governance approach in social sciences has, since the early 1990s, provided the conceptual lens for thinking about phenomena of regional as well as global 'integration'.[5] However popular it has become, the term itself has remained remarkably imprecise and even slippery. As shown by Rhodes (1996, p. 653) it is used with at least six different meanings: the minimal state, corporate governance, new public management, good governance, social-

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4 The empirical focus of this study is the 'Eastern' European Neighbourhood, in particular Ukraine and Moldova.
5 For a more thorough discussion of governance see Smith and Weber (2007, pp. 5ff).

cybernetic systems and self-organized networks. The concept posits that those problems and challenges that are outside of the scope of a state's regulatory capacity need to be solved collectively. Governance entails that state-like activities are not only confined to states, but can also be generated "beyond the nation-state" (Zürn, 1998) in a dynamic interplay comprising various actors and institutions from various political arenas. In sharp contrast to the domestic action of state governments, governance is not limited to territories; it focuses instead on political spaces construed by various activities and international cooperation. Thus, governance also refers to the establishment of a system of rule amongst these actors ultimately providing a script for sustainable communication, co-ordination, co-operation and legitimacy of their activities and outputs.[6]

Consequently, governance which is used to describe the multi-level and multi-actor constellations within the European Union's fragmented political system (Marks and Hooghe, 2001; Kohler-Koch and Jachtenfuchs, 2004) emphasizes relational aspects of power and, subsequently, has been applied to the EU's external relations broadly conceived. Here, 'external governance' or, as I would prefer, the 'externalization of EU governance' make an implicit claim suggesting that modes of internal governance are similar or at least comparable to the ones employed by the EU *vis-à-vis* the 'world outside' (Friis and Murphy, 1999, Filtenborg et al., 2002; Gänzle, 2002; Myrjod 2003; Lavenex 2004; Schimmelfennig and Wagner, 2004; Gänzle, Müntel and Vinokurov, 2008) proposing a conceptual bridge between domestic and foreign affairs.

Thus, the governance approach in EU studies immediately draws our attention to the inherent dynamics of Europe's new political order and provides a theoretically informed guide to understand the oscillation of EU politics between inclusion and exclusion. As noted by other scholars, the literature dealing with EU enlargement as much as the European Neighbourhood Policy is on the verge of turning itself into a veritable sub-discipline of EU studies (Sedelmeier, 2006). Many studies on ENP have focussed on the EU's ability to provide an 'external incentive' model, albeit below the level of membership and thus without relying on the 'membership carrot' to induce transformative change in a partner country (Schimmelfennig and Sedelmeier, 2004; 2005; Schimmelfennig 2007). Two distinguishable logics of behaviour, based on ontologically different assumptions, are discernible: First, rational actors follow the 'logic of consequentiality' based on cost-benefit calculations; second, actors may subscribe to a more cognitive 'logic of appropriateness' and are guided by collective understandings about appropriate behaviour according to established rules and norms (March and Olsen 1996). While some have been sceptical with regards to the transformative power that the EU is able to yield in its neighbourhood without waiving the membership carrot (Schimmelfennig, 2005),[7] others understand the EU's oscillating

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6 Here, I am not interested in different modes of governance such as soft and hard governance as two distinct varieties of governance generated by the EU. While soft governance is not restricted to formal interaction, it may be fostered by the evolution of EU-inspired 'European' norms and values which are not necessarily limited to the realm of the member states. Hard governance, in turn, emphasizes the role of governing through negotiations and the implementation of legal acts and political decisions. It mirrors the EU's role as a negotiation system (Schmidt, 1997), which entails various distinctive features, such as a bargaining, path-dependent and non-strategic decision-making style, tentatively producing sub-optimal outcomes.

