

Nice and Post-Nice: Explaining Current and Predicting Future Developments in the EU

By

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Introduction

The latest new EU treaty was finalized at a meeting of the European Council in Nice, France, in December 2000. This treaty will, once it enters into force, introduce a number of institutional changes in the EU. These changes are related to future enlargements, which could take membership from the current 15 members to 27-28 or more members over the years to come. The treaty determines the number of votes in a future EU-27. The 12 future members are 10 countries from Central and Eastern Europe (CEECs) as well as Cyprus and Malta. The 10 CEECs are Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Rumania, Bulgaria and Slovenia. Turkey is also a candidate for membership but no future number of votes in the Council was assigned to Turkey in Nice.

Nice dealt with three related issues known as the Amsterdam ‘leftovers’ because the Treaty of Amsterdam in 1997 had failed to solve them:

1. Re-weighting of votes in the Council
2. Increased use of Qualified Majority Voting (QMV) in the Council
3. Size and composition of the Commission.

It was the bigger member states that demanded a re-weighting of votes, claiming that they were relatively underrepresented according to the old weighting, and that this would become a bigger issue in a much enlarged Union, since most new member states are relatively small, with the main exception of Poland. A re-weighting of votes was expected to increase the legitimacy of the system.

An increased use of QMV should improve the decision-making capacity of the Union. As long as unanimity is required one single member state can veto decisions. With a QMV it will take a small group of states – a so-called blocking minority – to block a decision. The size of this group depends on the definition of the QMV, which in Nice was closely related to the re-weighting of votes.

The third question was also difficult because many member states like to be represented in the college of Commissioners. Currently, in EU-15, there are 20 Commissioners, two from the big five and one from the smaller 10 member states. But was the Commission not already becoming too big to function as a collegial body and having meaningful portfolios for all members?

It took a lot of ‘horse-trading’ in Nice in December 2000 to solve these issues.

In many ways Nice was unique. Past Intergovernmental Conferences (IGCs) had usually dealt with both substantive policy issues and some institutional issues. This time the agenda was largely limited to institutional issues. These were to include a fourth issue that was added during the conference, viz. ‘closer (or enhanced) cooperation,’ also known as ‘flexibility.’ The Treaty of Amsterdam had introduced clauses allowing a group of member states to go further in the integration process than the hesitant and slower member states, but the conditions for such ‘closer cooperation’ were rather strict. The issue in the Nice negotiations was whether the conditions should be made less strict. This would make it easier for pro-integration members to move faster than integration-sceptical member states.

Summary of the Nice Treaty

We shall limit this account of the Nice Treaty to the four main issues mentioned.

Table 1: Votes in EU-27 (as of 1 January 2005 and thereafter)

	Present votes	Future Votes	Population (mio.)	% of Union population
Germany	10	29	82,03	17,05
United Kingdom	10	29	59,25	12,31
France	10	29	58,97	12,25
Italy	10	29	57,61	11,97
Spain	8	27	39,39	8,19
Poland		27	38,67	8,04
Romania		14	22,49	4,67
Netherlands	5	13	15,76	3,28
Greece	5	12	10,53	2,19
Czech Republic		12	10,29	2,14
Belgium	5	12	10,21	2,12
Hungary		12	10,09	2,10
Portugal	5	12	9,98	2,07
Sweden	4	10	8,85	1,84
Bulgaria		10	8,23	1,71
Austria	4	10	8,08	1,68
Slovakia		7	5,39	1,12
Denmark	3	7	5,31	1,10
Finland	3	7	5,16	1,07
Ireland	3	7	3,74	0,78
Lithuania		7	3,70	0,77
Latvia		4	2,44	0,51
Slovenia		4	1,98	0,41
Estonia		4	1,45	0,30
Cyprus		4	0,75	0,16
Luxembourg	2	4	0,43	0,09
Malta		3	0,38	0,08
Total EU 27	87	345	481,18	100
Qualified majority of votes	62	258 (as well as a majority of member states)		Furthermore at least 62% of the Union population, if a member state asks for control of this criterion
Blocking minority	26	91		

Source: Treaty texts and European Parliament, "Draft Treaty of Nice (initial analysis)," Brussels, 10 January 2001. The final version of the Nice Treaty was published in the *Official Journal of the European Communities* C 80, 10 March 2001.

Re-weighting of votes

The re-weighting of votes in the Council that was agreed after prolonged negotiations can be seen in table 1. The four biggest states, which currently have 10 votes, will get 29 in the future. If we only concentrate on population Germany should have had more votes. Spain, which currently has eight votes, will get 27, a very good result for that country. Spain then pulled Poland up to the same level. We also notice that there will be a differentiation between the Netherlands getting 13 and Belgium getting 12 votes. In the past these two member states used to have the same number of votes, viz. five.

