

# **THE EU'S EMERGING NEIGHBOURHOOD POLICY AND ITS POTENTIAL IMPACT ON THE EURO-MEDITERRANEAN PARTNERSHIP**

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## Foreword

The present study is part of the general theme: 'Looking Forward beyond Enlargement to the Future shape of the Euro-Mediterranean Partnership'. The essential aim of this project is first of all, to analyse and compare the different proposals emanating from the European Convention, the European Commission and its President, the European Parliament and the Members States of the future enlarged European Union regarding the emerging EU's Neighbourhood Policy. Second, to appraise the various perceptions of EU's eastern and southern neighbours with regard to this new proposed policy and, thirdly, to try to evaluate the potential impact of this policy on the Euro-Mediterranean Partnership (EMP).

Launching and stimulating the debate and fostering further research are the essential aims of the study. The analysis is notably based on the relevant EU official documents such as the draft constitutional Treaty, the recent Communications adopted by the European Commission and the European Parliament as well as the Conclusions of the 2002 Copenhagen European Council. Common strategies adopted within the framework of the CFSP are also taken into account alongside the existing network of bilateral agreements.

The present study tries to answer the following questions:

- Is the launching of this new policy compatible with the EMP as it was conceived in Barcelona in 1995?
- What are the main obstacles to such a policy?
- What could be the optimum strategies for the EU's partners?
- Is there a need for new institutions or new Instruments to implement this new policy?
- Is there a need for a new form of association with the neighbouring countries of the EU?
- What are the main differences between the perceptions of the (potential) candidate countries and of the non-candidate countries regarding the envisaged policy.

## **Introduction: on Proximity and Neighbourhood**

The notions of proximity, periphery, and neighbourhood are nothing new within the European integration process. Previous EEC and then EU enlargements have already raised such issues<sup>3</sup> but the specificity of the next enlargement(s) is that it is now urgent to, on the one hand, progressively clarify the definitive limits of the enlarged Union and, on the other hand, to offer new perspectives for those neighbouring countries having no (immediate) perspective of accession.

Already in 1992, the Council identified, on the basis of three specific factors (the geographical proximity of a given region or country; an important interest in the political and economic stability of a region or a country; the existence of threats to the security interests of the Union),<sup>4</sup> a limited number of geographical areas requiring special attention for the forthcoming CFSP joint actions. A distinction was made between two different areas:

A) *‘Central and Eastern Europe’*, including:

1. Russia and the former Soviet Republics,
2. Other countries in Central and Eastern Europe including the Balkans
3. Former Yugoslavia

B) *‘Maghreb and Middle East’*

1. Maghreb
2. Middle East

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<sup>3</sup> In 1992 a debate led to the conclusion that the limits of Europe ‘cannot be condensed into a simple formula, and is subject to review by each succeeding generation’. European Commission, *Europe and the Challenge of Enlargement*, Bull. EC, 1992, supplement 3, p.11.

<sup>4</sup> Report to the European Council in Lisbon on the likely development of the CFSP with a view to identifying areas open to joint action vis à vis particular countries or groups of countries, Bull. EC, 1992, 6, point I.31.

In other words, a hierarchy of ‘target neighbouring countries’ was already introduced in 1992 with regards to the -at that time emerging- CFSP. The forthcoming enlargement, together with the Stabilisation Process in the Balkan region, now gives new impetus to this discussion. It is striking that the Commission, already in 1992, referred to the challenge of organising well-established relations with ‘the wider Europe’. Whereas this concept, at that time, primarily referred to the new democracies of Central and Eastern Europe, a decade of (geo-)political evolutions led to a new interpretation.

Two years later, while preparing the forthcoming Barcelona Conference, the December 1994 Essen European Council explicitly recognised the necessity for the EU to establish ‘*balanced relations with all its neighbours*’. At the following European Council, held in Cannes in June 1995, the Member States went further: ‘*an ambitious policy of cooperation to the south forms a counterpart to the policy of openness to the east and gives the European Union’s external action its geopolitical coherence*’<sup>5</sup>. These two statements were clearly adopted in order to reassure the Mediterranean partners of the EU, who were already aware of the consequences of the fall of the Berlin Wall.

In Agenda 2000, adopted on 15 July 1997, the European Commission, for its part, explicitly acknowledged that enlargement ‘*will influence EU relations and policies towards third countries and regions*’.<sup>6</sup> It warned that ‘*adverse effects could result from enlargement, were it to be perceived as raising new barriers in Europe.*’ To avoid such a scenario particular attention must be paid to ‘*the legitimate security and economic concerns*’ of those not included in the enlargement strategy. Unfortunately, these statements did not, at that time, result in a well thought-out and fully developed strategic policy.<sup>7</sup>

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<sup>5</sup> Emphasis added.

<sup>6</sup> Agenda 2000. The Challenge of Enlargement (Vol. II), COM (97) 2000 final, 15 July 1997, p.14.

<sup>7</sup> Only a number of unsubstantiated, apparently cursory, statements have been taken up and recapitulated in the Commission strategy reports on enlargement. For instance, it has become axiomatic to state that ‘enlargement will benefit not

The Amsterdam Treaty, which entered into force 1<sup>st</sup> May 1999, provided for a new instrument to strengthen the Union's relationship with its future neighbours. According to the new Article 13 EU, '*the European Council can decide on Common Strategies (CSs) to be implemented by the Union in areas where the Member States have important interests in common.*' It soon became clear that, taking into account the forthcoming enlargement and the development of the *acquis*, the first CSs were to focus on the regions neighbouring the enlarged EU. Whereas subsequent European Council meetings effectively adopted CSs towards Russia,<sup>8</sup> Ukraine<sup>9</sup> and the Mediterranean region,<sup>10</sup> the development of a specific Stabilisation and Association Process (SAP) for the countries of South-Eastern Europe gradually ruled out the idea of a particular Balkan CS.

At another level, the European Conference initiative clearly illustrates the Union's *ad hoc* reactions to the external challenges of enlargement. This instrument was initially created as a forum for political consultation on issues of common interest to the EU Member States and the European States *aspiring to accede*. In spite of the vagueness of this expression, the offer of participation in the European Conference was primarily directed at Turkey. Countries such as Moldova and Ukraine showed an interest in getting involved in the discussions but were not so invited. The initial Turkish refusal to accept the offer discredited the European Conference as a forum to discuss pan-European issues.<sup>11</sup> As a result, the December 1998 Vienna European Council called for a revision of the future role and membership of the European Conference. Gradually the number of participants has grown. The

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only existing and new Member States but also neighbouring countries.' See e.g. 'Making a success of enlargement. Strategy paper and report of the European Commission on the progress towards accession by each of the candidate countries', COM (2001) 700 final, 13 November 2001, p.1.

<sup>8</sup> Cologne European Council (3-4 June 1999), Bull. EU, 6-1999, point I.50.

<sup>9</sup> Helsinki European Council (10-11 December 1999), Bull. EU, 12-1999, point, I.19.56.

<sup>10</sup> Feira European Council (19-20 June 2000), Bull. EU, 6-2000, point I.46.58

<sup>11</sup> M. Marescau, 'Pre-Accession', in M. Cremona, *The Enlargement of the European Union*, Oxford, Oxford University Press, 2003, p.29.

2000 Nice European Council suggested the incorporation of the countries covered by the Stabilisation and Association Process together with the EFTA countries. The 2001 Göteborg European Council decided to invite Moldova and Ukraine.<sup>12</sup> Notwithstanding the general nature of all European Conference declarations and their lack of political impact, these meetings might evolve into a forum for regular consultations between the Union and its direct *European* neighbourhood. However, it cannot be denied that its general objectives and working methods need improvement and clarification.

Apart from the European Conference, the Finnish idea of a Northern Dimension was the first worthwhile attempt to overcome the somewhat artificial distinction between the enlargement and external relations policies of the EU. Notwithstanding a number of practical and bureaucratic problems surrounding the implementation of the Northern Dimension Action Plan<sup>13</sup>, the objective of tackling the consequences of uneven regional development by stimulating cross-border co-operation provided an interesting test-case to avoid the emergence of new dividing lines after enlargement. It soon became common ground to suggest the extension of this model to the Union's future borderlands.

In this regard, an 'eastern dimension' primarily oriented towards Moldova, Ukraine and Belarus and a 'southern dimension' towards the Mediterranean (non-candidate) countries seemed to be an attractive idea. The Member States discussed the issue on the occasion of the General Affairs Council of 15 April 2002. Whereas Britain wanted to focus on the three new East European neighbours Ukraine, Moldova and Belarus, other Member States took the view that the EU needs a widespread strategy for all neighbour countries of the expanded EU, *'from Russia in the north, in an arc around to*

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<sup>12</sup> These countries participated, together with Russia, 'on an ad hoc basis' in the Brussels European Conference of 20 October 2001. The same 39 countries came together under the Greek presidency (17 April 2003) in order to express their views on the relations of the enlarged Union with its neighbours. See: *Uniting Europe*, 28 April 2003, pp. 4-6.

<sup>13</sup> Available at [http://europa.eu.int/comm/external\\_relations/north\\_dim/](http://europa.eu.int/comm/external_relations/north_dim/)

*Morocco in the South*'.<sup>14</sup> In the end, the Member States charged Commissioner Chris Patten and CFSP High Representative Javier Solana with the task of outlining the bones of a new 'proximity policy'. Both high level policy-makers presented their view in September 2002.<sup>15</sup> As a point of departure, they divided the Union's future neighbours into three main regional groupings with different perspectives. The western Balkan countries which are involved in the Stabilisation and Association Process are considered as being 'potential candidates' whereas the southern Mediterranean countries, included in the Barcelona process, are explicitly excluded from membership. Finally, the position of the future eastern neighbours<sup>16</sup> remains ambiguous. They 'fall somewhat uncomfortably in between', which makes this area 'the most immediate challenge' for the new policy. According to such a reasoning, no other neighbouring region will be confronted more with the consequences of enlargement. Therefore, the Patten/Solana paper suggested that a new 'proximity policy initiative' should initially focus on the eastern neighbours<sup>17</sup>. This initiative would, *inter alia*, embrace the possibility of concluding so-called 'European Neighbourhood Agreements'. Whereas the paper remains somewhat vague on the concrete contents and added value of this approach, relabelling the existing relations is considered to be justified because of its '*strong symbolism*'<sup>18</sup>.

Subsequent Council meetings confirmed the perceived necessity to focus on Ukraine, Moldova and Belarus. For each of these countries the Council proposed '*an ambitious, long-term and*

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<sup>14</sup> B. O'Rourke, 'EU Commission Ponders Special Relationship with New Neighbours', RFE 19 April 2003. Available at: <http://www.rferl.org>

<sup>15</sup> The full text of the Patten/Solana paper has been published in *Uniting Europe*, 199, 9 September 2002, pp.5-7.

<sup>16</sup> It has to be noticed that, in contrast to the original British proposal, Russia is explicitly included in the group of Eastern neighbours. According to the paper 'it is difficult to envisage strengthened regional co-operation without Russia'.

<sup>17</sup> When Patten and Solana stressed the importance of a strong Eastern dimension, they did not exclude the Mediterranean nor the western Balkan countries from the Union's general proximity policy.

<sup>18</sup> In the author's opinion, 'a new label that marks a strengthened commitment of the Union could help to raise the profile of relations with the EU and thus unlock additional political will and administrative capacity.' See footnote 15.

*integrated approach, with the objective of promoting democratic and economic reforms, sustainable development and trade.*<sup>19</sup> The Council, however, did not elaborate this approach but invited the Commission and the High Representative to draft more detailed proposals. However, it was neither Chris Patten nor Javier Solana but Commission President Romano Prodi that became the most ardent defender of the Union's proximity policy. Remarkably, Prodi distracted the attention away from the New Neighbours Initiative to the 'Wider Europe-Proximity Policy' concept. In his notable speech at the Sixth ECSA World Conference, he defined the geographical scope of this new policy as '*a ring of friends surrounding the Union from Morocco to Russia and the Black Sea*'.<sup>20</sup> A 'comprehensive approach' to all neighbours based on the prospect of '*sharing everything but institutions*' can be defined as the core of Prodi's proposal.

The Presidency Conclusions of the following Copenhagen European Council of 12 and 13 December 2002 devoted specific attention to the relations between the enlarged Union and its neighbours. EU enlargement is expected to '*take forward relations with neighbouring countries based on shared political and economic values.*' In this regard, '*the Union remains determined to avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union.*<sup>21</sup>' The countries of the western Balkans included in the Stabilisation and Association Process are explicitly situated in the zone of potential EU enlargement. The other EU neighbours are clearly defined: the Presidency Conclusions refer to Russia, Ukraine, Belarus, Moldova and the southern Mediterranean countries. The envisaged Neighbourhood Policy has a long-term perspective and aims the promotion of 'democratic and economic reforms' as well as 'sustainable developments and trade'. Equally, attention will be

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<sup>19</sup> 2463rd Council Meeting - General Affairs, 14183/02, Brussels, 18 Nov. 2002.

<sup>20</sup> R. Prodi, 'A Wider Europe -a Proximity Policy as the key to stability', Sixth ECSA World Conference, Brussels, 5-6 December 2002, emphasis added, Available at:

[http://www.europa.eu.int/comm/external\\_relations/we/intro/index.htm](http://www.europa.eu.int/comm/external_relations/we/intro/index.htm)

<sup>21</sup> Emphasis added.

focused on the further development of cross-border and regional cooperation with and among neighbouring countries.

This broad outline of the Union's Neighbouring Policy requires some explanation. Primarily, it is interesting to note the difficulty '*to avoid new dividing lines in Europe*', taking into account the references to '*the new borders of the Union*'. Furthermore, a level of selectivity can be observed: Russia is mentioned first, then the other East European countries and finally the southern Mediterranean partners. Countries such as Georgia and Armenia are neglected (undoubtedly because of relative uncertainties surrounding the effective accession of Turkey), whereas also the other European non-member states (EFTA-members and micro-states) are not included. Equally, the EU seems to confirm a new differentiation because the countries of the western Balkans involved in the Stabilisation and Association Process are clearly offered future EU membership perspectives. This question of differentiation seems to be a central element of the proposed Neighbourhood Policy. In fact, developing an equal strategy for both some Republics of the former Soviet Union (so-called 'western NIS') and the countries of the southern Mediterranean produces a lot of questions relating to their different political and strategic situation, as well as to important economic and socio-cultural diversities.<sup>22</sup> This differentiation also stems from the perspective of legal relations established between the EU and each of these countries.