7 The application of EU conditionality without the prospect of future membership has been identified as one of the major research avenues for 'Europeanization East', the other one being post-accession difficulties in meeting EU requirements, norms and practices (Sedelmeier 2006). As a third trajectory this author suggests

policies between inclusion and exclusion as an effort to regulate Europe's changing political order, and thus have welcomed the ENP as a "significant advance" (Dannreuther, 2006, p. 185; Lavenex, 2004). Political order can be defined as "a durable mode of organizing and exercising political power […] with distinct institutions, policies, and discourses" (Plotke, 1996, p. 1). Hence, 'order', which appears to be the consistent and normal way politics 'works', is manufactured by "a regular, predictable, and interconnected pattern of institutional and ideological arrangements that structure political life in a given place at a given time" (Lieberman, 2002, p. 702). *I will argue that the way that the EU produces political order is constrained by the way it uses and deploys governance, which, in turn, employs a system of rules with the ultimate objective of establishing legitimate order for a political space.* Due to the protracted nature of the EU's internal decision-making style, EU governance tends to mirror internal patterns of decision- and policy-making. In a nutshell, the EU attempts to externalize its own system of governance beyond its borders (Friis and Murphy, 1999, p. 215; Gänzle, 2002), and, bluntly put, to make its immediate vicinity more like itself. Consequently, EU governance eases interaction, manages expectations with regards to the scope and scale of a relationship (ultimately controlling adjustment costs for the EU) and maximizes EU influence on policy-making processes in the third countries concerned.

Subsequently, the notion of 'boundaries' has been applied to capture the dynamic of the EU's changing role in Europe's political order after the end of the Cold War. Boundaries of governance, in this regard, delimit rights of access to and participation in EU policy-making. Clearly, the governance structures establishing political order may increase and decrease over time, possibly adding considerable dynamic to the externalization of governance. It should be emphasized that the framework of analysis presented here offers a comprehensive heuristic devise to structure empirical data which I use only eclectically in this paper:

Drawing from M. Smith (1996), Friis and Murphy (1999), Filtenborg et al. (2002) and Lavenex (2004), I distinguish six types of boundaries of governance which are of critical importance to how the European Union relates to and interacts with the 'outside' world.[8] First, there is a *geopolitical boundary* manufacturing a definitive dividing line during the Cold War, and gradually reinforcing during Vladimir Putin's second mandate as Russian President. Second, a *discursive boundary* can be perceived when describing the scope of mutual awareness and 'talking Europe' between the EU and third countries' representatives. Third, there is a *cultural boundary* that is "relatively permeable, as established between the inside and the outside on grounds of democratic and political values" (Filtenborg et al., 2002, p. 395), giving the European Union Karl W. Deutsch's (1957) image of a 'security community'. Fourth and most importantly, a *transactional boundary* allows the European Union to allocate privileges in terms of market access and policy-participation for 'third' countries. Fifth, a *legal boundary* defines the scope of EC law application, thereby creating the EU's image as a 'community of law'. Finally, the sixth boundary is construed by the *institutional boundary* defining the very core of EU governance and determining who is in and who is out, who is a member and who is not. By externalizing governance

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that ultimately the transformative impact of the new member states on the EU system of governance is likely to become a major field of future research.

8 While Michael Smith (1996) differentiated between four boundaries (geopolitical, cultural, transactional and legal/institutional), Sandra Lavenex (2004) rightfully proposed to separate the legal from the institutional boundary.

vis-à-vis third countries, the EU is enabled to underwrite a loosely constructed policy space of inclusion, to increase its problem-solving capabilities, and to generate intermediate forms of dynamic associations below the level of membership.

III. Creating the European Neighbourhood Policy (ENP)

The first concrete steps leading to ENP were taken following a letter from the British foreign minister to the (then) Spanish Presidency of the European Union in January 2002. According to this document, Ukraine, Belarus and Moldova should be offered "clear and practical incentives" for proceeding with political and economic reform and be granted the status of "special neighbour" (Comelli, 2005, p. 13) based on a firm commitment to democratic governance and free market principles. At this stage, the countries of the Southern Mediterranean area were yet to be included as potential candidates for such an inclusive approach. Having met with the same resistance by Southern EU members to Eastern enlargement throughout the 1990s (which had brought to life the Barcelona process), the geographical scope of the new policy was quickly broadened to include both Russia and the Southern Mediterranean rim (Johansson, 2007).