Table 2: Seats in the European Parliament (EU-27)

	Population (mio.)	Population as % of EU	Seats per Member State under the present Treaty	Seats per Member State under the Treaty of Nice	Reduction in numbers	Reduction in %	Number of inhabitants per seat
Germany	82,04	17,05	99	99	0	0	828.667
United Kingdom	59,25	12,31	87	72	15	17,24	822.875
France	58,97	12,25	87	72	15	17,24	818.972
Italy	57,61	11,97	87	72	15	17,24	800.167
Spain	39,39	8,19	64	50	14	21,88	787.880
Poland	38,66	8,04	64	50	14	21,88	773.340
Romania	22,49	4,67	44	33	11	25	681.485
Netherlands	15,76	3,28	31	25	6	19,35	630.400
Greece	10,53	2,19	25	22	3	12	478.773
Czech Republic	10,29	2,14	25	20	5	20	514.500
Belgium	10,21	2,12	25	22	3	12	464.227
Hungary	10,09	2,1	25	20	5	20	504.600
Portugal	9,98	2,07	25	22	3	12	453.636
Sweden	8,85	1,84	22	18	4	18,18	491.889
Bulgaria	8,23	1,71	21	17	4	19,05	484.118
Austria	8,08	1,68	21	17	4	19,05	475.412
Slovakia	5,39	1,12	16	13	3	18,75	414.846
Denmark	5,31	1,1	16	13	3	18,75	408.692
Finland	5,16	1,07	16	13	3	18,75	396.923
Ireland	3,74	0,78	15	12	3	20	312.000
Lithuania	3,70	0,77	15	12	3	20	308.417
Latvia	2,44	0,51	10	8	2	20	304.875
Slovenia	1,98	0,41	9	7	2	22,22	282.571
Estonia	1,45	0,3	7	6	1	14,29	241.000
Cyprus	0,75	0,16	6	6	0	0	125.333
Luxembourg	0,43	0,09	6	6	0	0	71.500
Malta	0,38	0,08	6	5	1	16,67	75.800
Total EU 27	481,18	100	874	732			657.351

Source: European Parliament, "Draft Treaty of Nice (initial analysis),2 Brussels, 10 January 2001.

Less controversial, the Treaty of Nice also assigned new number of seats in the European Parliament (see table 2). Here a differentiation between Germany and France has existed since a mini-reform took place after the Maastricht Treaty negotiations in 1992. In the future Germany will retain its 99 seats, but the other current member states had to accept reductions in their representation in the future.

Qualified Majority Vote (QMV)

The second main issue was the increased use of QMV. When the IGC2000 started there were about 70 areas left that still required unanimity according to the treaty. The IGC discussed about 45 of these in view of possible transfer to QMV. In the end it was decided to transfer 23 areas (see table 3) from the entry into force of the treaty and 12 areas later (see table 4) to QMV.

Table 3: Areas to be transferred to QMV when the Treaty of Nice enters into force

Article	Area	Decision procedure
23, 1 TEU	Appointment of special representative	No role for EP
24, 3 og 4 TEU	International agreements under CFSP (but with a clause providing for referral to the European Council)	No role for EP
13, 2 TEC	Anti-discrimination incentive measures	Co-decision
18, 2 TEC	Free movement of citizens of the EU (with exceptions)	Already co-decision
65 TEC	Judicial cooperation in civil matters (except family law)	C-decision
100 TEC	Serious economic situation (shortage) and natural disaster	EP informed
111, 4 TEC	International representation EMU	No role for EP
123, 4 TEC	Measures necessary for the introduction of the euro	No role for EP
133, 5 TEC	Trade in services and commercial aspects of intellectual property (with exceptions)	No role for EP
157, 3 TEC	Specific measures in support of action by Member States in the field of industry	Co-decision
159, 3 TEC	Specific actions outside the funds	Co-decision
181 A (new) TEC	Economic, financial and technical cooperation with third countries	Consultation of EP
190 TEC	Statute for Members of the EP (except taxation of Members)	The EP adopts the Statute and the Council decides
191 TEC	Status of, and financial rules governing, political parties at European level	Co-decision
207, 2 TEC	Appointment of SG and Deputy SG of the Council	No role for EP

214 TEC	Nomination and Appointment of the President of the Commission and its Members	Approval by the EP (unchanged)
215 TEC	Replacement of a Commissioner	No role for EP
223 TEC	Approval of the Rules of Procedure of the Court of Justice	No role for EP
224 TEC	Approval of Rules of Procedure of the Court of First Instance	No role for EP
247 TEC	Members of the Court of Auditors	Consultation of EP
248 TEC	Approval of Rules of Procedure of the Court of Auditors	No role for EP
259 TEC	List of members of the Economic and Social Committee	No role for EP
263 TEC	List of members of the Committee of the Regions	No role for EP

Source: Treaty texts and European Parliament, “Draft Treaty of Nice (initial analysis)” Annex 1. (This annex mistakenly does not include article 248)

Table 4: Areas where introduction of QMV is deferred until a later date

Article	Area	Decision procedure	Date
62.2 a TEC	Procedures relating to checks on persons at the external borders	Co-decision	As soon as agreement has been reached on the scope of the measures (according to declaration attached to the treaty)
62.3 TEC	Conditions governing the free movement of third-country nationals	Co-decision	1 May 2004 (according to declaration on Article 67)
63.1 a TEC	Criteria and mechanisms for determining which Member State is responsible for considering an application for asylum	Co-decision	No date set
63.1 b TEC	Minimum standards on the reception of asylum seekers	Co-decision	No date set
63.1 c TEF	Minimum standards with respect to the qualification of nationals of third countries as refugees	Co-decision	No date set
63.1 d TEF	Minimum standards on procedures in Member States for granting or withdrawing refugee status	Co-decision	No date set
63.2 a TEF	Minimum standards for giving temporary protection to displaced persons from third countries	Co-decision	No date set