From a legal point of view, long-established relations between the EU and its southern periphery led to a number of similar agreements (Euro-Mediterranean Association Agreements-EMAAs<sup>23</sup>). In the East, Partnership and Co-operation Agreements (PCAs) have been concluded with the Russian Federation, Ukraine

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<sup>22</sup> The European Commission acknowledged these differences in its Communication '*Wider Europe – Neighbourhood: a new Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104 final, Brussels, 11 March 2003.

<sup>23</sup> Only the agreement with Syria has still, at the time of writing, to be concluded.

and Moldova, whereas the relations with Belarus are still facing a deadlock situation.<sup>24</sup>

The envisaged proximity policy faces the challenge to incorporate the divergent political and legal background of EU relations with Russia, the southern Mediterranean partners and the western NIS into a single comprehensive framework. The internal focus on the enlargement negotiations and the Union's strategy to separate its enlargement and external relations policy, which is reflected in the organisational structure of the European Commission, also explains the difficulties of defining such a consistent approach to the southern and eastern peripheries of the EU.

An analysis of this emerging policy would not be complete without a reference to the work of the Convention and the drafting of a title on 'The Union and its immediate environment' in the draft Treaty on the establishment of a constitution for Europe (hereinafter referred to as the draft constitutional Treaty).

On the basis of this legal and political perspective, it will be possible to assess the potential impact of the EU's emerging Neighbourhood Policy on the EMP. In addition, the perceptions of the Mediterranean Non-Member Countries (MNMCS) and European neighbouring countries will be taken into account.

## **I. The results of the European Convention**

The results of the European Convention are of importance with regard to the emerging EU's Neighbourhood Policy. Before analysing the provisions of the draft Treaty establishing a Constitution for Europe<sup>25</sup> it is interesting to provide a short

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<sup>24</sup> Belarus is now the only European successor state of the former USSR without a ratified Partnership and Co-operation Agreement.

See [http://europa.eu.int/comm/external\\_relations/belarus/intro/index.htm](http://europa.eu.int/comm/external_relations/belarus/intro/index.htm) and P. Van Elsuwege, 'EU-Belarus: the Development of a Difficult Relationship', *Belarusian Review*, 14, 2002, 1, pp.3-10.

<sup>25</sup> Available at: <http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf>

overview of the Working Groups' final reports on legal personality and external action which were published in December 2002. The first element to be mentioned is that no specific Working Group was in charge of discussing the Neighbourhood Policy as such.

### **A) The Working Groups' final reports on legal personality and external action**

The final report of Working Group VII on 'External Action',<sup>26</sup> contains a set of proposals relating to 'International Agreements'. In this respect, the WG recommended the inclusion within the new Treaty of '*one single set of provisions on the negotiation and conclusion of international agreements that would indicate that the Council authorises the opening of negotiations, issues negotiating directives, and concludes the agreements and would indicate who would act on the behalf of the EU according to the subject of the agreement*'. The WG also mentioned in its final report that conferring '*one single explicit legal personality on the Union*' would '*clarify the possibility for the Union to conclude agreements in the field of its competences*'.

The final report of WG III on 'legal personality',<sup>27</sup> also favoured this option and therefore recommended the '*consolidation of the various applicable procedures in a single provision*', the principle being that '*whatever the area concerned, it is always the Council which:*

- *authorises the opening of negotiations and issues the negotiating directives, and*
- *concludes the agreements once they are negotiated* .

The WG III however clearly stressed that '*consolidation into a single article might not necessarily involve changes to the specific features of the procedure according to the subject in hand*' .

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<sup>26</sup> Final Report of Working Group VII on External Action, Brussels, 16 December 2002, CONV 459/02, p. 9.

<sup>27</sup> Final report of Working Group III on Legal Personality, Brussels, 1 October 2002, CONV 305/02.

The main objective was in fact to simplify and clarify the procedure of negotiation and conclusion of international agreements concluded by the EC (and its Member States), on the one hand, and the Union on the other hand. In other words, the idea was to regroup a set of provisions:

- Article 300 EC Treaty (conclusion procedure for agreements between the EC and third states or international organisations);
- Article 24 EU Treaty (agreements in the field of the CFSP);
- Article 38 EU Treaty (agreements in the framework of police and judicial co-operation in penal matters).

As we will see, these proposals were taken into account for the writing of the articles of the draft constitutional Treaty. What is important to understand here is that there was a consensus between the two Working Groups to simplify the provisions concerning the negotiations and conclusion of international agreements, including the expected future '(specific) neighbourhood association agreements'.

## **B) The main articles of the project relating to the emerging Neighbourhood Policy**

Among the various articles of the draft constitutional treaty dealing with the external relations of the EC or the EU one may identify five which are of particular importance regarding the emergence of EU's Neighbourhood Policy. One must however underline the fact that the formula 'Neighbourhood Policy' is not expressly mentioned within the Treaty itself. The members of the Convention favoured a more neutral designation: 'the Union and its immediate environment'.

### **1. The introduction of a specific title devoted to the 'Union and its immediate environment' within the framework of the first part of the draft constitutional Treaty**

The introduction of a specific title (title VIII) devoted to the 'Union and its immediate environment' within the framework of the first

part of the draft constitutional Treaty is undoubtedly a major innovation. The fact that such a title was inserted within the first part of the draft Treaty (i.e the ‘real constitutional provisions’<sup>28</sup>) highlights the importance given to the development of new privileged relations between an enlarged Union and its periphery.

This title is composed of a single article (Art. 56) also entitled ‘The Union and its immediate environment’. It is noteworthy to stress that in the previous version of the draft Treaty, the wording of this article (at that time Art. 42) was different: ‘Privileged relations between the Union and Neighbouring States’<sup>29</sup>. Why such a tremendous change in the formulation occurred is not very clear.

The new article 56 is divided into two short paragraphs. The first reads as follows: ‘*1. The Union shall develop a special relationship with neighbouring States, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on co-operation*’<sup>30</sup>.

The aim of this first paragraph is obviously to define the general objectives of the relations between the enlarged EU and its immediate environment and to characterise its very nature: i.e. a ‘special relationship’. ‘Good neighbourliness’ must be put in parallel with the specific Stabilisation and Association Process (SAP) for the countries of south-eastern Europe (see *infra*). According to this first paragraph, such a relation should be ‘*founded on the values of the Union*’. This is an implicit reference to EU’s conditionality strategy reflecting also, to some extent, the will of the EU to export its ‘political model’.

Even if the implementation of an EU Neighbourhood Policy is not explicitly mentioned, this was clearly the objective of the members

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<sup>28</sup> The second part is devoted to the Charter of Fundamental Rights of the Union the third to the policies and functioning of the Union and the fourth to the general and final provisions.

<sup>29</sup> See Preliminary Draft Constitutional Treaty’, CONV 369/02, 28 October 2002.

<sup>30</sup> Emphasis added.

of the Convention. The explanatory note, published by the Secretariat of the Convention on this article in April 2003, states without any ambiguity that the first paragraph *'sets out the Union's intention to establish a 'neighbourhood' policy. There is no equivalent article/provisions in the current treaties, although the description in this paragraph could accurately be applied to the existing situation (the Union already has contractual relations with most of its immediate neighbours). The proposed text provides a loose but coherent framework for relations with its neighbours'*<sup>31</sup>. Indeed flexibility is a key word characterising this first paragraph. Such a flexibility is also required in order to apply a strong differentiation of treatment among the target countries.

## **2. The possibility to conclude new 'specific (association) agreements'**

The second paragraph relates to the contractual aspects of the envisaged relationship: *'2. For this purpose, the Union may conclude and implement specific agreements with the countries concerned in accordance with Article III-227. 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'*.

The essential aim of the second paragraph is to provide a legal basis for the bilateral contractual relations of the EU with its neighbours. The reference to 'reciprocal rights and obligations' is derived from the former Article 310 EC<sup>32</sup>, the legal basis of the Euro-Mediterranean Association Agreements and the association agreements aiming at establishing a Customs Union concluded with Malta, Cyprus and Turkey. For their part, countries benefiting from PCA's could expect to benefit from a new form of contractual relationship (the association) within the framework of the

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<sup>31</sup> Explanatory note 'Title IX: The Union and its immediate environment?', The European Convention, The Secretariat, Brussels, 2 April 2003, CONV 649/03.

<sup>32</sup> Article 310 EC (Nice version): 'The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.'

envisaged policy. The ‘periodic consultation’ foreseen in the last sentence is also provided for under association agreements through the Association Councils and Association Committees. An explicit link is also made with the provisions of Article III-227 constituting the new single framework for negotiating and concluding International Agreements.

All in all, this article 56 and consequently title VIII, is more a framework provision, a political declaration of intent rather than a proper legally binding provision. To give a constitutional foundation to the emerging Neighbourhood Policy is however of great political significance as a new pyramid of privileges in the external relations of the EC and the EU will be established after the next enlargement and the adoption of the Constitutional Treaty by the Intergovernmental Conference (IGC). The absence of a clear vision or even definition of the expected ‘Neighbourhood Policy’, should be taken into account within the framework of the IGC even if the new title may, in its present state, be sufficient to develop progressively an ambitious Neighbourhood Policy of the enlarged European Union.<sup>33</sup>

Finally, it is important to mention that the most popular amendment to Article 56, proposed by several Members of the Convention during the last meetings, referred to the possibility of inserting an explicit reference to the Council of Europe<sup>34</sup>. The parliamentary assembly of the Council of Europe did not miss the opportunity to draw the attention of the Convention. In a resolution, published in January 2003, its members suggested that, regarding the new title devoted to ‘The Union and its immediate environment’, the opportunity could not be *‘lost to capitalise on the role that the Council of Europe would have to play in such a scheme, owing to*

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<sup>33</sup> The European Parliament Draft Report on ‘Wider Europe - Neighbourhood : a New Framework for Relations with our Eastern and Southern Neighbours’ explicitly mentioned that ‘the article on the neighbouring countries in the draft Constitution needs to be strengthened at the next IGC’, C5-0110/2003, 25 Sept. 2003, p.11.

<sup>34</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/42/global42.pdf>

It is noteworthy that the European Parliament also advocates ‘closer cooperation with the Council of Europe’. See footnote 33.

*its pan-European character and the fact that all its member states co-operate on an equal footing. The Convention on the Future of Europe should take this state of affairs into account and give priority to making full use of this institution, rather than setting up new bodies or other institutional arrangements, which would result in duplication of efforts and wasted resources*<sup>35</sup>. We will see, in the near future, if the IGC will take into account this concrete proposal. Avoiding possible conflicts of competences by establishing institutional links with the main regional organisations of the area concerned should, in any case, be a priority for the Union. Multilateralisation of the neighbourhood initiative is to be taken into account.

### **C) Other articles of interest: Association Agreements and their procedures of negotiation and conclusion**

Within the framework of the third part of the draft constitutional Treaty devoted to ‘the policies and functioning of the Union’, apart from the general articles III-193 and III-194<sup>36</sup> defining respectively the principles and main objectives of the Union's action on the international scene and referring to the Common Strategies to be adopted by the European Council, two articles (III-226, III-227) are of practical interest for the implementation of the Neighbourhood Policy. According to Article III-226 (inserted within chapter VI International Agreements): ‘*The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association involving reciprocal rights and obligations, common actions and special procedures*’. This new proposal is in fact a copy of the present Article 310 EC on which are based the Euro-Mediterranean

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<sup>35</sup> Resolution 1314 (2003), ‘Contribution of the Council of Europe to the constitution-making process of the European Union’, Assembly debate on 29 January 2003 (4th Sitting) Text adopted by the Assembly on 29 January 2003 (4th Sitting). See also the Note of the Council of Europe, transmitted by Mr Jacques Santer, member of the Convention, CONV 157/02, Brussels, 25 June 2002, page 7 available at:

<http://register.consilium.eu.int/pdf/fr/02/cv00/00157f2.pdf>.

<sup>36</sup>Title V ‘The Union's external action’.

Association Agreements. Article III-226 could therefore be the legal basis for concluding new agreements within the framework of the Neighbourhood Policy. In other words, the possibility to conclude ‘*specific agreements*’, as stated in article 56, is still quite vague. No paragraph was added to the former version of Article 310 EC in order to define more precisely these ‘*specific agreements*’. The Patten/Solana paper suggestion that a new ‘proximity policy initiative’ could embrace the possibility of concluding ‘European Neighbourhood Agreements’ was therefore not clearly reflected in the draft constitutional Treaty.

Article III-227, which is explicitly mentioned in Article 56 foreseeing the neighbourhood policy (see *supra*), is designed to consolidate, within a single framework, the procedures relating to the negotiation and conclusion of international agreements as it was proposed by the Working Groups on legal personality and external action. We cannot anticipate the results of the next IGC, but if this new legal framework is adopted by the Member States this will have an important impact on the external actions of the EU and the EC. On the one hand, more consistency and clarity is expected. On the other hand, one might fear a sort of dilution of a privileged neighbourhood relationship within the broader general external relations framework. This is probably the reason why a specific title (title VIII) devoted to the ‘Union and its immediate environment’ was inserted within the framework of the first part of the draft constitutional Treaty.