In December of 2002, the European Council of Copenhagen approved, in principle, the idea of a European Neighbourhood Policy. The ENP was set to unfold a very unique category for EU relations with third countries. Although the Constitutional Treaty was not ratified in its current form, its objectives regarding third states triggered the construction of the European Neighbourhood Policy. In May of 2004, the European Commission published its Strategy Paper on the ENP. This paper clarified the principles and objectives that would govern all future ENP partnerships, and sought to extend to ENP countries the "chance to participate in various EU activities through greater political, security, economic and cultural cooperation" to be awarded with the prospect of "a stake in the EU's Internal Market" (European Commission, 2003, p. 4). Subsequently, this incentive evolved into more concrete suggestions such as 'Deep Free Trade Agreements' or participation in EU programmes and agencies (European Commission, 2006b).

Following this comprehensive step towards achieving the overarching policy goals of the ENP, the European Commission refined its existing country strategies (which had to be agreed upon under the PCA agreements frameworks). The ENP is being reshaped in order to be compatible with the existing framework of relationships between the EU and its neighbours. Each country strategy paper subsequently supplies a strategic framework for the period 2002-2006. Furthermore, these strategy papers set out EU cooperation goals and policy responses as well as identify areas for cooperation defined as key priorities. In addition, the strategy papers provide an assessment of the partner countries' policy agendas, political and socio-economic situations. Concomitantly, the European Commission drew up its first set of country reports. In May of 2004, country reports were published on the first seven of the ENP countries which have Association or Partnership Agreements in force with the EU. A further five country reports were published in March 2005 on the next set of countries to be included in the policy (Georgia, Azerbaijan and Armenia), as well as with those countries whose Agreements had already come into force (Egypt and Lebanon). These reports provided an outline of the political, economic and social situation in the ENP countries and space for future assessments on the achievements of each of the EU's partner countries.

The next stage in the development of ENP saw the conclusion of ENP Action Plans for each country, providing the core script for the bilateral relationship. In June 2004, the Council of the EU upheld that "Action Plans should be comprehensive but at the same time identify clearly a limited number of key priorities and offer real incentives for reform. Action Plans should also contribute, where possible, to regional cooperation" (Council of the EU, 2004a). Subsequently, a wide range of other areas have been emphasized. They jointly define an agenda of political and economic reform by means of short and medium-term priorities (between 3 and 5 years). They cover political dialogue and reform, economic and social cooperation and development, trade-related issues and market and regulatory reform, cooperation in justice and home affairs, cooperation in sectors (such as transport, energy, information society, environment, research and development) as well as a human dimension (people-to-people contacts, civil society, education, public health).

Finally, the implementation of mutual commitments and objectives agreed upon in the Action Plans are subject to regular monitoring by the European Commission and the partner country, with a first set of progress reports released by the European Commission in December of 2006. In addition, the European Commission issues periodic reports commenting on progress as well as shortcomings, a procedure clearly reinforcing elements of conditionality by offering regular reviews and upgrades of the relationship in exchange for compliance with jointly agreed commitments. Hence, it does not come as a surprise that the Deputy Head of the Ukraine's Mission to the EU affirms that his country aims at "under-promising, but over-delivering"[9] on the terms of its objectives in the Action Plan.

Although the ENP was conceptualized as a policy fostering regionalism in the EU's backyard, ultimately, bilateral approaches prevailed. In Ukraine and other countries of the 'European Neighbourhood', ENP is being perceived as an additional facet of the country's bilateral relationship with the European Union (see Parmentier 2008). At the time of its inception, ENP acquired a rather negative image in those European ENP countries which are aspiring for accession to the EU. Now, it is embraced as yet an additional stage of a process of ever closer *rapprochement* towards the EU. Based on the governance approach, the following section provides an explanation for the inherent dynamic of the European Neighbourhood Policy.

V. Modifying the boundaries of EU governance

Building on a 'partnership approach' with neighbouring countries, the European Neighbourhood Policy attempts to embrace countries within a set of six different boundaries of EU governance. This approach identifies the scope of shifts and modifications over time and within different ENP countries along the geopolitical, discursive, cultural, transactional, legal and institutional boundaries.