63.3 b TEF	Illegal immigration and illegal residence, including repatriation of illegal residents	Co-decision	1 May 2004 (according to declaration on Article 67)
66 TEC	Cooperation between the relevant departments of the administrations of the Member States (visas, asylum, immigration and other policies relating to the free movement of persons)	Consultation of EP	1 May 2004 (according to protocol on article 67)
137 TEC	Protection of workers in the event of termination of their employment contract, collective representation and defence of the interests of workers and employers, including determination and conditions of employment of third-country nationals residing legally within Community territory	<i>Passerelle</i> : After a unanimous decision by the Council and consultation of the EP, QMV to be adopted with co-decision	No date set
161 TEC	Structural funds	Assent of the EP	1 January 2007 or later (date applicable after adoption of the Financial Perspective for 20007-2013)
279 TEC	Financial regulations and rules relating to the responsibility of financial controllers, authorising officers and accounting officers	Consultation of EP	1 January 2007

Source: Treaty texts and European Parliament, "Draft Treaty of Nice (initial analysis)," Brussels, 10 January 2001.

More than 20 areas, mainly constitutional or quasi-constitutional provisions were considered too sensitive from the outset. It was agreed early on not to touch them.

The more controversial areas in these discussions about increased use of QMV included visa, asylum and immigration, where some issues will be transferred to QMV in 2004 and others later. This process actually started with the transfer of these issues from the Third Pillar of the EU to the First Pillar in the Treaty of Amsterdam.

Another controversial area was trade policy where the introduction of QMV for trade in services and trade-related aspects of intellectual property rights (TRIPS) takes place with some exemptions, including culture and the audiovisual area.

Next, social policy, including labour market policy, was controversial. Some countries wanted to protect their labour market rules and regulations against EU interference. For sensitive social policy areas unanimity therefore survived the IGC.

The treaty also leaves taxation policies untouched.

Commission

Concerning the third issue, size and composition of the Commission the Treaty of Nice only found a partial solution. From 1 January 2005 the Commission will consist of one national from each member state. When the EU reaches 27 members a reduction of the size of the Commission will have to be agreed and a system of rotation found, all this by unanimity. So, at some point in time the member states will not always have a Commissioner of their nationality.

Nice has also strengthened the role of the President of the Commission. In the future he may decide the internal organization of the Commission and reallocate responsibilities among the Commissioners during the Commission's term of office. He may also call on a member of the Commission to resign after obtaining the collective approval of the Commission.

Enhanced cooperation

Nice makes 'enhanced cooperation' easier especially by now only requiring an absolute minimum number of states of eight, where the Treaty of Amsterdam required a majority of the member states. The exact rules vary between the three pillars and remain rather complex. A summary is given in Table 5.

The Treaty of Amsterdam had enabling clauses for enhanced cooperation in the first and third pillars. It had a possibility of veto against enhanced cooperation. This veto is now removed for those two pillars. Nice introduces enabling clauses for the second pillar but with a veto possibility.

The general conditions of enhanced cooperation that apply to all pillars remain rather strict. The proposed cooperation must, *inter alia*

1. aim at furthering the objectives of the Union
2. respect the *acquis communautaire*
3. not undermine the internal market
4. be open to all the member states.

Table5: Procedures for Enhanced Cooperation in the Nice Treaty

	First pillar (EC)	Second pillar (CFSP)	Third pillar
Authorization	<p>Proposal from the Commission</p> <p>Consultation of EP If area concerned is covered by co-decision then assent of the EP</p> <p>QMV in Council</p>	<p>Opinion from Commission</p> <p>Information of EP</p> <p>Special QMV in Council of at least 10 states</p> <p>Possibility of transferral to European Council in view of unanimous decision</p>	<p>Proposal from Commission or initiative from at least eight member states</p> <p>Consultation of EP</p> <p>QMV in Council</p>
Participation of other states	<p>Opinion from Commission to Council</p> <p>But Commission decides</p>	<p>Opinion from Commission</p> <p>QMV among participating states</p>	<p>Opinion from Commission</p> <p>QMV among participating states</p>

Source: Compiled by the author

5. aim at furthering the objectives of the Union
6. respect the *acquis communautaire*
7. not undermine the internal market
8. be open to all the member states.

Explaining the Nice Results

Andrew Moravcsik has developed a model for studying the major decisions in European integration. He calls it ‘liberal intergovernmentalism.’ When he first developed his approach, he suggested a two-step analysis of integration, first national preference formation and then interstate bargaining (Moravcsik, 1993). Later he added a third step, institutional choice (Moravcsik, 1998). The framework is summarized in table 6.

The first stage is to try to explain national preference. The central question asked by Moravcsik here is whether it is economic or geopolitical interests that dominate when member states form their preferences. The answer based on major decisions in the European integration process is that economic interests are the most important.