## **II. The proposals of the European Commission and its President**

The lack of a well-substantiated policy to tackle issues such as trade diversion, regional and cross-border co-operation has been criticised heavily in academic discourse. A growing number of experts warn against the potential dangers of new dividing lines in Europe, dividing lines that would no longer be based on ideological differences but rather on economic and social asymmetries.<sup>37</sup>

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<sup>37</sup> I. Kempe, W. Van Meurs, ‘Strategic Challenges and Risks of EU Enlargement’ in I. Kempe (ed.), *Beyond EU Enlargement: The Agenda of Direct*

The EU approach to this challenge has been described as ‘disconcerting and disappointing’<sup>38</sup>, particularly because of a perceived reluctance on the side of the EU to make a link between enlargement on the one hand and its general external relations policy on the other.

With the prospect of the end of the accession negotiations the European Commission could no longer ignore the consequences of enlargement for its ‘near abroad’.

### **A) The first proposals**

Since the publication of its Work Programme for 2002, the European Commission has announced its intention to elaborate a new proximity policy: *‘the Euro-Mediterranean policy will have to be part of a broader, coherent and active policy aimed at all our neighbours, in an arc stretching through Russia and Ukraine to the Mediterranean. In this context, there will be an opportunity later in the year to take stock of progress on developing the Northern Dimension of EU policies. As far as the western Balkans are concerned, the Commission will continue working in support of peace and reconstruction’*<sup>39</sup>. It was already clear at this time that:

- Russia, Ukraine and the Mediterranean partners were the target-countries;
- the western Balkans were dissociated from the Neighbourhood Policy as such.

In May 2002, the Commission members of the Convention proposed a ‘Communication from the Commission to the

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Neighbourhood for Eastern Europe (vol.1), (Gütersloh, Bertelsmann Foundation, 2001), pp.33-36.

<sup>38</sup> M. Maresceau, ‘EU-Central and Eastern Europe Relations at a Turning Point’, (1997) 7 R.A.E - L.E.A., p.265.

<sup>39</sup> Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - The Commission's Work Programme for 2002, COM(2001)620 final, Brussels, 5 December 2001.

Convention: A project for the European Union'.<sup>40</sup> This Communication does not contain any specific developments concerning the future Neighbourhood Policy. However, it is possible to observe certain evolutions towards the 'external dimension of the European space of liberty, security and justice.' The Communication underlines that *'the external dimension of these actions is particularly important, for it will add to the close and privileged relations the Union intends to cultivate with its neighbours.*

*The Union has a significant contribution to make in four areas:*

- *Collective action must permit the introduction of common measures of control and surveillance of our external borders, (...)*
- *Implementing genuine common policies on immigration and asylum,*
- *Effective action against organised crime and terrorism.'*<sup>41</sup>.

Moreover, this Communication states that *'the Union's immediate neighbourhood, to the south and to the east, is the first port of call for a common external policy, (...). If it is to grow stronger, the Union's foreign policy must have a decision-making capacity with regard to security and defence - this at a time when, after the cold war, the deployment of forces in outside theatres in the service of peace is becoming as important as the notion of common defence itself'*<sup>42</sup> It is significant to see that some members of the Commission<sup>43</sup> still essentially perceive the neighbouring countries from a hard and soft security perspective<sup>44</sup>. This position is not necessarily shared by its President (see *infra*).

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<sup>40</sup> Communication from the Commission - A project for the European Union, COM(2002)247 final, Brussels, 3 September 2002, CONV 229/02, CONTRIB 78.

<sup>41</sup> *Ibid.*, 12.

<sup>42</sup> See footnote 40, p. 15.

<sup>43</sup> The Communication was transmitted by MM. Barnier and Vitorino in the name of the Commission.

<sup>44</sup> Another example of focussing on security issues was given by the final report of the working Group on defence within the framework of the European

In the framework of the Sixth ECSA world conference on peace, stability and security, taking place one week before the December 2002 Copenhagen European Council, Romano Prodi elaborated his own ambitious views in a speech entitled ‘A Wider Europe – A Proximity Policy as the key to stability’.<sup>45</sup> He stressed the ‘*need for a new political perspective on relations with our southern and eastern neighbours. (...)*’ ‘*We need to find solutions that will allow us to share the advantages of enlargement with our neighbours. (...) I want to see a ‘ring of friends’ surrounding the Union and its closest European neighbours, from Morocco to Russia and the Black Sea.*’ Particularly the expression ‘ring of friends’ is very symbolic in this regard. Apart from using symbols, the Commission President envisages ‘*some kind of Copenhagen proximity criteria*’ and underlines that ‘*progress cannot be made unless the countries concerned take adequate measures to adopt the relevant acquis*’.

A ‘comprehensive approach’ to all neighbours based on the prospect of ‘*sharing everything but institutions*’ can be defined as the core of Prodi’s proposal. In this regard, the Commission President supports the idea of a ‘*Common European Economic Space*’ that ‘*could provide a framework in which we could ultimately share everything but institutions*’. He explicitly refers to the ‘*EEA model [which] does not presuppose accession as a prerequisite*’ and immediately specifies that ‘*as history shows, being member of the EEA does not exclude membership of the EU at a later date.*’

Contrary to what could be expected, the December 2002 Commission Communication on the institutional architecture: ‘For the European Union: peace, freedom, solidarity’<sup>46</sup> does not contain any further developments regarding a new Neighbourhood Policy. In contrast, the feasibility study of the Commission, known as the

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Convention where the concepts of ‘Global insecurity’, and the ‘New threat’ were given particular importance.

<sup>45</sup> [http://europa.eu.int/futurum/documents/offtext/sp051202\\_fr.htm](http://europa.eu.int/futurum/documents/offtext/sp051202_fr.htm)

<sup>46</sup> For the European Union: peace, freedom, solidarity - Communication of the Commission on the institutional architecture, COM(2002)728 final, Brussels, 4 December 2002.

Pénélope document<sup>47</sup>, published simultaneously with the above mentioned Communication and realised under the impulse of its President Romano Prodi, contains an Article 27 entitled 'Relations with neighbouring States', which states that '*The Union shall establish privileged relations with its neighbouring states by means of association agreements.*'

A number of conclusions can be drawn. First, the notion 'neighbouring state' is the common denominator of the proposed Convention articles and the study of the Commission. Second, the notion 'privileged relations' initially appeared in the two proposals but was amended in the final version of the draft Treaty (see *supra*). Equally, the concept of 'association' can also be found twice but none of these proposals deals in details with the question whether and how new forms of association could be developed.

### **B) The Communication from the Commission to the Council and the European Parliament: 'Wider Europe - Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (11 March 2003)**

The most important step in the European Commission's definition of a neighbourhood strategy is certainly the Communication from the Commission to the Council and the European Parliament: 'Wider Europe - Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (11 March 2003).<sup>48</sup>

According to the Commission '*Russia, the countries of the western NIS and the southern Mediterranean should be offered the prospect of a stake in the EU's Internal Market and further integration and liberalisation to promote the free movement of - persons, goods, services and capital (four freedoms).*' This offer clearly reflects the

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<sup>47</sup> 'European Commission feasibility study - contribution to a preliminary draft', Working document, 04/12/2002,

[http://europa.eu.int/futurum/documents/offtext/const051202\\_en.pdf](http://europa.eu.int/futurum/documents/offtext/const051202_en.pdf)

<sup>48</sup> Communication from the Commission to the Council and the European Parliament. 'Wider Europe - Neighbourhood: a new Framework for Relations with our Eastern and Southern Neighbours, COM (2003) 104 final, Brussels, 11 March 2003.

objective of Romano Prodi's discourse. Without going into detail, it is possible to summarise the main elements of the proposal in the following way:

- Extension of the Internal Market;
- Preferential trade relations and access to the market;
- Perspectives in terms of legal migrations and movements of persons;
- Intensification of the co-operation aiming at combating common threats to security;
- A reinforced role played by the EU regarding conflict prevention and crisis management;
- Promotion of human rights, intensification of cultural co-operation and mutual understanding;
- Integration into European road, energy and telecommunications networks and to the European Research Area;
- New instruments for promoting and securing investments;
- Assistance in order to allow the insertion within the international trade system;
- Increase of the efficiency of co-operation;
- New sources of financing.

The strategy is clearly global, encompassing political, economic and human issues. The influence of the Barcelona Declaration is obvious here.

More details are also given regarding the possibility of concluding new 'neighbourhood agreements'. According to the Commission's point of view these new agreements '*would supplement existing contractual relations where the EU and the neighbouring country have moved beyond the existing framework, taking on new entitlements and obligations. If, however, the Neighbourhood Agreements contain provisions going beyond those of the Euro-Mediterranean Association Agreements, similar arrangements could be offered, on equivalent terms, to the Mediterranean partners.*'<sup>49</sup> In other words, it seems that the European Commission

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<sup>49</sup> Ibid., p. 18

is currently trying to influence the intergovernmental meetings by drawing attention to the necessity to define a calendar for negotiating and concluding these new agreements.

The Commission insists on a *'differentiated and progressive approach'*. The long-term goal is to move towards *'an arrangement whereby the Union's relations with the neighbouring countries ultimately resemble the close political and economic links currently enjoyed with the European Economic Area'*. Furthermore, the new Neighbourhood Policy *'should not override the existing framework for EU relations with Russia and the countries of the western NIS, and the southern Mediterranean. Instead, it would supplement and build on existing policies and arrangements.'*<sup>50</sup>

The Council, in its meeting of 12 June 2003, supported this approach and invited the Commission, *inter alia*, to *'present a communication on a new Neighbourhood Instrument, focusing on promoting sustainable economic and social development of the bordering countries and pursuing regional and trans-national co-operation, including people-to-people contacts, and on ensuring the smooth functioning and secure management of the Eastern and Mediterranean borders, based on the evaluation of existing instruments and as an integral part of the consideration of the relevant financing instruments in the new financial perspectives after 2006.'*<sup>51</sup>

### **C) The Communication from the Commission on 'Paving the way for a New Neighbourhood Instrument' (July 2003)**

In its July 2003 Communication 'Paving the way for a New Neighbourhood Instrument'<sup>52</sup>, the European Commission answered this request and recognised the existing difficulties and limits of the

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<sup>50</sup> Ibid., p. 16.

<sup>51</sup> Council Conclusions on Wider Europe - New Neighbourhood, Brussels, 12 June 2003, 10447/03.

<sup>52</sup> Communication from the Commission. Paving the way for a New Neighbourhood Instrument, Brussels, 1 July 2003, COM(2003) 393 final.

current legal frameworks and procedures for regional co-operation. At present, the management of *'co-operation on the external and future external borders of the Union is supported by a variety of instruments'* operating under divergent regulations and procedures. The INTERREG Community Initiative supports cross-border co-operation among Member States and neighbouring countries, but these funds can only be used inside the Union. The PHARE programme focuses on co-operation between Member States and the candidate countries, whereas the TACIS programme operates on the western border regions of Russia, Belarus, Ukraine and Moldova. In the Mediterranean, the MEDA programme supports bilateral and regional co-operation. The Communication also includes CARDS, the key instrument of the Stabilisation and Association Process, even though the western Balkans fall outside the scope of the Wider Europe Communication.

This diversity of instruments and procedures complicates the implementation of joint projects and calls for *'a single approach to co-operation across the external borders of the Union.'* According to the Commission Communication, the new Neighbourhood Instrument offers the opportunity to develop such an approach. This new Instrument, however, raises a number of significant legal and budgetary problems, stemming from the present separation between external and internal funding sources. Furthermore, the current financial perspectives extend to the end of 2006 and a lot of financial commitments have already been made up to that date.

Consequently, the Commission proposes a 'two-step approach'. In an initial phase, between 2004 and 2006, the existing legal framework will continue to apply but the Commission will seek ways to improve the co-ordination of the current procedures. In this regard, the introduction of *'Neighbourhood Programmes'* has been proposed. Such Programmes *'would permit a single application process, including a single call for proposals covering both sides of the border, and would have a joint selection process for projects.'* From 2007 onwards, this temporary solution would lead to the establishment of a new Neighbourhood Instrument. The road to this new legal instrument is not very clear. The Commission distinguishes three options, which *'require further study (...) to*

*assess their feasibility and the impact that they have on co-operation along the external borders.'* The most far-reaching and innovative option would be to create a single new Regulation, based on a single budget line, to fund activities both inside and outside the Union. Alternative options imply either the expansion of the content and geographical scope of an existing co-operation instrument (e.g. permitting the use of INTERREG funds outside the Union) or the continued co-ordination of the already existing instruments on the basis of the proposed Neighbourhood Programmes. The introduction of these Programmes is the first priority for the Commission and implies, *inter alia*, the amendment of the INTERREG guidelines '*to add the southern regions of Spain, France, Italy and Greece as eligible for co-operation activities with the southern Mediterranean partners so as to allow bilateral cross-border co-operation.*'

Whereas these proposals all have a long-term perspective and lack some tangible content, the European Commission has also adopted, in August 2003, two concrete proposals for regulations on '*local border traffic*'<sup>53</sup>, which has been defined as '*the crossing of borders by nationals of third countries who live in border areas and regularly travel for legitimate reasons to a Member State of the Union without constituting a threat to security.*' This issue is highly relevant in order to ensure that the new external border will not be barrier to trade, social and cultural interaction or regional co-operation. It is, in other words, a vital part of the Union's proximity agenda. Most of the new neighbours are countries whose nationals must be in possession of a visa when entering the EU. Moreover, as a consequence of the gradual implementation of the Schengen acquis, border controls will also remain in place between the new Member States and current Member States, as well as between the new Member States themselves. This so-called '*temporary external borders*' regime will only be lifted following a unanimous Council

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<sup>53</sup> European Commission Proposal for a Council Regulation on the establishment of a regime of local border traffic at the external land borders of the Member States, and, Proposal on the establishment of a regime of local border traffic at the temporary external land borders between Member States, COM(2003) 502 final, 14. Aug. 2003.

decision, in accordance with Article 3 of the Act of Accession. Given the importance of local border traffic and the absence of a clear and coherent legislative framework regulating this issue, the Commission considers it appropriate to apply a facilitating border crossing regime for border residents. In this regard, specific ‘local traffic visas’<sup>54</sup> would be introduced for citizens of neighbouring countries who want to work or visit family members in an ‘adjacent border area inside the EU’. This very attractive model, which seems to be inspired by the Kaliningrad facilitated travel document, only applies to border residents crossing the *land borders* of the Union. Consequently, only the citizens of Russia, Ukraine, Belarus and the western Balkan countries are likely to benefit from this new regime if the Commission proposals should be adopted by the Council after consultation of the European Parliament, the European Economic and Social Committee and the Committee of the Regions. In other words, this facilitating border crossing regime will not apply for the Mediterranean region. It can be argued, however, that all the elements constituting the *rationale* for this initiative - i.e. the existence of long-established economic, social and cultural ties between acceding countries and new neighbours, and the objective to avoid new dividing lines after enlargement – are also relevant for the southern Mediterranean.