The geopolitical boundary
The first boundary subject to modification is the geopolitical boundary. Modifications of this boundary of EU governance are primarily spurred by external events and the way the EU and others (e.g. Russia, the United States) respond to them. Throughout the Cold War era, all major political initiatives were restricted by the bipolar rift dividing Eastern and Western Europe. Eventually, the collapse of the Soviet Union provided an opportunity to

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9 Author's interview with Kostiantyn Yelisieiev, Deputy Head of Ukraine's Mission to the EU, Brussels, May 30, 2005.

shift the geopolitical boundaries of governance in Europe, or, from a different angle, presented "the biggest geopolitical catastrophe of the century" (Putin, 2005). Central and Eastern European countries were adamant to 'return to Europe'; Western institutions such as NATO, the Council of Europe and the European Union were catapulted into a leadership role providing new institutional templates to manage the transition of these countries from 'pre-' to fully-fledged members. It was in the early 1990s that the EU opted for a dual track policy (Timmermann, 1996) separating the Central and East European countries (including the Baltic States) from the Newly Independent States (Hillion, 1998) – a distinction that has thickened the geopolitical boundary in post-Cold War Europe. Until recently, the EU subscribed to the idea that the Commonwealth of Independent States (CIS) would form a regional unit – with Russia as its regional center, destined to lead this alliance both economically and politically. It was only in the late 1990s that the EU eventually acknowledged that "the initial expectation that the CIS states would remain a cohesive group" (Zagorski, 2004, p. 80) was false. Thus, after the dismantlement of the Soviet Union, the lack of cohesion within the Commonwealth provided yet another opportunity to adjust the geopolitical boundary of governance.

 While Belarus and Russia are not keen on joining the European Union in the foreseeable future, Ukraine and Moldova (the latter since 2001) have been rather adamant in declaring EU membership as one of their foreign policy goals. By all means, both countries are 'European states' and as such, are entitled, in principle, to apply for EU membership according to Article 49 of the Treaty of Rome.[10] In November 2003, the European Parliament recognized "[…] the right of countries, such as Ukraine and Moldova […] to obtain EU membership when they fulfill [...] all the requisite political and economic criteria [...]" (European Parliament, 2003, p. 9).

 However, Russia is increasingly worried about these changes in its immediate neighbourhood. Shortly after Vladimir Putin came to power, Russia's stance *vis-à-vis* possible EU 'membership' changed significantly. For the very first time, the Russian government explicitly declared not having membership in the EU as part of its political agenda. There were several reasons for this development, some of them obvious: first, the Russian political elite took a nationalistic turn during the presidency of Putin; second, Russia feels that Europe (and the EU in particular) are highly dependant on Russian energy supplies and therefore it would serve Russia's interests to remain outside of the EU in order to benefit economically from this situation; third, EU inclusion of the Baltic States and Poland increased scepticism and to some extent Russo-phobia in the realm of the EU. With a view to the Polish and Lithuanian involvement in resolving the dispute surrounding the 2004 presidential election in Ukraine and the subsequent 'Orange Revolution', two EU member states assumed a pivotal role in blurring the geopolitical boundary in order to encompass the Ukraine. Ultimately, the European Union was pressed to upgrade its commitments, a decision which it reiterated *vis-à-vis* the Caucasian republics in 2004 when it decided to include Georgia, Azerbaijan and Armenia in the ENP. Furthermore, some of the new member states

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

are adamant in redefining the scope of the EU's geopolitical boundaries (Edwards, 2006). Hence, Lithuania and Moldova agreed to "join efforts to develop a new framework for special contractual relations between the Republic of Moldova and the European Union that will provide a clear long-term perspective of accession, pursuant to Article 49 of the Treaty on European Union" (Government of Lithuania and Government of Moldova, 2007). It seems that countries like the Baltic States, which (re-)emerged as independent states from the debris of the Soviet Union, are particularly resolute in their support of other post-Soviet countries. In doing so, Lithuania, Latvia and Estonia reaffirm their own sovereignty by ensuring the continued existence of the post-Soviet political order in Europe.