The second stage, interstate bargaining, seeks to explain the efficiency and distributional outcomes from EU negotiations. Here two possible explanations of agreements on substance are contrasted: asymmetrical interdependence or supranational entrepreneurship. Moravcsik arrives at the answer that asymmetrical interdependence has most explanatory power. Some member states have more at stake than others. They will work harder to influence outcomes. On the other hand, the role of the Commission is not considered very important. According to Moravcsik three factors are likely to determine the outcomes of interstate bargaining:

1. The value of unilateral policy alternatives, relative to the status quo, which underlies credible threats to veto,
2. The value of alternative coalitions, which underlies credible threats to exclude, and
3. The opportunities for issue linkage or side-payments, which underlie “package deals” (Moravcsik, 1998, 63).

Summarizing the discussion of the first point Moravcsik says: “those who more intensely desire the benefits of cooperation will concede more to get them.” Summarizing the discussion of the second point he says: “the credible threat of exclusion is likely to generate an even more powerful pressure on recalcitrant states than does the threat of nonagreement.” In respect to linkage strategies Moravcsik observes that the major constraint lies in their domestic distributional implications. Concessions often create domestic losers. This will limit the use of package deals (Moravcsik, 1998, 63-67).

The third stage explores the reasons why states choose to delegate or pool decision-making in international institutions. Delegation refers to the powers given to the Commission and the European Court of Justice. Pooling of sovereignty refers to the application of majority decisions in the Council, in practice mostly QMV. To explain institutional choice Moravcsik contrasts three possible explanations: Federalist ideology, centralized technocratic management or more credible commitment. The answer he gives is that states delegate and pool sovereignty to get more credible commitment. Pooling and delegation is a rational strategy adopted by the member states to pre-commit governments to future decisions, to encourage future cooperation and to improve future implementation of agreements (Moravcsik, 1998, 73).

The brief overview given here cannot do justice to the richness of the analysis of European integration in *The Choice for Europe*. Using theories of decision-making, negotiations and international political economy in general in an elegant combination has allowed Moravcsik to construct a parsimonious framework for the study of international cooperation including international integration.

The question here is: Could we use liberal intergovernmentalism to explain Nice? To do so we would have first to study the process of preference formation in the member states, especially the bigger and more influential ones. Next we would have to study the bargaining process during the IGC2000 that negotiated the Nice Treaty. This should in principle be possible, but without a major research effort we just do not have all the information we need to give a conclusive answer to the question. But based on available information it is possible to say something about the process, though.

Table 6: International cooperation: A rationalist framework

Stages of Negotiation	National Preference Formation	Interstate Bargaining	Institutional Choice
Alternative independent variables underlying each stage	What is the source of underlying national preferences?	Given national preferences what explains the efficiency and distributional outcomes of interstate bargaining?	Given substantive agreement, what explains the transfer of sovereignty to international Institutions?
	Economic interests or Geopolitical interests?	Asymmetrical interdependence or Supranational entrepreneurship?	Federalist ideology or Centralized technocratic management or More credible commitment?
Observed outcomes at each stage	Underlying national preferences	Agreements on substance	Choice to delegate or pool decision-making in international institutions

Source: Moravcsik (1998), p. 24.

Concerning preferences in respect to re-weighting of votes the most important variable was size. These issues were largely pitting the big against the small member states. The big wanted a re-weighting in their favour. The small resisted this. Many big countries wanted to reduce the size of the Commission. Many small countries wanted to retain ‘their’ Commissioner. Using Moravcsik’s terms this might to a large extent fall more under geopolitics rather than economic interests as such. But even that would be not necessarily be the best way to look at it. The question concerning the Council and the Commission were fundamental questions about institutional design. What kind of considerations do actors make when they design institutions? Since institutions are about future decisions actors are interested in increasing their influence and control. Voting weights are directly linked to influence. Control is linked the ‘blocking minority’ that follows from the definition of a QMV. Various institutionalist theories could be applicable to structure our analysis of these aspects of the Nice (e.g. Moe, 1990; Kerremans, 1998). This point needs further consideration. There may also be a dimension of pro- vs. anti-integration attitudes here, a less rationalist and more reflectivist dimension.

Moravcsik’s scheme seems more applicable to the question about increased use of QMV. Here size was probably not an important variable in determining attitudes. Specific national socio-economic interests, such as shipping interests in Greece, film industry interests in France, labour market interests in Denmark, would probably go far in explaining national preferences and positions during the negotiations. So Moravcsik’s propositions would be applicable, although the pro vs. anti-integration dimension may intervene here too, i.e. a more ideological variable.

The end game in Nice became a tough bargaining process, with questions of national prestige playing an unusual role. The French wanted to get as many votes as the Germans. The Belgians wanted to get as many votes as the Dutch.

The Spanish argued that there was a special Spanish problem. When Spain joined in 1986 they got fewer votes in the Council than the other big member states against getting two Commissioners. Losing first one Commissioner – and later accepting rotation as the other member states – the Spanish demanded compensation in the Council. Known as tough bargainers the French Presidency treated the Spanish generously from the outset (Ludlow, 2001).

The Germans in the end were compensated by the rule that a QMV should also represent 62% of the EU population. Since Germany has about half of a blocking minority in terms of population the country can expect to become a very attractive coalition partner in the future.