In less than two years, the Commission and its President have progressively identified the main *contours* of the ambitious new Neighbourhood Policy. At operational level a *Wider Europe Task Force* has been created under the political leadership of enlargement Commissioner Günter Verheugen. This Task Force will be in charge of further developing the concept and of drawing up action plans with each of the countries involved<sup>55</sup>. New forms of neighbourhood co-operation are already envisaged for the years to

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<sup>54</sup> The visa would allow multiple entries with a maximum stay of seven consecutive days. The total period of residence cannot exceed three months within a half year. The visa would have a minimum validity of one year and a maximum of five years.

<sup>55</sup> See ‘Commission decides on further steps to develop its ‘Wider Europe’ policy’, IP/03/963 - Brussels, 09 July 2003, available at [http://europa.eu.int/comm/external\\_relations/we/intro/ip03\\_963.htm](http://europa.eu.int/comm/external_relations/we/intro/ip03_963.htm)

come. The fact that such a policy could be constitutionalised at the highest level is also of importance.

### **III. The initial reaction of the European Parliament: the EP as an advocate of the EU's southern Partners?**

The European Parliament (EP), in a preliminary reaction<sup>56</sup>, welcomed the Commission communications and outlined its own vision on the emerging Neighbourhood Policy. Contrary to the Patten/Solana paper (see *supra*), the EP document clearly promotes the southern dimension of the envisaged policy. It stresses the importance of strengthened relations with the Mediterranean partners and the Middle East *'in parallel to [the Union's] heightened presence in the eastern part of the European continent.'* The EP subscribes to the objectives of the December 2002 Copenhagen European Council (i.e. 'the avoidance of new dividing lines after enlargement') and uses the terminology of Commission President Romano Prodi (e.g. 'circle of friends'). The Parliament, however, presents a much more ambitious project, including a strong institutional framework and a series of common policies. Furthermore, the EP proposes an extension of the initial geographical scope, in order to ensure real *'territorial continuity'* of a 'pan-European and Mediterranean region'.

In contrast to the Commission proposals, this approach implies the inclusion of the southern Caucasus (Armenia, Azerbaijan and Georgia) and the observer countries of the Euro-Mediterranean Partnership (Libya<sup>57</sup> and Mauritania)<sup>58</sup>. A further extension towards the wider Middle East and the countries of the Gulf Cooperation

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<sup>56</sup> At the time of writing, only the draft report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy was available (Rapporteur: Pasqualina Napoletano). Draft Report on 'Wider Europe - Neighbourhood : a New Framework for Relations with our Eastern and Southern Neighbours', C5-0110/2003, 25 Sept. 2003.

<sup>57</sup> Concerning Libya it has to be mentioned that the Commission framework Communication (see footnote 48) stipulates that 'the EU should give consideration to how it could incorporate Libya into the Neighbourhood Policy'.

<sup>58</sup> Both countries are also founding members of the Arab Maghreb Union (AMU).

Council (GCC) is considered to be of strategic importance in the medium to long term.<sup>59</sup> The document explicitly refers to countries such as Afghanistan, Iraq and Iran but fails to include Pakistan and India, which are part of the same strategic equation. The question is, of course, whether this wider area ‘from Marrakech to Bangladesh’<sup>60</sup> is still manageable within the framework of a ‘Wider Europe – Neighbourhood Policy’. Furthermore, the EP also ‘*calls for particular attention to be paid to those European countries, which, by reason of size or choice, have not participated in the Union’s enlargement process (Andorra, Switzerland, Norway, Iceland, Liechtenstein).*’<sup>61</sup> Finally, the EP ‘*believes that the involvement of the western Balkan countries in a new overarching neighbourhood policy could entail their participation in the Euro-Mediterranean partnership*’. The association of these countries, which have been granted membership perspectives,<sup>62</sup> could counter the perception that the new Neighbourhood Policy is devised as an alternative to accession (see *infra*). In this regard, the EP explicitly mentioned that the enlargement policy remains a *distinct process*.<sup>63</sup>

In addition to a wider geographical scope, the Parliament report proposes the conceptualisation of the new Neighbourhood Policy into three common political areas, including (i) a political, human,

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<sup>59</sup> The explanatory statement explicitly refers to ‘the vast energy resources’ of this region. See footnote 56.

<sup>60</sup> See ‘The New Transatlantic Project’, by Ronald D. Asmus (GMF Transatlantic Fellow) and Kenneth M. Pollack, Policy Review, October/November, 2002, available at <http://www.gmfus.org/>

<sup>61</sup> See footnote 56, p.7. Strikingly, the EP ignored three micro-states : San Marino, Monaco and the Holy See.

<sup>62</sup> The Presidency Conclusions of the Feira European Council (19-20 June 2000) for the first time described the Western Balkan countries as ‘potential candidates for EU Membership’ Bull. EU, 6-2000, point I.49.66. The December 2002 Copenhagen European Council reaffirmed the vocation of these countries to become EU Member States and the March 2003 Brussels European Council explicitly stated that ‘the future of the Western Balkans is within the EU’, Bull. EU, 3-2003, point I.47.82.

<sup>63</sup> See footnote 56, p.12. The EP Working Document laid down that “we need to ensure that this ‘ring of friends’ approach does not turn into a crude argument between those who say that ‘neighbouring country’ means ‘a country destined never to join the EU’ and those who believe that the prospect of joining the EU is the only way of achieving closer cooperation”.

civil, and cultural area; (ii) a security area (internal and external); and (iii) an area for sustainable economic and social co-development.<sup>64</sup> The objective of this idea is obviously to dismantle the three-pillar structure of the Euro-Mediterranean Partnership (i.e. the political and security partnership; the economic and financial partnership and the social, cultural and human partnership) in order to avoid a marginalisation of the third basket and a disproportional focus on economic and financial aspects. Interestingly, the EP introduces the concept of co-development, which is one of the basic elements of the Euro-Mediterranean Partnership, and proposes, *inter alia*, a common monetary policy and a common employment policy.

The organisation of the Neighbourhood Policy into different policy areas, including specific common policies, is to be based on adequate funding from the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB). In order to ensure maximum effect, the EP considers a further conceptualisation into a bilateral, sub-regional and regional dimension, including the Northern Dimension, the Mediterranean region and - in contrast to the Commission proposals - cooperation in the Black Sea area. In addition, the EP advocates close cooperation with the Council of Europe and the OSCE, which could be extended to the countries of the Mediterranean and the Middle East, promotes the development of the European Conference into '*a permanent body of the New Neighbourhood Policy*' and foresees the establishment of a Euro-Mediterranean Parliamentary Assembly.<sup>65</sup> This approach is not very consistent. The EP gives only an overview of four possible options but fails to define a preference. On the other hand, the analysis of the EP's first reaction reveals a commitment to develop a balanced approach to all the neighbours of the enlarged EU. It can be argued that the vision of the EP is even more ambitious and wide-ranging than that of the Commission and its President. However, everything remains to be done.

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<sup>64</sup> See footnote 56., p.8.

<sup>65</sup> *ibid.*, pp.9-10.

The association and consultation of the neighbours of the enlarged European Union to the definition of this project is fundamental. This project must become a real common project in order to maximise its potential positive impact on the stability and the security of the whole area.

#### **IV. The potential impact of the EU's Emerging Neighbourhood Policy on the Euro-Mediterranean Partnership**

The next enlargement has a Mediterranean flavour, as three current Mediterranean partners of the EU are also candidate countries. Cyprus and Malta will become Member States in 2004 while Turkey is still waiting for the start of the accession negotiations. Therefore, before analysing the potential impact of the EU's emerging Neighbourhood Policy on the Euro-Mediterranean Partnership, it is necessary to briefly evaluate the potential impact of the next enlargement on the Euro-Mediterranean Partnership.

##### **A) From 12 to 9 Mediterranean Partners: the impact of the third 'Mediterranean enlargement'**

The fact that two (Cyprus, Malta) and then three (Turkey) Mediterranean partners will leave the Euro-Mediterranean Partnership implies, among other things:

- the passage from 12 to 9 Mediterranean Non-Member Countries (MNMC's) and the passage from 27 (15 Member States + 12 MNMC's) to 37 Euro-Mediterranean partners (13 candidates<sup>66</sup>, 15 present Member States, 9 MNMC's)<sup>67</sup>. The future equation of the Euro-Mediterranean Partnership will therefore be: 28 Member States on the one hand and 9

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<sup>66</sup> Including Cyprus and Malta.

<sup>67</sup> During the Euro-Mediterranean Mid-Term Meeting of Foreign Ministers, held in May 2003, a substantial change occurred 'since the membership of the (Euro-Mediterranean) partnership grew from 27 to 35 partners', 15 Member States + 10 acceding countries (including Cyprus and Malta) + 10 Mediterranean partners (i.e. still including Turkey) See Presidency Conclusions of the mid-term Euro-Mediterranean Foreign Ministers' meeting.

(or 10 with Libya) MNMC's on the other hand. The imbalance is noticeable, as the weight of the MNMC's will be considerably reduced within such a new EMP;

- that the trade relationships with the MNMC's will be (temporarily?) limited to free trade zones as Cyprus, Malta and Turkey were the only MNMC's benefiting from an Agreement based on a Customs Union (on the other hand the relationship with the MNMC's will be more homogeneous);
- that the EMP will be limited to a relationship between eight Arab countries plus Israel on the one hand, and the Member States of the enlarged Union on the other hand. Such a Euro-Arab-Israeli relation might raise some difficulties and even 'contaminate' the Barcelona process in case of Arab-Israeli crisis or conflicts. The evolution from a 'Mediterranean policy' to an 'Arab-Israeli' policy of the EU will certainly be one of the most important challenges. Eberhard Rhein, former Director in charge of the Euro-Mediterranean relations when the Barcelona process was launched, even suggested excluding Israel from the EMP<sup>68</sup>. Indeed a very provocative suggestion. One must however never forget that the Barcelona process remains one of the few forums where Israel and its Arab neighbours have regular high level meetings<sup>69</sup>.

The next enlargement will therefore undoubtedly mark the end of some specificities of the Euro-Mediterranean Partnership as conceived in 1995. In this respect, the accession of Turkey is indeed one of the key factors. In terms of population, the accession of Turkey means for the MNMC's a loss of more than 70 million people<sup>70</sup>. In terms of trade flows one should stress that, according

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<sup>68</sup> Oral intervention within the framework of the annual EuroMeSCo Conference held in Paris in February 2002.

<sup>69</sup> With the noticeable exception of the Marseille Euro-Mediterranean Conference of December 2000 when Syria and Lebanon boycotted the meetings.

<sup>70</sup> 68 million people (figures for 2003). CIA world Fact book.

to the figures released by EUROSTAT for 2001, the EU conducted 7.1% of its total external trade with the Mediterranean Partners. Between 1995 and 2001, EU imports from the Mediterranean Partners grew by 110% whereas EU imports from the Partners rose by 49%. Together Turkey, Israel and Algeria accounted for more than 60% of EU-Mediterranean trade. The economic impact of the accession of Turkey on the Mediterranean will thus be very important comparing to the accession of Cyprus or Malta.

Until its accession, Turkey could also play a very important role in the establishment of the Neighbourhood Policy. This is the reason why the Commission, in March 2003, clearly proposed to foster *'Regional integration (...) through the rapid negotiation and implementation of FTAs between the Mediterranean partners, as well as with the EU's customs union partner Turkey'*<sup>71</sup>.

Moreover, the accession of Turkey to the EU means that the enlarged Union will have new borders with Armenia, Georgia, Iran, Iraq and Syria. This will generate considerable geopolitical implications for the whole region. In this regard, Romano Prodi stressed that while *'looking further east, the EU should develop a new regional strategy that embraces Iraq, Iran and Syria. Only this kind of approach can lay the foundations for lasting stability and Security'*<sup>72</sup>. Surprisingly Syria is mentioned alongside Iraq and Iran. What Romano Prodi means by this tripartite association remains to be further explained, as the present situation regarding these three countries is the following:

- i) Syria is a founding member of the EMP and is negotiating a new Euro-Mediterranean Association Agreement aiming at establishing an FTA;

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<sup>71</sup> See footnote 48, p. 5.

<sup>72</sup> 'Building a Euro-Mediterranean Area', Speech by Romano Prodi, President of the European Commission at the opening of the 22nd 'Giornate Dell'Osservanza', Bologna, 17 May 2003, Euromed report, issue 57, 22 May 2003.

- ii) Iran is negotiating a trade and co-operation agreement outside the EMP<sup>73</sup>,
- iii) Iraq is under occupation but could eventually, in the future, join the EMP. Jordan, as a country without Mediterranean shores, could be considered as a previous example to justify the association of this other Arabic country to the Barcelona process. It could also be possible to associate, in a way or another, an independent Iraq to the Gulf Co-operation Council. At present the situation is however particularly unstable and nobody knows how the situation might evolve in the future.

## **B) The potential negative effects of the implementation of a Neighbourhood Policy on the Euro-Mediterranean Partnership**

The issue at stake for the Mediterranean partners of the EU is how this new project could affect their privileged relationship with the EU as the dividing line between differentiation and discrimination is indeed not always obvious to draw. To take into account the perceptions of countries such as Russia, Ukraine, Belarus, Moldova and to try to co-operate with them and the Member States of an enlarged EU within a new comprehensive framework is indeed a challenge.