The discursive boundary
Mutually discursive practices, the way of talking about one another, constitutes an important aspect of EU-centred governance. Discourse describes a complex system of texts and utterances of all kinds (written and spoken) through which knowledge, power and control is (re-)produced. This system is continuously constructed and reflected upon through speaking and writing, thus it is in constant progress. Since reality is also discursively construed, it is important to identify and analyse the linguistic means and strategies used to represent the EU and ENP partners respectively.[11]

The European Commission President Romano Prodi, for instance, described the purpose of the ENP as creating a "*ring of friends* surrounding the Union and its closest European neighbours, from Morocco to Russia and the Black Sea" (Prodi, 2002; emphasis added). While there is a strong normative aspect discernible in the Commission's approach, the European Security Strategy, which was drafted at the same time under the aegis of the Council Secretariat, in turn, is much more pragmatic, favouring the creation of "*a ring of well governed countries*" (European Security Strategy, 2003, p. 8; emphasis added; Missiroli, 2007, p. 2). Henceforth, the ENP was set to exhibit both a normative pro-Europe roll call as well as a practical policy tool kit for the 'new Europe'. France, for instance, has recently proposed an EU-Ukraine 'association' pact – evocative of 'association' pacts signed with the Central and Eastern European countries in the early 1990s suggesting that "the future of Ukraine is ultimately in the heart of Europe" (see EUobserver, 18.2.2008). Similarly, the agreement would not be called 'neighbourhood preferred agreement' but – at least for the moment – 'enhanced agreement'. The Ukrainian authorities insisted upon this 'neighbourhood' label not to be enshrined in the new treaty. Indeed, contrary to other ENP Action Plans, the ENP Action Plan for Ukraine only refers to 'enhanced agreement' and not to 'neighbourhood agreement' (Hillion 2007, p. 170).

Clearly, the European Union has always been on the (foreign) policy agenda of most of the countries that now take part in the ENP. There has always been talk about how close to get to 'Europe'. In the case of Israel, it was evident that – for various reasons – the level of cooperation should be just 'short of membership'. Many EU and Israeli politicians subscribed to this objective. In the case of the Maghreb, France and Spain are eager to present themselves as the main interlocutor of a somewhat European perspective towards Algeria, Tunisia and Morocco. In various degrees, the governments of these countries responded by just doing the 'Euro talk'. In many ENP documents, the European Commission applies a rather normative and paternalistic language: "The EU has a duty, not only towards

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11 Methodologically, critical discourse analysis (CDA) provides the analytical tools to explore modification of this particular boundary of governance in more depth.

its citizens and those of the new member states, but also towards its present and future neighbours to ensure continuing social cohesion and economic dynamism" (European Commission, 2003, p. 3). The European Union attempted to clarify that the ENP was about partnership with, and not membership in, the European Union. Still, various Commission officials sought to remain ambivalent in terms of the membership issue. Furthermore, the Commissioner for Enlargement, Günter Verheugen, declared that the Ukraine was not going to become an EU member any time soon (Fraser, 2007), while the Commission President Romano Prodi had declared that "[w]e have to be prepared to offer more than partnership and less than membership, without precluding the latter" (Prodi, 2002).

With regards to the Eastern ENP countries, it is noticeable that the discursive practices on the EU have increased remarkably in the wake of the EU's Eastern enlargement. Media reports and documentation focusing on the EU and its member states has increased exponentially. Furthermore, the 'Orange Revolution' in the Ukraine has catapulted the country to the forefront of the EU's 'Eastern policy'. Clearly, the discourse embracing the Ukraine and other states as part of the family of European states is closely inter-linked with the modification of other boundaries of governance. Unsurprisingly, Victor Yanukovych, then Prime Minister of Ukraine, maintained that "[t]he time when mostly declarative slogans prevailed in the euro-integration rhetoric of Ukraine should be left in the past", adding that "a special place will be assigned to the restoration of a mutually advantageous good neighbourhood with Russia" (quoted in EUobserver, 5.9. 2006). The most important modification in terms of the discourse is perceptible in the way neighbouring countries are being 'conceptualized'. This is particularly evident in the case of the new neighbours in Eastern Europe where Ukraine and Moldova are increasingly viewed in terms of 'Eastern ENP' – and thus European countries – instead of Western Newly Independent States (WNIS).