The Belgians, in the end had to accept one vote less than the Dutch, but they were promised that future meetings of the European Council gradually would be shifted to Belgium. Another side-payment to Belgium was increased representation in the European Parliament (Best, 2001).

Portugal that resented the generous treatment of their neighbour Spain was also compensated with extra representation in the European Parliament.

As mentioned earlier Nice was mainly about institutional choice (or design) and not so much about substance. If there was a broader question of substance, it was of course enlargement. Those member states that favour speedy enlargement may therefore have been in a weaker bargaining position than those who do not mind enlargement to be postponed. This may have weakened Germany and the Nordic members. It strengthened the cohesion countries, especially Spain, that not only got relatively many votes in the Council but also succeeded to get QMV for structural funds postponed until 2007 or later.

So despite the rather unique character of Nice it can be argued that liberal intergovernmentalism can capture at least part of the process. Some may argue that various institutionalist theories, including historical institutionalism, also have contributions to make (e.g Pierson, 1996). The equality of votes between France and Germany constituted a kind of ‘path dependency’ that could not be broken, or which could only be broken in an indirect way through the ‘demographic filter’ of minimum 62% of population that was introduced. Considerations about ‘sunk costs’ and ‘costs of exit’ must have played an important role for those countries that disliked the emerging compromise, such as Belgium and Portugal.

Social constructivists have been interested in the process of collective identity formation in Europe (e.g. Risse-Kappen, 1996). They may have a point. But in Nice we saw the Heads of State and Government clearly think in ‘we’ vs. ‘they’ terms. The battle about votes looked very much like a zero-sum game, suggesting that EU member states also sometimes think in terms of ‘relative gains’ as realists and neo-realists would argue. The collective interest of Europe was poorly represented in Nice. It looks as if absolute gains did not count so much (For theoretical discussion of ‘relative’ versus ‘absolute’ gains and implications for cooperation, see Baldwin, 1993).

The Post-Nice Agenda

In a Declaration on the Future of the Union the Heads of State and Government meeting in Nice said that important reforms had been decided and that the ratification of the Nice Treaty would have completed the institutional changes necessary for the accession of new member states. They therefore called for “a deeper and wider debate about the future development of the European Union.” They went on to mention the following points on the agenda of that future debate:

1. How to establish and monitor a more precise delimitation of competencies between the European Union and the Member States, reflecting the principle of subsidiarity.
2. The status of the Charter of Fundamental Rights of the European Union proclaimed in Nice.
3. A simplification of the Treaties with a view to making them clearer and better understood without changing their meaning.
4. The role of the national Parliaments in the European architecture.

The Declaration also talked about “the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, to bring them closer to the citizens of the Member States.”

Nice finally decided that a new IGC should be convened in 2004 to discuss the above issues. Candidate states that have concluded accession negotiations will participate in the IGC. Other candidate states will be invited as observers.

So Nice was not the end of the road. The nature of the EU is still very much on the agenda. What kind of Union is it? What kind of Union should it become? The issues suggest such a (re)new(ed) debate of a constitutional kind.

Lawyers have been telling us for years that the EU is *sui generis*. It is not an international organization like the UN. Nor is it a federal state like the USA. It is in many ways something in between, even if we are also advised sometimes not to use these established concepts.

But a debate about what the Union should be doing and what the member states should be doing and possibly writing a catalogue of competences reminds students of federalism of similar debates in federal systems.

It can be argued that the central feature of a federal system is a double guarantee, a guarantee of the efficiency of the Union as well as a guarantee of the continued existence of the member states. So both the Union and the member states should have real autonomy in certain

spheres (Riker, 1964). This is what the European debate is now about. Some Europeans fear that the Union will interfere too much in domestic matters. Others fear that it will not be able to make the necessary joint decisions required by modern interdependence, especially now that it will become a much wider Union.

Indeed, the EU faces a constitutional debate. It is sad that ‘federalism’ has had such a bad press in some European countries. In reality there is already a heavy dose of federalism in the EU, especially in the first pillar. Many years ago a great student of ‘constitutionalism’, Carl Friedrich, talked about a federalizing process in Europe (Friedrich, 1968, 1969). That process is still going on.

Scenarios of the Future: Deepening vs. Widening

Where may the future take Europe? Various scenarios can be imagined:

1. A wider and stronger EU
2. A wider, but weaker EU
3. A more flexible EU, including a hard core
4. A disintegrating EU

Figure 1 gives an idea of possible directions. The two main dimensions in this discussion are deepening and widening. A discussion about deepening vs. widening has taken place in connection with earlier enlargements, too. The issue has been to make sure that enlargement does not lead to institutional paralysis. Historically, therefore widening has often been associated with steps to deepen integration.