### **1. The risk of a ‘dilution’ of the EMP within the broader Neighbourhood Policy**

One of the main issues, from the point of view of the Mediterranean partners of the Union, is the risk of a dilution of a specific and privileged Euro-Mediterranean relationship within a broader framework including countries such as Russia. The Patten/Solana paper (see *supra*) even suggested that a new ‘proximity policy initiative’ should initially focus on the ‘eastern neighbours’. On the other hand, according to Prodi's vision – and it

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<sup>73</sup> A mandate for such an agreement was presented by the Commission to the Council in November 2001 and was adopted in July 2002. The negotiations linked to negotiations on political dialogue and counter-terrorism, were launched in Brussels in December 2002.

remains to be seen whether this vision will be shared by the Member States at the IGC– highlighted in a speech given in Brussels in 2002: *‘to build the new Europe but neglect the ‘cradle of Europe’, the Mediterranean, would clearly be a grave mistake’*<sup>74</sup>. Therefore, the Barcelona process remains *‘completely valid because it is the only attempt ever made to address instability and diversity in the Mediterranean multilaterally and with a view to finding a long-term solution’*.

The considerable difference in socio-economic and political development and organisation between the eastern and southern neighbours of an enlarged Union anyway implies the risk of a marginalisation of some poorer and politically unstable countries due to the traditional hub and spokes effects between the centre and the periphery. According to the United Nations Economic Commission for Europe, the main challenge of the proposed Neighbourhood Policy *‘will be to promote sustained economic growth and reverse the trend towards rising absolute poverty and increased income disparities through further strengthening economic integration’*<sup>75</sup>.

The danger is obvious: concentration of the EU's financial and economic aid towards the EU's eastern periphery at the expense of the southern periphery. The new initiatives implemented in favour of south-eastern Europe were already developed at the expense of the Mediterranean Partnership in terms of financial aid.

## **2. A new frontier? The Mediterranean as a ‘buffer zone’.**

The worst scenario would be to see the construction of a new frontier and, for the enlarged EU, to consider the Mediterranean as

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<sup>74</sup> R. Prodi: ‘Europe and the Mediterranean: Time for Action’, UCL - Université Catholique de Louvain-la-Neuve, 26 November 2002, DN: SPEECH/02/589.

<sup>75</sup> United Nations Economic Commission for Europe, Committee for trade, industry and enterprise development, Seventh session (13 and 16 May 2003), ‘Trade, Business and Investment in a wider Europe’, Workshop held on 7 April 2003, Note by the Secretariat, 1 May 2003, see Points 40, 41 and 42, available at [http://www.unecce.org/trade/tips/docs/ctied7/none\\_03\\_03.pdf](http://www.unecce.org/trade/tips/docs/ctied7/none_03_03.pdf)

being a 'buffer zone' in-between the enlarged Union on the one hand and Africa and 'Eurasia' on the other hand.

Soft and hard security concerns are still at the top of the Euro-Mediterranean political agenda. William Wallace notes that: *'the Commission Communication emphasises that the EU's new neighbours are the source of less than 15% of new immigrants to the EU-15 (8.5% from the southern Mediterranean, and 5.5% from Russia and the 'western CIS' (...) a quarter of recent immigrants to the new member states of east-central Europe have come from their immediate neighbours further east. Necessarily, however, immigrants and asylum-seekers from the 'further-abroad' must cross these neighbouring states to reach the EU – with people-smugglers probing each weak link in the EU's defences, and switching routes from one neighbouring state to another as local conditions change'*<sup>76</sup>. The neighbourhood initiative is clearly, from the Union point of view, the perfect framework for tackling transnational and cross-border risks (drug and human trafficking, illegal migration flows, terrorism, money laundering, organised crime...). There is a danger that new human and political barriers might be erected.

The aftermath of 11<sup>th</sup> September is also taken into account. According to the European Commission 'in the present geopolitical situation, developing better understanding with the Islamic countries which are closest to us is more important than ever'<sup>77</sup>. The European diplomatic crisis that occurred before the last war against Iraq highlighted the future diplomatic challenges of the enlarged EU. Within the new strategic neighbourhood framework it is also expected that it could be easier to find compromises for defining common positions on the international scene.

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<sup>76</sup> W. Wallace, 'Looking after the Neighbourhood: responsibilities for the EU-25', Groupement d'Etudes et de Recherche Notre Europe, Policy Papers N°4, July 2003 available at <http://www.notre-europe.asso.fr/fichiers/Policypaper4.pdf>

<sup>77</sup> Frequently asked questions on the 'Paving the way for a New Neighbourhood Instrument' Communication 01/07/03, [http://europa.eu.int/comm/external\\_relations/we/intro/faq.htm](http://europa.eu.int/comm/external_relations/we/intro/faq.htm)

As stressed by Romano Prodi in another speech given in May 2003 in Bologna: ‘whatever we do, we clearly cannot treat the Mediterranean as merely a security issue or peripheral region. That would be short-sighted because it would fail to recognise the human, social and historical processes under way in the Euro-Mediterranean area, and ineffective because it would not get to grips with the root causes’<sup>78</sup>. Nevertheless, the ‘everything but the institutions’ concept promoted by the President also means no participation in the decision-making process for the neighbours of the Union. The President of the Commission referred, in his last speeches, to the idea of ‘co-ownership’, which could be stepped up in the Euro-Mediterranean area notably through a new ‘Euro-Mediterranean Bank’ and the ‘Foundation for dialogue between cultures’. This is obviously insufficient to avoid the frustrations of partners who will become more and more dependent upon the enlarged EU both in terms of financial aid and trade flows and therefore upon the decisions taken unilaterally in Brussels.

To assume that an increase of financial flows and the extension of the four freedoms of the Internal Market will be sufficient to avoid any frustrations will be a serious mistake. There is therefore a strong need for a common consistent *Pan-Euro-Mediterranean strategy*<sup>79</sup> based on real Euro-Mediterranean common institutions capable of tackling the challenges ahead. More recently the President of the Commission envisaged, still in very vague terms, the possibility to ‘*develop a type of political and institutional integration that goes far beyond the association agreements*’. Such an institutionalisation seems to be an absolute necessity for the success of the envisaged strategy. A first small step in this direction occurred at the Valencia Euro-Mediterranean Conference in April 2002 when an agreement was reached to set up a ‘Euro-Mediterranean parliamentary assembly’.

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<sup>78</sup> ‘Building a Euro-Mediterranean Area’, Speech by Romano Prodi, President of the European Commission at the opening of the 22nd ‘Giornate Dell’Osservanza’, Bologna, 17 May 2003, Euromed report, issue 57, 22 May 2003.

<sup>79</sup> See M. Maresceau and E. Lannon (eds), ‘The EU’s Enlargement and Mediterranean Strategies: a Comparative Analysis’, Palgrave, Basingstoke-New-York, 2001, 403 p.

One of the main problems remains the transposition of the proposals of the Commission and its President by the Member States of an enlarged Union. There are in any case strong incentives as the, still theoretical, potential positive effects of the Neighbourhood Policy are indeed very attractive.

### **C) The potential positive effects expected from the neighbourhood policy for the Euro-Mediterranean Partnership**

The traditional positive effects of regional integration are strongly promoted by the Commission and its President in their recent proposals, as it will not be easy to convince the Member States, but also the partners of the Union, of the need for such a very ambitious initiative.

#### **1. A single framework for the EU's proximity relations**

Building a single framework for the EU's external proximity relations from Rabat to Moscow theoretically means reinforcing the effectiveness of EU policies and programmes. The reinforcement of the EMP within the new neighbourhood area will also benefit from new instruments such as the Euro-Mediterranean Bank and the Foundation for dialogue between cultures. The use of the Euro in order to foster closer economic and trade relations in the whole region will also be a useful tool.

Among the main potential positive effects expected from the Neighbourhood Policy on the EMP one may identify:

- harmonising an important network of at least 12 bilateral agreements on the basis of new 'special' association agreements of proximity (see *supra* for developments relating to this envisaged scenario);
- establishing a clear differentiation of the proximity and the 'non-proximity external relations'. This could clarify the real priorities of the enlarged Union but also raise important

institutional and inter-governmental debates about this new pyramid of privileges<sup>80</sup>;

- stimulating a more consistent approach of the EU while defining and implementing inter-governmental policies. As mentioned before, this area of proximity is a ‘priority zone of action’ for the CFSP and the emerging ESDP (see the developments devoted to 1992 Lisbon Council *supra*);
- the approximation of trade legislation offers considerable potential for the development of trade flows and FDI<sup>70</sup>;
- the implementation of concerted actions financed on the MEDA, PHARE, TACIS, or CARDS programmes (see *supra*);
- the progressive adoption of common political standards;
- the reinforcement of the effectiveness of strategies implemented to address transnational and cross-border issues (drugs and human trafficking, illegal migration flows, terrorism, money laundering, organised crime...).

Generally speaking, for the Mediterranean candidate countries (Cyprus, Malta and Turkey), the project is also clearly an opportunity to maintain a privileged relationship with their direct neighbours notably by implementing cross-border strategies.

## **2. Towards a great Euro-Mediterranean Market: the benefit from economies of scale**

The envisaged great Euro-Mediterranean Market will be indeed attractive for Foreign Direct Investment (FDI) flows. Precisely, one of the most important failures of the EMP is that this initiative and the conclusion of the Euro-Mediterranean Association Agreements (with the exception of Syria) did not, until today, attract FDI given

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<sup>80</sup> The European Parliament already warned that such a proximity policy could not be implemented at the detriment of ACP Asian or Latin American countries.

the present geo-political situation and consequent geo-economic uncertainties. According to the European Commission, the importance of the EU neighbours is ‘considerable, in view of the fact that compared to the enlarged EU, which will have over 450 million inhabitants; these countries combined have a population of 385 million. Most of them, however, have a nominal gross domestic product (GDP) per capita of less than EUR 2,000, which is below 10% of the EU average. The total share of world foreign direct investment (FDI), which goes to the new neighbours, is just 1.65% as opposed to the 21.3% that goes to the EU, and acceding and candidate countries.’<sup>81</sup>

According to the United Nations Economic Commission for Europe ‘the non-acceding countries will benefit from simplified and enhanced access to the enlarged EU Single Market through and from the extension of common regimes and regulatory frameworks. The enlargement, in itself, could contribute to lower transaction costs, which should be achieved through greater transparency and simplified procedures and, especially, harmonization, and approximation of competitive conditions in the form of trade regulations (...). Rising income in the newly acceding countries might also create new comparative advantages as well as export opportunities for non-acceding countries’.<sup>82</sup> Improved access for the neighbours of the enlarged EU to the Internal Market and a substantial increase in FDI flows are certainly key aspects of the

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<sup>81</sup> According to the presentation made by the European Commission at the workshop held on 7 April 2003 within the framework of the United Nations Economic Commission for Europe, Committee for trade, industry and enterprise development, Seventh session (13 and 16 May 2003), ‘Trade, Business and Investment in a wider Europe’, Note by the Secretariat, 1 May 2003, see point 15, available at [http://www.unece.org/trade/tips/docs/ctied7/none\\_03\\_03.pdf](http://www.unece.org/trade/tips/docs/ctied7/none_03_03.pdf), see also the tables included in the Commission services working document to prepare the Euro-Mediterranean Mid-Term Meeting of Foreign Ministers, Crete, 26-27 May, 2003, available at

[http://www.europa.eu.int/comm/external\\_relations/euromed/conf/cret/predoc.pdf](http://www.europa.eu.int/comm/external_relations/euromed/conf/cret/predoc.pdf)

<sup>82</sup> United Nations Economic Commission for Europe, Committee for trade, industry and enterprise development, Seventh session (13 and 16 May 2003), ‘Trade, Business and Investment in a wider Europe’, Workshop held on 7 April 2003, Note by the Secretariat, 1 May 2003, see Points 40, 41 and 42, available at [http://www.unece.org/trade/tips/docs/ctied7/none\\_03\\_03.pdf](http://www.unece.org/trade/tips/docs/ctied7/none_03_03.pdf)

scenario. Economically speaking, the European incentives (the carrot) are clearly based on financial aid and co-operation, improved access to EU programmes and on the potential increase of trade.

Originally the EMP was designed to establish (or reinforce) three new types of FTA's alongside the three old Euro-Mediterranean CU's:

- i) FTA's between 9 Mediterranean partners and the EC and its Member States<sup>83</sup>;
- ii) FTA's between the Mediterranean partners themselves;
- iii) FTA's between the Mediterranean partners and the CEEC's.

In other words, this network of bilateral agreements will facilitate the insertion of most of the MNMC's in a coherent legal framework with the enlarged Union. On the other hand, the Barcelona Declaration and process did not originally take into account the possibility of establishing special trade relationships between the 12 MNMC's and the NIS.

The development of contractual relations between Russia, Ukraine, Moldova and Belarus on the one hand, and the MNMC's on the other hand, must become a priority of the EU's Neighbourhood Policy in order to render possible the creation of a vast integrated market. It remains to be seen whether these neighbours will be enthusiastic enough about the EU's project to do so. For their part, Moroccan authorities apparently decided to continue to promote the idea of an 'advanced statute of Morocco within the EMP'. 'More than association and less than accession' are the keywords of the strategy<sup>84</sup>. This is clearly a reaction to the present enlargement. One

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<sup>83</sup> The PLO benefits from an agreement providing for an FTA but it is not a mixed agreement.

<sup>84</sup> See Moroccan Press Agency (MAP): 'Maroc-France: Mise en oeuvre d'un programme de travail autour des priorités du gouvernement marocain', Rabat, 25 July 2003, available at:

[http://www.map.co.ma/mapfr/info\\_fr/gouv\\_raffarin\\_maroc.htm](http://www.map.co.ma/mapfr/info_fr/gouv_raffarin_maroc.htm),

See also 'European Union and Morocco strengthen their relations', IP/03/274 - Brussels, 24<sup>th</sup> February 2003, available at:

[http://www.europa.eu.int/comm/external\\_relations/morocco/intro/ip03\\_274.htm](http://www.europa.eu.int/comm/external_relations/morocco/intro/ip03_274.htm)

can also now try to evaluate the first Mediterranean reactions to the neighbourhood initiative as such.