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

Furthermore, with regards to education, training and youth, the Ukraine Action Plan strives to enhance "a policy dialogue between EU and Ukrainian authorities in the field of education and training" (EU-Ukraine Action Plan, 2004, p. 39). In this case, the cultural boundary has been shifted to encompass Ukraine in a number of programs such as Tempus III, Erasmus Mundus and the Youth programs. It also encourages Ukraine to fully subscribe to the objectives of the Bologna Process in Higher Education, ensuring compatibility of the Ukrainian university system with that of EU member states. Ukraine joined the 'Bologna club' together with the other Eastern ENP countries Armenia, Azerbaijan, Georgia and Moldova in May 2005. It is interesting to note that in Ukraine, interest in the Bologna Process has grown tremendously after December 2004. According to Koshmanova (2007, p. 176f), Ukrainian instructors in higher education emphasize the 'historical significance'

of Bologna and describe it as the highest European educational priority. The Ministry of Education and Science of Ukraine disseminated core ideas of the Bologna Process through various publications, thematic conferences, formal regulations and presentations in mass media. More importantly, the Bologna Process is increasingly being used as a template for modernization affirming Ukrainian education (and hence identity) within European rather than post-Soviet perimeters.

The transactional boundary
The modification of the transactional boundary is the most obvious change in the process of ENP-based EU governance. The ENP entails the "perspective of moving beyond cooperation to a significant degree of integration, including through a stake in the EU's Internal Market, and the possibility for Ukraine to participate progressively in key aspects of EU policies and programs" (EU-Ukraine Action Plan, 2004, p. 2). After finalizing its WTO accession process in February 2008, Ukraine launched negotiations about a free trade agreement with the EU as a part of the New Enhanced (Neighbourhood) Agreement. The EU and Ukraine intend to bring regulatory standards into convergence and improve access for investment in both directions.

In addition, the extension of the Generalized System of Preferences (and its variants such as the 'GSP Plus') is yet another key instrument to respond to the needs of developing countries and to promote sustainable development and good governance. In January of 2006, Moldova became the first beneficiary of GSP Plus. According to EU External Relations Commissioner Benita Ferrero-Waldner, this "scheme offers indeed some better access to the European market, and it has improved also the certification and the control of origin rules, which opens the way also to a possible granting of additional autonomous trade preferences" (quoted in Lobjakas 2006). On the contrary, Belarus (albeit not a partner country of ENP) was excluded from the Generalized System of Preferences following a decision taken by the EU Council of Ministers on 21 December 2006 which came into effect on 21 June 2007 (Belapan News Agency, 2007). The removal of these tariff preferences only affects goods imported into the EU, essentially reinstating the standard tariffs at a difference of 3 per cent as compared to GSP. It is estimated that losses incurred by Belarus because of its exclusion from the GSP are likely to be between $23 and $36 million annually whereas the combined effect of the oil and gas shock in 2007 is somewhere in the order of $1.7 billion, equivalent to over 5 percent of GDP (SITE 2007: 10).