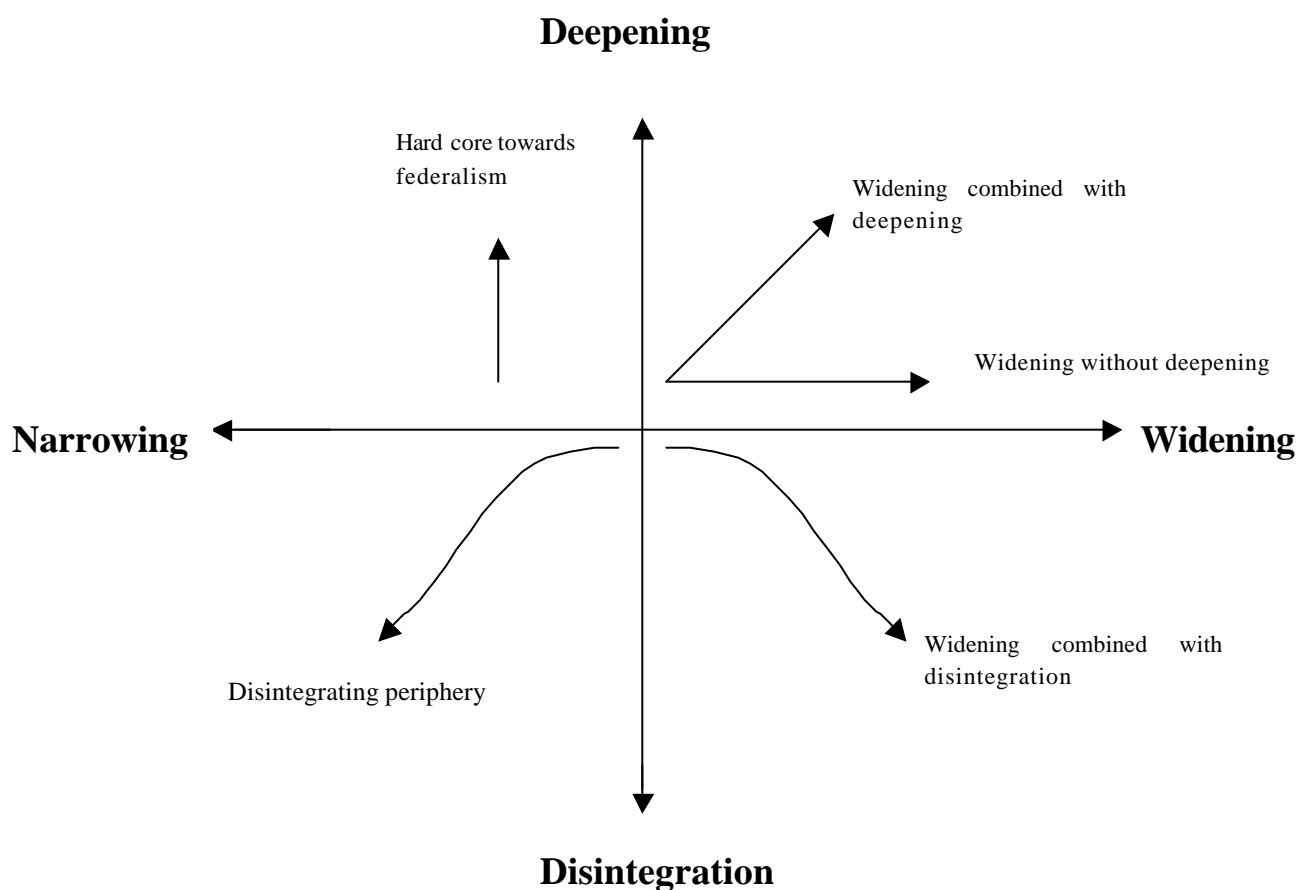
A wider and stronger EU is what is hoped for by many Europeans: Uniting the continent after the end of the Cold War and extending the ‘security community’ of Western Europe to all of Europe is supposed to contribute to a more peaceful Europe. Integrating the economies of the CEECs into the internal market is expected by many to produce welfare gains for all in the longer run although it is recognized that there will be distributional issues where the EC budget will have a role to play, e.g. through structural policies.

But decision-making in EU-27 will be more difficult because of the greater number of participants and therefore greater divergence of views. Were the institutional changes of the Nice Treaty sufficient to avoid a slow-down of decision-making? Will we move towards a wider free

trade area? This is the fear of some, but also the hope of those who do not like European integration to deepen further.

The worst-case scenario is disintegration. This could take Europe back to old-fashioned power politics, conflicts and war. This was the scenario of some Realist scholars at the end of the Cold War (e.g. Mearsheimer, 1990). But neo-liberal institutionalist scholars have argued that European institutions, including first of all the EU, have contributed to avoidance of such a scenario (Keohane, Nye and Hoffmann, 1993)

Figure 1: Deepening versus Widening



Source: Adapted from Regelsberger and Wessels, 1995.

There remains another scenario referred to as 'flexibility' in the European discussion. This includes various forms of integration where some countries move ahead leaving others behind,

either temporarily (multi-speed integration) or permanently (variable geometry). Table 7 illustrates a central distinction between multi-speed integration and variable geometry. Allowing different speeds has been part of the European integration process from the beginning. When new members join they are given transition periods. Also, the plan for EMU foresaw that not all might join the third phase at the same time. It laid out so-called convergence criteria that had to be fulfilled before a member was considered capable of taking part in the single currency from an economic point of view. But a country like Greece, which joined the third phase with some delay in 2001, accepted the goal of EMU all the time. Some of the discussion about flexibility, such as the German CDU proposal for a hard core Europe in 1994, has been based on the idea that a smaller group of members can be a kind of *avant-garde* that will help move the process forward.