#### **D) The first Mediterranean reactions to the neighbourhood initiative**

According to the Presidency conclusions of the Euro-Mediterranean Mid-Term Meeting of Foreign Ministers, held in May 2003, the partners already had the opportunity to discuss the *'role of the Mediterranean partners'* on the basis of the Commission Communication on Wider Europe – Neighbourhood<sup>85</sup>. Thus, a specific section devoted to *'Wider Europe'* was inserted within the conclusions.

The two paragraphs devoted to the issue are, without great surprise, formulated in very general terms. It seems obvious that the participants adopted a 'wait and see' approach given the absence of consensus on a brand new proposal that could transform the whole Barcelona process. During the conference, the Ministers discussed the proposals of the Commission Communication on Wider Europe and *'agreed that the proposed new Neighbourhood Policy sets out a means to reinforce the Barcelona Process, and to develop closer co-operation based on the mutual recognition of common interests'*. The Ministers then invited the Commission to explore how, within the existing MEDA Programme, a *'more substantial involvement of the Mediterranean partners in the relevant EU programmes could be achieved'*. They also noted that the Commission's proposals on a Wider Europe-new Neighbourhood Policy *'encourage regulatory reform, especially in the services sector, that can give a strong boost to economic growth and competitiveness'*. The economic impact of EU enlargement on the partners should also be considered in terms of *'focusing attention on further economic policy reforms that constitute the driving force behind economic growth performance'*.

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<sup>85</sup> Presidency Conclusions of the Euro-Mediterranean Mid-Term Meeting of Foreign Ministers, Crete, 26-27 May, 2003, available at [http://www.europa.eu.int/comm/external\\_relations/euromed/conf/cret/concl.htm](http://www.europa.eu.int/comm/external_relations/euromed/conf/cret/concl.htm)

For the Arab partners of the EU the perceptions of the project may vary from one country to another. But, whereas the potential positive effects are undoubtedly attractive, the fear of being considered as a 'negligible geopolitical entity' as compared to countries such as Russia is also obvious.

Morocco is nowadays playing a leading role in the EMP and also at regional level. This country recently requested from the Union a new 'enhanced status'<sup>86</sup> and is now apparently promoting the idea of a strong differentiation strategy among neighbouring countries. At another level, Morocco is also one of the initiators of the 'Agadir Initiative'<sup>87</sup> to be considered as one of the first Arabic answers to the next EU enlargement. Morocco, Jordan, Tunisia and Egypt have decided in May 2001 to create a south-south Free Trade Area on the basis of the Euro-Mediterranean Association Agreements and to develop inter-Arab cooperation in order to:

- i) counterbalance the enlargement of the EU and avoid an economic marginalisation of the Arab MNMC's;
- ii) to avoid the intra-maghrebi problems (the Arab Maghreb Union cannot work properly because of the tensions between Algeria and Morocco);
- iii) to render the Arab markets more attractive for foreign investors.

Last January, Egypt, Jordan, Morocco and Tunisia concluded in Amman the negotiations for this regional Free Trade Agreement. This constitutes a major step forward in their economic integration and for the completion of the Euro-Mediterranean Free Trade Area. This initiative is also a clear reaction to EU enlargement.

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<sup>86</sup> According to the Moroccan Press Agency: *'Concernant le statut avancé souhaité par le Maroc avec l'Union Européenne, la France affirme sa volonté de contribuer activement à faire aboutir ce projet qui s'inscrit dans la perspective de la nouvelle politique de voisinage de l'Europe'*. *'Maroc-France: Mise en œuvre d'un programme de travail autour des priorités du gouvernement marocain'*, Moroccan Press Agency, available at [http://www.map.co.ma/mapfr/info\\_fr/gouv\\_raffarin\\_maroc.htm](http://www.map.co.ma/mapfr/info_fr/gouv_raffarin_maroc.htm).

<sup>87</sup> The Agadir Initiative was launched in May 2001 when the foreign Ministers of Morocco, Jordan, Tunisia and Egypt adopted the so called 'Agadir Declaration' in Rabat.

According to Abderrahman Youssoufi, former Moroccan Prime Minister, *‘l’élargissement, tel qu’il se dessine, et malgré l’adhésion prévue de Malte et de Chypre, accentue manifestement le tropisme centre et nord-européen de l’Union, à un moment où la Méditerranée n’a pas, n’a quasiment plus de «champion». Dans une Europe à 25, la France, l’Espagne et l’Italie risquent d’avoir de plus en plus de difficultés à faire entendre la voix de la mer intérieure, la voix de la Méditerranée’*<sup>88</sup>. This point of view implies that within the framework of the neighbourhood initiative, priority will be given to the EU's eastern periphery. Therefore many Mediterranean Arab countries will try to promote projects such as the Agadir initiative or the Great Arab Free Trade Zone. On the other hand, Morocco may perceive this new Policy as being an opportunity to develop new strategies outside the EMP and the traditional Pan-Arab relations.

Israel, given its economic and political isolation in the region but also because of its high level of (technological) development could be much more attracted by this new concept of ‘special neighbourhood relations’ with the enlarged EU.

According to Stephen C. Calleya ‘the Barcelona framework is flexible enough to tackle the challenges of a wider Europe’<sup>89</sup>. On the other hand, for Fraser Cameron, ‘recent history, however, demonstrates that the ‘waiting room’ formula has had a distinct lack of success. For most countries, there is only one game in town - the EU - and that implies full membership. The OSCE, Council of Europe, even EFTA/EEA, are important bodies - as is NATO’s Partnership for Peace - but not the real thing. Outside the EU there is little enthusiasm for the formula of membership of ‘everything

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<sup>88</sup> A. Youssoufi ‘Maroc : Interrogations et inquiétudes’, Confluences Méditerranée, n° 46, Été 2003, Paris, available at:

<http://confluences.ifrance.com/confluences/Textes/46youssoufi.htm>

<sup>89</sup> S. C. Calleya, ‘EU Enlargement and the Future Europe: the Southern Dimension’, Wilton Park Conference, WP701, Tuesday 11th - Friday 14th February 2003, available at:

<http://www.wiltonpark.org.uk/web/conferences/reportwrapper.asp?ConfRef=WP701>

but the institutions'<sup>90</sup>. It is still a long way from developing an effective Neighbourhood Policy. The Euro-Mediterranean Partnership will therefore remain a keystone for the EU's southern periphery. The EMP must, however, be reinforced and adapted to the forthcoming tremendous changes.

## **V. The perceptions of the future eastern neighbours and other European countries regarding the envisaged policy**

### **A. The former Soviet-Union: the 'Grey zone' of enlargement**

After the accession of eight CEECs, Russia will, more than ever, become a key strategic partner of the EU. On the brink of enlargement, proximity issues can no longer be avoided or ignored.<sup>91</sup> Consequently, Russia's reactions to the EU's emerging Neighbourhood Policy are highly relevant.

#### **1. Russia: the promotion of the bilateral EU-Russia Partnership**

According to Vladimir Shemiatenkov, former Ambassador of the Soviet Union to the European Communities, 'the introduction of the concept of the 'Wider Europe' into the vocabulary of the European Union signals a welcome change in the EU's political philosophy.'<sup>92</sup> The position of the EU has always been that enlargement is an internal matter between the Member States and the candidate countries and that Russia has no power or right to interfere in that process.<sup>93</sup> As a result, Russian attempts to start

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<sup>90</sup> F. Cameron, 'The Wider Europe', The European Policy Centre, June 2003, available at <http://www.ji-magazine.lviv.ua/engl-vers/border/texts2003/euractiv-12-06.htm>

<sup>91</sup> The discussions surrounding the future of Kaliningrad provide a perfect example of the existing challenges.

<sup>92</sup> V. Shemiatenkov, The 'Wider Europe': Can the idea be 'sold' in the East? Available at:

[http://www.theepc.net/Services/search\\_result.asp?keyword=Eastern%20Europe](http://www.theepc.net/Services/search_result.asp?keyword=Eastern%20Europe)

<sup>93</sup> X, Russia seeks 'clarification' on EU eastward enlargement and Kaliningrad. *Uniting Europe*, 2000, 111, p.1.

consultations on the possible negative impact of the Union's eastward expansion have always been dispelled by the axiomatic statement that both Russia and the EU will benefit from enlargement.

An analysis of Russia's position reveals a focus on economic issues. In a list of specific Russian concerns on eastwards expansion of the European Union,<sup>94</sup> submitted to Romano Prodi at the end of August 1999, 13 out of the 15 points were related to economic or trade issues. There is an obvious fear that Russian exporters will face enormous problems after the CEECs introduced the EU standards and regulations. It is expected that the new Member States will divert a major part of their trade from the Russian market to the Single Market. Moscow also fears a redirection of investment flows and a reduced usage of its own foreign trade infrastructure. Other concerns relate to the extension of the Common Agricultural Policy, the impact of the candidate's inclusion in the EU's Generalised System of Preferences and, last but not least, the freedom of transit and movement of persons after the introduction of restrictive Schengen rules. The latter issue is of particular importance for the future status of the Russian Kaliningrad oblast. Bearing in mind its unique geographical position, it can be argued that Kaliningrad will feel the effects of enlargement more than any other proximity country or region. A failure to tackle the undeniable economic and social problems could therefore turn the region into a permanent source of instability. Against this background, the future development of Kaliningrad can be seen as a test case for the success of the EU's emerging Neighbourhood Policy.

The dilemmas Kaliningrad poses to Brussels are a reflection of the general problems connected with the enlargement process as such. Efficient border management, the fight against illegal immigration, trafficking, organised crime or terrorist networks all have to be tackled in the framework of geographical proximity. A well-defined proximity policy must coincide with a strategy to 'tackle

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<sup>94</sup> X, Russia seeks new Commission's understanding on enlargement request, *Uniting Europe*, 1999, 66, pp.3-4.

the root causes of political instability, economic vulnerability, institutional deficiencies, conflict and poverty and social exclusion.’ These broad challenges have all been defined in the European Commission’s framework Communication<sup>95</sup> and can be applied to Russia, with a special remark to Kaliningrad, but also to the countries of the southern Mediterranean (see *supra*). This observation supports the idea to include Russia in the framework of a general policy towards all neighbouring countries. On the other hand, there is a fundamental difference between Russia and the other countries. Russia already has a land border with the EU and cooperation on ‘proximity issues’ already exists under the Northern Dimension framework. Furthermore, the already existing EU-Russia Partnership relations and Russia’s self perception as a global player explains why the all-inclusive ‘Wider Europe’ concept ‘*is unlikely to stir much emotion in the East*’.<sup>96</sup> The idea reflects somewhere the old Gorbachev rhetoric of a ‘common European home’ and, at least in the present situation, lacks some tangible content. Russia, therefore, would appear to concentrate on the development of the bilateral EU-Russia Partnership. In this respect the idea of a *Common European Economic Space* (or area) is of primary importance. This concept, which was mentioned for the first time in the EU’s Common Strategy on Russia, implies a progressive approximation of legislation and standards. At the EU-Russia summit of October 2001, both parties agreed to establish a joint High-Level Group to elaborate this idea.<sup>97</sup> The High-Level Group will meet twice a year to consider the opportunities offered by greater economic integration and legislative approximation. The outcome of these discussions will be brought to the attention of relevant PCA bodies and EU-Russia summits. The final measures are expected to extend co-operation and to eliminate existing obstacles to trade, investment and transit. Moreover, they should accelerate Russia’s process of accession to the WTO.<sup>98</sup> This picture

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<sup>95</sup> See footnote 48, p. 6.

<sup>96</sup> See footnote 92.

<sup>97</sup> Joint Statement, EU-Russia summit, Brussels, 3 October 2001. Available at: [http://www.europa.eu.int/comm/external\\_relations/russia/](http://www.europa.eu.int/comm/external_relations/russia/)

<sup>98</sup> Proposal for a Council Decision on the Community position to be adopted in the Co-operation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the

is completely in line with Russia's focus on economics in its relationship with the EU. Russia's 'Medium-term Strategy for the development of relations with the EU',<sup>99</sup> defined the development of 'an advanced pan-European economic and legal infrastructure' as one of the priorities for the forthcoming decade.

It can be argued that Russia's primary interest in the elaboration of this concept can give impetus to the EU's general proximity policy. Romano Prodi already referred to the Common European Economic Space as a model for the further development of relations with all neighbouring countries.<sup>100</sup> In this regard, the 'Wider Europe' could be envisaged as a '*conglomerate of common spaces*.'<sup>101</sup> On the other hand it has to be mentioned that Russia also looks at the establishment of a single economic area with Ukraine, Kazakhstan and Belarus. According to Viktor Khristenko, Russia's deputy Prime Minister, these countries are '*ready to sign their Rome agreement that led to the creation of the European Union*.'<sup>102</sup> Whereas this plan remains very vague, it stresses the importance of good proximity relations in order to avoid new dividing lines in Europe. Moreover, it reveals the specific position of the so-called western NIS, which are becoming EU neighbours on the one hand but continue to maintain privileged relations with Russia on the other.

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one part, and the Russian Federation, of the other part, in relation to the establishment of a joint High-Level Group to elaborate the concept of a common European economic space. COM (2001) 673 final, 19 November 2001, p.6.

<sup>99</sup> This Medium-Term Strategy is Russia's official response to the EU's Common Strategy of June 1999 and is available at: [http://europa.eu.int/comm/external\\_relations/russia/russian\\_medium\\_term\\_strategy/](http://europa.eu.int/comm/external_relations/russia/russian_medium_term_strategy/)

<sup>100</sup> See footnote 45.

<sup>101</sup> See footnote 92.