Until 2006, EU assistance to the countries covered by the European Neighbourhood Policy was channelled through various geographical programs, such as TACIS for the NIS and MEDA for the Mediterranean countries.[12] This is a bold manifestation not only for altering the system and name – for that matter – of financial assistance, it also suggests a 'new' beginning in the overall bilateral relationship between the EU and ENP countries. Similar to the enlargement practice, assistance is set to be more flexible and 'policy-driven', designed to target sustainable development and approximation of EU policies and

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12 These programs include TACIS (for its eastern neighbours and Russia) and MEDA (for its southern Mediterranean neighbours), as well as thematic programs such as European Initiative for Democracy and Human Rights (EIDHR). After painstakingly difficult negotiations on the financial perspectives for the years 2007-2013, the Council determined that ENP was to receive a share of approximately 20 per cent of the EU's overall external action budget of €50 billion. Since 2006, financial allocations come from the European Neighbourhood and Partnership Instrument (ENPI).

standards, as well as supporting the agreed-to priorities in the ENP Action Plans. One of its most innovative features is that it entails "a radical simplification to the current situation where cross-border cooperation at the external EU border is hampered by interfaces between internal and external funding instruments operating through different rules" (European Commission, 2004, p. 3). This means that cross-border cooperation with non-EU countries will be considerably eased along the EU's external land and sea borders in the east and in the south, putting partners under the same funding regime and instruments. ENPI also envisages extending forms of technical assistance to partner countries that had previously been used in the process of the CEECs *rapprochement* towards the EU, such as Technical Assistance and Information Exchange (TAIEX), long-term twinning arrangements with EU member-states' administrations (national, regional or local), as well as participation in Community programs and agencies. Moreover, the Commission expects that the priorities identified in the Action Plans, which are agreed to with the authorities of the country, will have a 'lighthouse effect' in terms of guiding the programming of other assistance programs from other donor countries and institutions.

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

The legal boundary
The recognition of norms and legal standards in ENP partner countries are of paramount importance. It is evident that the EU is unwilling to allow for discretion when it comes to fostering economic relations. Moreover, the "export of the *acquis communautaire* [is] an intrinsic part of its foreign policy towards third countries […] inspire[ing] third countries to adopt as much as possible of the dynamic *acquis* in order to create a comparable and friendly legal environment beyond existing and potential EU boundaries" (Petrov, 2008, p. 52). For example, in the case of the Ukraine, the PCA affirms that the Ukraine needs to approximate its "existing and future legislation to that of the Community" (PCA, 1998, p. 41). In general, the PCAs are rather vague, emphasizing the application of sweeping international law provisions and do not always clearly articulate what needs to be done in order to qualify for greater cooperation with the EU. Despite this ambiguity, however, Kiev has been eager to implement these agreements. As a result the Ukrainian legal regime has undergone considerable change to conform to EU legal standards. Petrov (2003) presents such drastic action as proof of Kiev's enthusiastic views towards the prospect of future EU membership - even before the 'Orange Revolution'. In fact, neither the PCA nor the EU has clearly established the level of conformity Ukraine must achieve in order to evoke the evolutionary clause that will determine a free trade area with the EU, seen by many as a pre-

cursor to EU membership. It is noteworthy that in the case of the EU's road maps with the Russian Federation (which is admittedly not part of ENP) the "language of the agreement emphasizes the need for two-sided convergence and harmonization of both Russia and the EU without saying who is converging or harmonizing on whom" (Gänzle 2007, p. 63).

In general, the European Union is also very keen on getting third countries in the neighbourhood to cooperate in the field of Justice and Home Affairs. Thus there is great pressure on neighbouring countries to pursue EU standards in terms of border security and sign readmission agreements which will make it more likely that the PCAs will be renewed in order to avoid another lengthy discussion and ratification processes for new treaties.