Table 7: Kinds of Integration

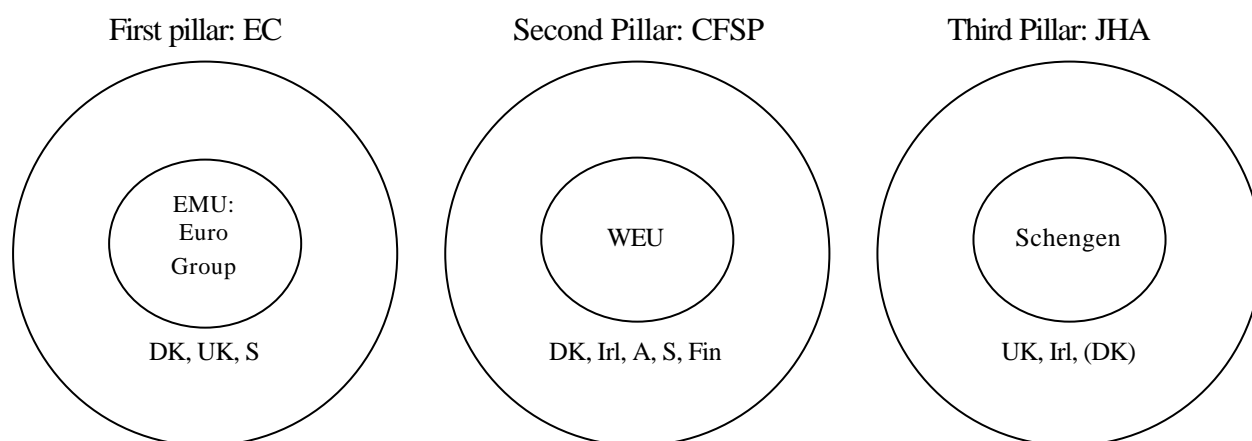
Form	Goal	Speed	Examples within the treaty	Examples outside the treaty
Uniform integration	Same	Same	Traditional EC strategy	
Multi-speed integration	Same	Different	Transition periods when joining EMU convergence criteria	
Variable geometry	Different	Different	UK opt-outs and Danish exemptions WEU from Maastricht to Nice Schengen cooperation after Amsterdam	WEU until Maastricht Schengen cooperation until Amsterdam

Source: Compiled by the author.

It all starts becoming more problematic when the member states cannot agree on the goal. This situation existed clearly at the time of the negotiation of the Maastricht Treaty when a new kind of construction was invented. This was the construction that gave the United Kingdom an opt-out on social policy. The remaining eleven members at the time decided to introduce a new chapter in the Treaty on social policy. But John Major's Conservative British government stayed outside. 'Variable geometry' is the term often used for this kind of 'flexibility'.

If variable geometry is limited to a few and not-so-important areas the EU can probably live with it. The problem will arise if it becomes generalized to a system where countries can pick and choose freely. Such a situation is referred to as *à la carte* integration. It is widely considered that *à la carte* integration will easily lead to disintegration. That is the big risk.

Figure 2: Different Core Groups of the EU at the Time of the Amsterdam Negotiations



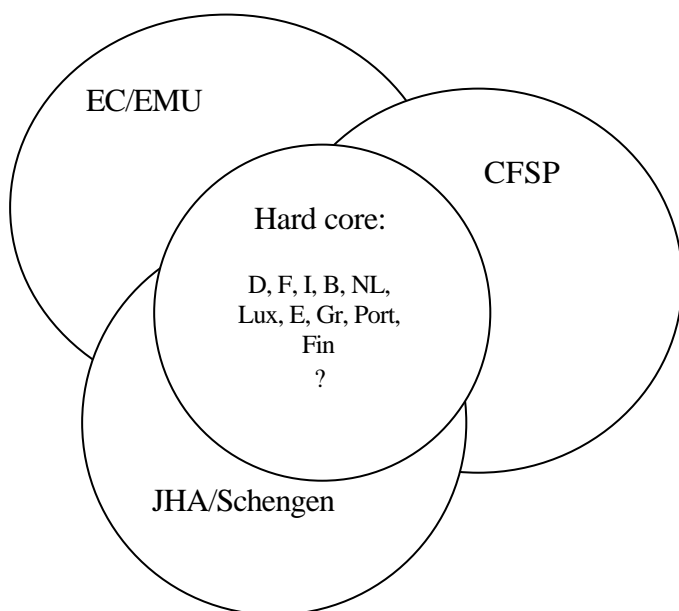
Source: Compiled by the author

In today's EU we have different core groups for different policy areas. If we divide it along the three pillars of the Maastricht Treaty we have the Euro-group as core in the first pillar of the European Community. In the second pillar, Common Foreign and Security Policy (CFSP) the WEU could be seen as a core and in the third pillar at least until 1998 when the EU started to develop its own defence dimension. In the area of Justice and Home Affairs the Schengen Agreement could be seen as a kind of core group (see fig. 2).