<sup>102</sup> X, Continent may get another European Union. (28.08.2003), available at: <http://www.euobserver.com>

## 2. The ‘western NIS’: Ukraine, Belarus, Moldova

### a. Ukraine: nothing but accession?

The perceived necessity to offer the eastern neighbours a stimulating perspective is particularly targeted on Ukraine, which has always underlined its European aspirations and its long-term objective of joining the European Union. The explicit exclusion of the candidate countries and in particular the western Balkan countries, which only have ‘potential membership status’ and a long-term accession perspective (see *infra*), contributed to the perception that the proposed EU Neighbourhood Policy may serve as an alternative to further enlargement. Despite the deepening relationship between Kiev and Brussels, the Ukrainian Ministry of Foreign Affairs soon made clear that the Commission proposal did not fully meet Ukrainian expectations. Only after explicit statements that involvement in the new Neighbourhood Policy does not necessarily exclude any long-term accession perspective, reactions became more positive. In the framework of the Partnership and Cooperation assessment report<sup>103</sup> Ukraine has emphasised a commitment ‘*to align its legislation, norms and standards as far as possible to the EU model*’. Simultaneously, the EU is expected to ‘*consider an inclusive policy of involvement of Ukraine to European integration.*’ In this regard, Ukraine is demanding associated EU membership, including the establishment of a free trade zone, instead of the existing partnership. To reach this ambitious aim, Kiev supports the European Commission’s intention to draw up an action plan within the framework of the New Neighbourhood Policy.<sup>104</sup> Furthermore, the Ukrainian government confirmed that its long-term objective remains full accession to the enlarged EU. During the October 2003 EU-Ukraine Summit in Yalta, the EU delegation made clear that it was not ready to make any commitment which would go beyond the

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<sup>103</sup> Joint report on the implementation of the Partnership and Co-operation Agreement between the EU and Ukraine, available at:

[http://www.europa.eu.int/comm/external\\_relations/ukraine/intro/pcarep2.pdf](http://www.europa.eu.int/comm/external_relations/ukraine/intro/pcarep2.pdf)

<sup>104</sup> X, Ukraine wants association and free trade zone with EU, *Uniting Europe*, 2003, 144, p.2.

Wider Europe-New Neighbourhood initiative. On the other hand, the final statement of this summit explicitly mentioned that this initiative ‘*should be seen as separate from the question of possible EU accession.*’<sup>105</sup>

Ukraine’s interest in closer relations with the EU provides an opportunity to apply the outlined neighbourhood methodology. This essentially implies that preferential relations will be offered according to the progress made by the partner country in political and economic reform. The European Commission clearly hopes that a successful implementation of this strategy in the Union’s relations with Ukraine could serve as a stimulating example for other neighbouring countries. This potential process of ‘spill-over’ is considered to be the main advantage of bringing divergent countries together within one single framework. A basic prerequisite, however, is that the partner countries show an interest in legal approximation and closer relations. Given its geopolitical position and its fear of becoming a buffer zone between Russia and an enlarged EU, Ukraine can be considered as the neighbouring state which is the most receptive to the Union’s proposals in this regard. The situation of Belarus and Moldova is somewhat different.

#### **b. Belarus: a position of self-imposed isolation**

Under the autocratic presidency of Alexander Lukashenko, Belarus evolved into a position of self-imposed isolation. As a result, the Union does not have any formal links with this regime. A Partnership and Co-operation Agreement had been signed in 1995 but its implementation has been suspended in the wake of constitutional amendments that virtually abolished the basic features of a democratic State system. Ever since, Lukashenko has demonstrated an unwavering reluctance to change his policy in the face of EU critics, sanctions or the promise of normalised

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<sup>105</sup> The final statement of the Yalta summit is available at: [http://europa.eu.int/comm/external\\_relations/ukraine](http://europa.eu.int/comm/external_relations/ukraine)

relations.<sup>106</sup> In this context, the EU is facing a very difficult situation. If it accepted the Lukashenko regime as a partner in international relations, this would seriously impair the EU's democratic credibility. On the other hand, it is obvious that the EU itself has an important self-interest in developing a working relationship with Belarus as this country is on the verge of becoming a future neighbour of the enlarged EU. Combating soft security issues in Europe, such as organised crime, pollution and illegal immigration implies the commitment of all European states, even those that are not on the road to EU accession. This is exactly the main motivation behind the whole concept of strengthened proximity relations. Notwithstanding the limited successes in the past, it is clear that the EU cannot stay on the sidelines but must engage actively in monitoring the Belarusian situation.

Lukashenko, however, never showed any commitment towards EU critics. He preferred to keep his country out of ongoing developments in western Europe and reoriented Belarusian foreign policy almost exclusively towards Russia.<sup>107</sup> Yet, it has to be mentioned that this option also has certain limits. Particularly Putin's proposal to include Belarus as Russia's sixth district (*oblast*) disappointed Lukashenko. Consequently, it is in the EU's self-interest to provide an attractive alternative model of cooperation. A similar remark can be made in connection to Moldova.

### **c. Moldova: the problem of internal instability**

Moldova, Europe's poorest country<sup>108</sup>, faces enormous economic and social difficulties aggravated as a result of ethnic conflicts.

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<sup>106</sup> For an overview, see: P. Van Elsuwege, EU-Belarus: the Development of a Difficult Relationship, *Belarusian Review*, 14, 2002, 1, pp.3-10.

<sup>107</sup> The two countries have signed a number of treaties, which launched a process of bilateral integration that seems to be based on the model provided by the European Union. See: C., Rontoyanni, A Russo-Belarusian 'Union state': a defensive response to Western enlargement?' University of Glasgow, Department of Politics, Working Paper 10/00.

<sup>108</sup> Rank 108 at the United Nations Human Development Index, <http://www.undp.org/hdr2003/indicator>

Negative consequences such as corruption, illicit trade, traffic in arms, drugs and human beings, tend to constitute a real danger for the entire region.<sup>109</sup> As a result, active EU involvement is very desirable, particularly since Moldova's political elite revealed an interest in closer links with the EU. Even though Moldova will not immediately become a neighbour of the enlarged EU, the fifth meeting of the EU-Moldova Cooperation Council (18 March 2003) concluded that '*the 'Wider Europe' debate could lead to tangible results and potential for a new level of co-operation, in order to draw Moldova closer to the EU.*'<sup>110</sup> The EU reminded the Moldavian government of the need to fulfil Council of Europe recommendations concerning democratic standards, rights of the parliamentary opposition, freedom of the media and freedom of religion. Moreover, the EU stressed the importance of a rapid and sustainable solution to the Transnistrian conflict, which has been described as '*the key to the country's future political and economic development*'.<sup>111</sup> Taking into account Russia's involvement in this area<sup>112</sup>, it is obvious that Russia could play a key role in the solution of this problem. Notwithstanding the fact that Russia is already a neighbour and a strategic partner of the EU, it is indeed difficult to envisage strengthened regional co-operation without this country. It can even be argued that a further development of the EU-Russian partnership is a prerequisite for democratic

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<sup>109</sup> A., Skvortova, Moldova and the EU: Direct Neighbourhood and Security Issues. In: I., Kempe, (ed), Beyond EU Enlargement. The Agenda of Direct Neighbourhood for Eastern Europe (Vol. 1), Gütersloh, Bertelsmann, 2001, pp.104-125.

<sup>110</sup> Fifth meeting of the Co-operation Council between the European Union and the Republic of Moldova, Brussels, 18 March 2003, 7432/03.

<sup>111</sup> A similar assessment has been made in the Union's Strategy Paper on Moldova See: [http://www.europa.eu.int/comm/external\\_relations/moldova/csp/02\\_06\\_en.pdf](http://www.europa.eu.int/comm/external_relations/moldova/csp/02_06_en.pdf)

<sup>112</sup> As a historical part of the Russian empire, Transnistrian hardliners opposed (and continue to oppose) the nationalistic and pro-Romanian policy line of post-Soviet Moldova. With the support of Russia's 14<sup>th</sup> army, they have managed to create a de facto independent state, known today as the Dniester Republic. Recently the Council decided to impose a travel ban on the Transnistrian leaders who continuously obstruct the search for a political settlement of the conflict. Virtually all of them possess a Russian or former Soviet Union passport.

(Council Common Position 2003/139/CFSP of 27 February 2003 concerning restrictive measures against the leadership of the Transnistrian region of the Moldovan Republic, OJ L 53/60, 28 Feb. 2003.)

improvements in neighbouring countries such as Belarus and Moldova.

### **3. The southern Caucasus: fears of isolation**

The position of Russia is also of particular importance in the countries of the southern Caucasus (Georgia, Armenia and Azerbaijan), which face a risk of isolation from EU affairs. Notwithstanding the obvious geostrategic importance of this region with massive oil reserves, bordering Turkey in the South and Russia in the North, the European Commission explicitly excluded this area from its new Neighbourhood Policy. According to the Commission, only those countries that will border the enlarged Union in 2004 and do not currently have a perspective of membership are included. *'Given their location, the southern Caucasus therefore fall outside the geographic scope of the initiative for the time being.'*<sup>113</sup> Only after the future accession of Turkey, this geographical scope may be revised. It has to be mentioned, however, that also Moldova does not fit within the European Commission's definition. This country, located between Romania and Ukraine, will not share a border with the enlarged EU in 2004. From a geographical point of view, it is therefore hard to explain why for instance Georgia, having a sea border with the EU candidates Romania and Bulgaria and a large land border with Turkey, is not included.

On several occasions, Georgia had already shown an interest in closer relations with the EU and full integration into the European structures. The non-inclusion in the Commission's proposals on a new Neighbourhood Policy therefore led to the publication of a Georgian non-paper on the Wider Europe framework Communication<sup>114</sup>, presented to the fifth meeting of the EU-Georgia Joint Parliamentary Committee held in Brussels on 16 and 17 June 2003. This document underlines Georgia's foreign policy priority of further approximation to the EU and stresses the

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<sup>113</sup> See footnote 48, p. 4.

<sup>114</sup> Available at:

<http://www.europarl.eu.int/meetdocs/delegations/caus/20030521/04.pdf>

arguments in favour of an active EU engagement in the southern Caucasus. First, this region geographically belongs to Europe. Second, due to the EU-Turkey Customs Union, these countries share an economic border with the EU. Inclusion of the southern Caucasus would therefore completely be in line with the objective of ‘avoiding new dividing lines in Europe’. Moreover, *‘the South Caucasus should be included into the new Initiative, because this Initiative particularly underlines the necessity of resolving existing conflicts. As for stability and security of the European continent, the South Caucasus region has considerable importance.’*<sup>115</sup>

It can indeed be argued that this area shares the opportunities and challenges surrounding proximity, prosperity and poverty mentioned in the Commission’s Communication.<sup>116</sup> For instance, the EU’s Strategy Paper on Georgia has identified poverty reduction and the fight against terrorism as main priorities for future action.<sup>117</sup> Both aspects are explicit objectives of the new Neighbourhood Policy and of particular importance in the framework of the EU Security Strategy. In a draft paper on the development of this strategy, presented to the June 2003 Thessaloniki European Council, CFSP High Representative Javier Solana therefore recommended that *‘we should take a stronger interest in the problems of the southern Caucasus, which will in due course also be a neighbouring region’*.<sup>118</sup> The European Parliament even explicitly advocates the inclusion of Armenia, Azerbaijan and Georgia into the new Neighbourhood Policy.<sup>119</sup> In this regard, it is noteworthy that the Council of Ministers’ conclusions on the Wider Europe Initiative only vaguely maintained that *‘at a later stage, the Council will examine whether the southern Caucasus countries could also be covered within these*

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<sup>115</sup> *ibid.*

<sup>116</sup> See footnote 48, pp.6-7.

<sup>117</sup> Country Strategy Paper 2002-2006, available at:

[http://www.europa.eu.int/comm/external\\_relations/georgia/csp/02\\_06\\_en.pdf](http://www.europa.eu.int/comm/external_relations/georgia/csp/02_06_en.pdf)

<sup>118</sup> ‘A Secure Europe in a Better World, Draft European Security Strategy presented by the High Representative for the Common Foreign and Security Policy, Javier Solana, to the European Council, 20 June 2003 in Thessaloniki, Greece. Available at: <http://ue.eu.int/pressdata/EN/reports/76255.pdf>

<sup>119</sup> See footnote 56, p.12.

*policies.*'<sup>120</sup> It is, in other words, obvious that the problems of this region are not yet a priority for the Member States. The perceived reluctance of the EU to engage more actively can be linked with Russia's traditional geopolitical interests and long-standing presence in this area. Furthermore, another regional power, Turkey, plays an important role towards the Islamic former Soviet republics and tries to apply a pro-active policy towards countries with important Turkish-speaking minorities. In this context, the EU seems to refrain from a more active involvement in this region. Situated at the crossroads between Europe's Mediterranean and Eastern flanks, the southern Caucasus thus faces the risk of falling somewhere in between. At least, there is a perception that this region might become the 'black hole' in the EU's comprehensive policy towards its immediate environment.

## **B) The views of the acceding CEEC's**

Enlargement pushes the borders of the Union further to the East and to the South. Accordingly, the acceding countries are primarily responsible for EU border management. It is, therefore, obvious that these countries have a main interest in the development of good proximity relations with the new neighbours and can be expected to bring this issue onto the EU's agenda.

### **1. The Polish proposals: the influence of the Finnish example**

On several occasions Poland revealed a commitment to enforce EU engagement towards its direct neighbourhood in the same way as Finland promoted the Northern Dimension.<sup>121</sup> Former Polish Minister of Foreign Affairs Bronislaw Geremek already referred to

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<sup>120</sup> Council Conclusions on Wider Europe - New Neighbourhood, Brussels, 12 June 2003, 10447/03.

<sup>121</sup> The accession of Finland provides a striking example of new EU Member States' agenda-setting powers. From the moment they entered the EU institutions, Finnish politicians called for a better balance between the Union's commitments to and resources reserved for Europe's southern and northern rim. Finland launched the specific Northern Dimension initiative, thereby shifting the focus to its direct neighbourhood.

the necessity to enhance the EU's policy towards its Eastern neighbours in his statement on the opening of the accession negotiations (31 March 1998).<sup>122</sup> In the summer of 2001 the Polish Ministry of Foreign Affairs published a more extensive document on the future Eastern policy of the enlarged EU.<sup>123</sup> In Poland's view, there is an objective necessity for a more active EU involvement in the post-Soviet area, particularly in those states that will border the Union after enlargement. Poland, therefore, calls for a more coherent EU Eastern policy. This would imply the establishment of 'uniform criteria and identical standards to all states established in the post-Soviet space'.