The institutional boundary
Although it is closely intertwined with the legal boundary, the institutional boundary is the most difficult one to alter as it comprises the very core of EU-centred governance; any transformation of the institutional boundary will require substantial reconfiguration of the governance system and, hence, significant transformation costs. It is understandable that former Commission President Prodi emphasized that "everything should be shared with one exception: institutions" (Prodi, 2002). However, Hillion stresses that the Commission in its 2006 legislative and work programme initially made suggestions for a "new type of institutional framework" superseding the existing institutional set up with respect to the PCAs and preparing "the grounds for a renewed institutional arrangement with … Ukraine" (Hillion, 2007, p 180). Still, inclusion within the institutional boundary of the EU is "a synonym for full membership" (Filtenborg et al., 2002, p. 400) – an objective which is currently not part of the EU's agenda. While the ENP does not contemplate any significant movement of the institutional boundary, it is attempting to modify the legal boundary – based on a unilateral recognition of EU law by the respective outsider. If any such country complies with EU legislation, it moves further down the road towards closer cooperation with the European Union. So far, this approach is especially fostered in those areas where either mutual or EU gains are obvious, such as in the field of Justice and Home Affairs (JHA), in which the EU makes the signature of readmission agreements a *conditio sine qua non* for any further co-operation. Another such area is energy cooperation which has – in the case of Ukraine and Russia – been singled out as a particular form of issue-centred dialogue. The EU-Russia energy dialogue was launched by the Russian President Putin, the French President Chirac and the Head of the EU Commission Prodi during the EU-Russia summit of October 2000 with a view of providing an "opportunity to raise all the questions of common interest relating to the sector, including the introduction of co-operation on energy saving, rationalization of production and transport infrastructures, European investment possibilities, and relations between producer and consumer countries" (European Council, 2000). Clearly, these issues cannot be tackled in a consistent manner without considerable alignment in the legal sector. Yet it is also obvious that the approach of inclusion with regards to the legal boundary will ultimately impact on further institutional realignments.

VI. Conclusion
The end of the Cold War and subsequent rounds of EU enlargement have not only advanced the EU towards new neighbours in Eastern Europe, it also pushed it into a pivotal role in reshaping Europe's political order. The EU was in a position to modify its system of governance and to the shift its boundaries in order to embrace the neighbouring countries.

By extending its 'axis' of governance towards these countries, the European Union has implemented an incremental process of conditionally including external actors in its policy-making processes as well as making them targets of its policies.

It is clear that ENP conditionality is not as strong as enlargement-proven conditionality. Drawing from the analytical concept, it became clear that conditionality can be best applied within the transactional boundary of EU governance. For the time being, the transactional boundary appears to be the most significant one in terms of EU-ENP country relations. It is within this boundary that the EU attempts to generate a dynamic of externally-driven reform in various policy sectors of the ENP countries (Dodini and Fantini, 2006). Whether the prospect of an enhanced trade agreement will entirely satisfy the needs and demands of the Eastern ENP countries is dubious. It remains to be seen whether the Ukraine and Moldova will increase their efforts to see the institutional boundary of governance modified in a way that, in the near future, will come close to effective membership.

Modification of one boundary is rather certain to have an impact on others. Transformations within the cultural boundary of EU governance are probably comparatively easy to achieve as they do not entail conditionality regarding a virtual cultural *acquis communautaire*. At the same time, blurring the cultural boundary (which was among the first steps of the EU in the mid-1990s by opening EU educational programs, such as Socrates,[13] to participants of newly associated countries in Eastern Europe) may spur modifications of the transactional, legal and institutional boundaries. Although this is far from adopting any sort of neo-functional teleology, this dynamic, which is also enshrined in the ENP, depends on many factors: the political constellation of each country's domestic politics; the foreign policy of the Russian Federation (with regards to the 'Eastern Neighbourhood'); the readiness of the European Union to ultimately accept the emergence of this particular dynamic; and the prospects of European countries within the ENP joining the Union. I have argued here that the ENP was an intentional EU strategy, but at the same time path-dependent, nourished by the EU's broad organizational experiences in applying conditionality *vis-à-vis* third countries. It clearly needs to be matched by the readiness of key actors at both levels – the supranational and the national – to engage outsiders' willingness to comply with the EU-set rules of the game and to seek a stake in European integration.

Consequently, the process as such is by no means irreversible. In fact, with regards to the Eastern ENP countries, a major domestic political change or an about-face in Russian foreign policy is likely to re-shift the geopolitical boundaries in Europe. Given the fact that Russia has rather considerably consolidated its foreign policy since 2005, it seems safe to assume that the EU's European Neighbourhood Policy is heading into rough waters over the next few years.

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13 Socrates was started in 1995, although it had its precursors in all the constituent programs that came before it and then subsumed under it (like Erasmus, Grundtvig, etc.).

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