Currently there are 10 member states that take part in these three cores: Germany, France, Italy, Spain, Belgium, the Netherlands, Greece, Luxembourg, Portugal and Finland. However, various developments are starting to blur this picture. The Amsterdam Treaty is moving a number of issues from the Third to the First pillar and it incorporates the Schengen *acquis* into the Treaty, partly in the first, partly in the third pillar. But the UK and Ireland keep having their own border controls, and Denmark does not take part in supranational first pillar JHA cooperation, but is

free to join on an ‘intergovernmental’ basis. It is all rather complicated – and surely difficult to understand for European citizens. Another important element in the situation is also the change in the British position on developing a European defence identity. Although always a member of the WEU the UK used to resist the development of a special EU defence policy, but the UK changed policy after the Kosovo crisis in 1998. The fact that the EU ‘neutrals’ supported the inclusion of the so-called Petersberg tasks of “humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking” in the Amsterdam Treaty has also helped the EU to move further in this area.

Figure 3: Towards a Hard Core?



Source: Compiled by the author

Given the different cores we cannot talk about concentric circles. We have eccentric circles in the European integration process. Those in all the three cores we looked at can be seen as a common core. This group does largely agree on developing the integration process further, but the participants differ on speed and specific policies, such as for instance environmental policy, and even France and Germany have different perspectives on the future institutional architecture, with Germany leaning more towards federalism and France more towards a Europe of Nation-States. This came out last year in the contrast between speeches of German Foreign Minister Joschka

Fischer on 12 May 2000 at the Humboldt University in Berlin (Fischer, 2000) and the one of the French President Jacques Chirac on 27 June 2000 at the German *Bundestag* in Berlin (Chirac, 2000). France wants a future core group to have its own secretariat, which in a way would compete with the European Commission. France wants to strengthen the ‘intergovernmental’ aspects of European integration. Germany wants to strengthen the ‘supranational’ aspects.

More recently Chancellor Gerhard Schröder of Germany (*European Voice*, 3-9 May 2001) and Prime Minister Lionel Jospin of France have also contributed to the debate (*European Voice*, 31 May – 6 June 2001). Both French and German leaders are calling for a kind of EU constitution and a catalogue of competences. The German, who live in a federal state, see federalism as a way of guaranteeing the competences of the member states. The French, being used to the centralizing Jacobin state, have bigger difficulties understanding federalism, but they do talk about a federation of nation-states.

In view of up-coming enlargements one can ask how these different national preferences within the EU are likely to develop?

In general it seems that all the current candidates are eager to join the whole integration process and become full members. Most of them will have no problems in taking full part in CFSP. JHA may raise certain questions about capacity in respect to new external borders (customs, migration, etc). In respect to the first pillar the CEECs have been busy preparing for the internal market through the pre-accession strategy (Laursen, 2001a). Some are closer than others. And some may take longer time than they like to think about to become ready for membership. It may take quite some time for most of them to fulfil convergence criteria for EMU, although we may be in for some surprises here. They will also need time to catch up on environmental standards. All in all enlargement is likely to come in stages over a number of years and integration will require long transition periods. This in itself will mean more flexibility, at least in the form of multi-speed integration. But can we avoid *à la carte* integration?

Too much flexibility is neither in the interest of the current EU members nor the applicant countries. If the EU is more permanently split up in an A-group and a B-group, the CEECs rightly fear that they may have to join the B-group. Those who would like to see the EU become a wide free trade area with weak institutions, like British Conservatives and Danish nationalists, to mention just some of them, will be happy if the integration process grinds to a halt and is reversed. These people have never fully understood that the integration process starting with the Schuman Plan in 1950 has changed the trajectory of European history in an amazing way.

Integration has produced both more prosperity and more security in Europe. This process should now be fully extended to all of Europe, not in a piecemeal fashion. Multi-speed integration will be part of the enlargement process. But variable geometry should be avoided as much as possible. A hard core should not become permanent, but it should be allowed to act as an *avantgarde* taking the whole of Europe towards a more committing kind of cooperation, which is the basis of peace and prosperity. Too much insistence on special national interests and ‘free riding’ will lead to sub-optimal outcomes that can become costly for all.

Concluding Remarks

A serious dialogue is needed to set common goals in Europe. One can hope that the post-Nice agenda will indeed produce such a dialogue. Both the Germans and the French have suggested a catalogue of competences in a European ‘constitution’. The discussion about subsidiarity in connection with the Maastricht Treaty was also an effort to clarify what is best decided at what level, be it local, regional, national and European – not to mention the global level. But subsidiarity is not a very clear guidance. The decision about which level should make what decisions will in the end be a political one.

The literature on international regimes may give some guidance, especially game theoretical approaches (Stein, 1982; Laursen, 1997). Areas where states can gain by defecting on international agreements, such as trade, monetary policy, and environmental policy, require good common institutions to make sure that agreements are implemented. In trade there is always the temptation to use protectionism. In monetary policy there is the temptation to use competitive devaluations. In environmental areas there is the temptation to overexploit common resources or send pollution across borders to the neighbours. There is thus a clear logic in creating ‘supranational’ institutions for such issues.

Indeed, the EU has been created as a rational response to international interdependence. The EU has been created by the member states to solve certain common problems that they cannot solve independently. They have in a rational way created the institutions that we have in the EU because they wanted ‘credible commitments’ to carrying out substantive agreements (Moravcsik, 1998).

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