The ultimate objective of this strategy is to develop good-neighbourly relations on the basis of further co-operation and integration into a common European economic and social area. This document did not offer an elaborated view on the contents of the 'criteria' and 'standards' to be applied and the means to achieve the strategic objectives. It only vaguely refers to 'new economic relationships' and 'direct neighbourhood strategies'. On the other hand, however, the Polish initiative provided an interesting mindset for the gradual development of the EU's activities in the CIS region. At the least, it contributed to a growing awareness that the EU should focus more on the consequences of enlargement for those countries that do not have an accession perspective.

## **2. The Visegrád Countries' perspective: a focus on the 'Eastern Dimension'**

The Polish views have later been incorporated in a regional perspective. The document 'The Eastern Policy of the European Union - The Visegrád Countries' Perspective'<sup>124</sup> clearly refined

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<sup>122</sup> Statement of Minister of Foreign Affairs of the Republic of Poland Bronislaw Geremek on Opening of Poland's Negotiations on Membership in the European Union. <http://www.zbiordokumentow.pl/1998/1/2.html>

<sup>123</sup> Polish Ministry Of Foreign Affairs, The Eastern policy of the European Union in the run-up to the EU's enlargement to include the Countries of Central and Eastern Europe - a Polish view', Warsaw, 2001, 31 p.

<sup>124</sup> Poland, the Czech Republic, Hungary and Slovakia.

the initial Polish proposals. Whereas the original Polish paper regularly referred to the ‘*post-Soviet space*’ or the ‘*CIS area*’, the Visegrád document explicitly stated that the Eastern policy of the EU should only focus on Russia, Ukraine and Belarus, with a possible extension to Moldova after the EU accession of Romania. Furthermore, the Visegrád countries proposed a two-track policy towards these new neighbours. A region-oriented strategy, called the Eastern Dimension, would be complemented by national strategies in order to create a ‘flexible policy, tailor-made to the possibilities and expectations of the individual eastern neighbours.’ A general carrot and stick approach, already present in the earlier Polish document, turned out to be the main characteristic of the Visegrád proposal. According to this method, the EU requires a list of potential advantages in order to stimulate the implementation of its own political, economic and legal standards in the neighbouring countries. The Visegrád group pleads for ‘specific and attractive’ goals, which could take the form of ‘*aid funds, facilitation of access to the EU market, preferential credits, etc.*’. In the longer run, the EU is expected to apply the ‘open door’ principle: an eventual accession perspective may not be excluded. Furthermore, the Visegrád countries proposed the introduction of an ‘adaptation programme’.<sup>126</sup>

These proposals clearly contributed to the March 2003 Commission communication ‘Wider Europe - Neighbourhood: A New Framework for Relations with our Eastern and southern Neighbours’. The most striking difference of course is the observation that the Visegrád countries promote a specific policy towards the Union’s Eastern neighbours, whereas the Commission proposal includes Russia, the western NIS and the southern Mediterranean countries into one comprehensive framework. In

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<sup>125</sup> The Eastern Policy of the European Union - The Visegrád Countries’ Perspective. Available at: <http://www.msz.gov.pl/start.php>

<sup>126</sup> This would imply the negotiation of a separate co-operation agenda and schedule with each participating country, together with a regular assessment of progress within the existing bilateral institutions. This system is supposed to create added value since it would introduce a complete ‘conditionality’ of the aid, which would be precisely determined in advance and linked to specific reform requirements.

addition, it has to be mentioned that the Commission Communication confirmed a new differentiation between countries that have a (potential) membership perspective and countries without such a prospect.

### **C) Countries in the ‘waiting room’**

#### **1. Bulgaria, Romania and Turkey: the near (2007) and unknown future**

The EU’s new Neighbourhood Policy does not affect the remaining candidate countries for EU Membership. Bulgaria and Romania already maintain a privileged relationship with the EU and are on top of its hierarchical policy, as much in a political as in a legal sense. The Presidency Conclusions of the December 2002 Copenhagen European Council confirmed that these countries are part of the ‘same inclusive and irreversible enlargement process’ and refer to 2007 as the target date of EU accession.<sup>127</sup> The June 2003 Thessaloniki European Council confirmed this objective and expressly ruled out any alternatives to accession: ‘*Discussions on future policy reforms, or the new financial perspective, shall neither impede the pursuit and conclusion of accession negotiations nor be prejudged by the outcome of these negotiations.*’<sup>128</sup>

The position of Turkey is somewhat different, taking into account that accession negotiations have not yet started.<sup>129</sup> On the other hand, Turkey is a candidate state ‘*destined to join the Union on the basis of the same criteria as applied to the other candidate*

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<sup>127</sup> Presidency Conclusions Copenhagen European Council (12-13 December 2002), Bull. EU, I.5.13.

<sup>128</sup> Presidency Conclusions Thessaloniki European Council (19-20 June 2003).

<sup>129</sup> In this regard, the December 2002 Copenhagen European Council introduced 2004 as the ‘conditional’ starting date of accession negotiations: ‘If the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations without delay.’ Bull. EU, I.6.19.

states.’<sup>130</sup> Turkey benefits from increased pre-accession financial assistance and the Accession Partnership constitutes the basis of contemporary EU-Turkey relations. Moreover, due to the establishment of the EC-Turkey Customs Union, Turkey benefits from close relationships with the EU which go well beyond those of other neighbouring countries. From a political and diplomatic point of view, the inclusion of Turkey into the new Neighbourhood Policy would therefore be perceived as a new attempt to impose an alternative to membership. This, however, does not exclude that Turkey can play an important role in the further development of the EU’s Neighbourhood Policy.

## **2. EFTA countries: a question of time?**

For obvious reasons the EU’s new Neighbourhood Policy does not include the countries covered by the European Free Trade Association (EFTA). These countries already border the EU, they do not share the common problems of economic development and political instability, and, foremost, they already enjoy a far-reaching level of integration with the EU. Norway, Iceland and Liechtenstein take part in the European Economic Area (EEA), governed by the EU’s single market *acquis*. This is the closed form of co-operation without assuming the full responsibilities of EU Membership and forms, according to the Commission’s ‘Wider Europe’ Communication, a long-term perspective for all EU neighbours.<sup>131</sup>

Switzerland and micro-states such as Andorra, San Marino and Monaco are not included in the EEA. However, their geographic location and close economic interdependence with the EU Member States implies that they are also largely affected by the Union’s *acquis communautaire*. In the framework of the forthcoming enlargement and the increasing attention to the new Neighbourhood Policy, these countries will experience even greater pressure to reconsider their relations with the EU and their position in

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<sup>130</sup> Presidency Conclusions Copenhagen European Council (12-13 December 2002), Bull. EU, I.6.18.

<sup>131</sup> See footnote 48, p. 15.

Europe.<sup>132</sup> New discussions concerning future EU membership cannot be excluded in countries such as Norway and Switzerland. Given their high level of legal approximation with the EU it can even be argued that the future accession of these countries is only a matter of time.<sup>133</sup>

### **3. The western Balkan countries: ‘potential’ EU Member States**

The March 2003 Commission Communication also explicitly excludes the western Balkan countries, included in the Stabilisation and Association Process<sup>134</sup>, from the scope of the new Neighbourhood Policy. The explicit link between these countries’ membership perspective and their exclusion from the Wider Europe initiative contributes to the perception that the latter programme is entailed as an alternative to EU accession. In this regard, Neven Mimica, the Croatian Minister for European Integration, stated that the EU’s political and moral commitment towards the western Balkans implies that this area cannot fall within the scope of the Wider Europe concept. She even maintains that the inclusion of this region would be ‘the worst possible scenario.’<sup>135</sup> The underlying fear of being trapped into alternative models of cooperation clearly echoes the initial Ukrainian reactions to the Commission proposals (see *supra*) and reveals the paradoxical situation that the new policy is regarded as the emanation of a new

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<sup>132</sup> It is noteworthy that the European Parliament ‘calls for particular attention to be paid to those European countries which, by reason of size or choice, have not participated in the Union’s enlargement process’. (see *supra*)

<sup>133</sup> M. Maresceau, ‘L’Union européenne élargie et les relations de proximité intra-européennes : un essai de synthèse’, Paris, CEDECE, forthcoming.

<sup>134</sup> The 24 November 2000 Zagreb Summit launched the Stabilisation and Association Process, including Albania, the Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (the latter being transformed into the republic of Serbia and Montenegro).

For an overview, see :

[http://www.europa.eu.int/comm/external\\_relations/see/index.htm](http://www.europa.eu.int/comm/external_relations/see/index.htm)

<sup>135</sup> N. Mimica, ‘Croatia and the European Union - Steps Ahead?’, Centre for European Policy Studies, Brussels, available at: <http://www.ceps.be>

dividing line in Europe between countries having EU membership perspectives and other without such a prospect.

Taking into account the fact that issues relating to effective border management and good neighbourly relations cannot be postponed until the eventual accession of the western Balkan countries, there are good reasons to involve these countries within the new Neighbourhood Policy. The political and economic problems surrounding countries such as Albania, Macedonia and Serbia-Montenegro exclude the perspective of short-term EU accession. For the time being, the new Neighbourhood Policy could provide an interesting framework for cooperation. According to the EP, it can be argued that the new policy is a useful instrument towards the fulfilment of the accession criteria.<sup>136</sup> Furthermore, the western Balkans' geographical position implies that it would be difficult if not impossible to ignore this region anyway. The fact that the July 2003 Commission Communication on the New Neighbourhood Instrument (see *supra*) also covers the western Balkan countries that benefit from CARDS provides a good example in this regard. It is also noteworthy that the European Parliament refers to the involvement of the western Balkans into the new Neighbourhood Policy (see *supra*).

## **General Conclusion**

The gradual development of a specific Neighbourhood Policy reveals a growing awareness of the external consequences of the forthcoming EU enlargement. On the eve of an extension towards ten new Member States, the Union faces the challenge of realising its axiomatic statement that enlargement will also be beneficial for those not involved in this process. During the accession negotiations, the tendency to separate the EU enlargement and external relations policies entailed the risk of creating a new dividing line in Europe. Recent proposals to come up with a genuine Neighbourhood Policy, which would be constituted on the basis of a new title in the forthcoming constitutional Treaty, reflects a commitment to tackle this issue.

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<sup>136</sup> See footnote 56, p. 7.

Earlier attempts to develop new policy instruments towards the Union's immediate neighbourhood failed to fulfil their initial objectives. For instance, the failure of the CSs to improve the EU's external action in its surrounding areas enhanced the need for a comprehensive 'proximity policy'. According to Secretary-General/High Representative Javier Solana the existing CSs lack flexibility and tend to be too broadly defined in scope to be truly effective.<sup>137</sup> The poor effectiveness of the first CSs and their limited added value to existing policies can, therefore, explain the implicit dropping of a Balkan CS. For this region, a specific Stabilisation and Association Process includes a prospect of future EU Membership. On the other hand, it is obvious that the Union cannot go on enlarging forever. Every widening necessarily complicates the further deepening of European integration. In the end, continued enlargement risks complicating or even suppressing any new steps towards the realisation of 'an ever closer Union'. Consequently, the EU requires, at least in a short-term perspective, adequate policies towards its immediate neighbourhood. This challenge basically applies to the neighbouring countries of an enlarged EU that do not currently have a perspective of EU Membership: Russia, Ukraine, Belarus and Moldova on the one hand and, on the other hand, the non-European southern Mediterranean partners (the Maghreb countries: Morocco, Tunisia, Algeria; the Mashreq countries: Egypt, Lebanon, Jordan and Syria and the Palestinian territories; as well as Israel) having no accession prospects at all.

Up to now, the Union has tried to cope with its new neighbourhood on an ill-defined legal and political basis. The European Convention provided a unique opportunity to change this situation. Notwithstanding the fact that no special Working Group dealt with the issue of new neighbourhood relations, a new title and corresponding article (Art. 56) on 'the Union and its immediate environment' has been included in the draft Treaty. It has to be mentioned, however, that this article is basically a political declaration of intent. Nevertheless, this reference article can

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<sup>137</sup> Common Strategies: report by the Secretary-General/High Representative 14871/00, 21 Dec. 2000.

contribute to the development of a genuine Neighbourhood Policy. In this regard, the Commission and its President have launched a number of interesting proposals. Basically, a distinction can be made between the question of the Eastern Neighbours and the wider framework of an all-inclusive policy towards the Union's immediate neighbourhood. Whereas an initial paper, presented on behalf of Chris Patten and Javier Solana, clearly prioritised the future relations with Russia, Ukraine, Moldova and Belarus, Romano Prodi and Pasqualina Napoletano (in the draft report of the European Parliament) stressed the importance of adopting a more balanced approach towards the southern and eastern dimensions of the Neighbourhood Policy.

A combination of attractive opportunities and strong conditions for access to these benefits is to be the main guideline of the EU's new proximity policy. Taking into account the huge differences between distinctive neighbouring regions and countries, differentiation will be indispensable.

The dividing line between differentiation and discrimination is however not always very obvious<sup>138</sup>. The main challenge for the Mediterranean partners is, therefore, to avoid a dilution of the EMP within the broader proximity policy. This scenario could indeed coincide with the perception of the southern Mediterranean as a 'buffer zone', whose primary task would be to safeguard the area of freedom, security and justice *inside* the EU by means of effective and strict border controls. It is obvious that such a policy would create new political and human barriers. On the other hand, it cannot be denied that a well-designed proximity policy has a number of attractive potential advantages.

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<sup>138</sup> In this regard, a reference can be made to the recent Commission proposals on local border traffic at the external land borders of the Union (see footnote 53).