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# ‘EU External Governance in “Wider Europe” ’

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# EU external governance in ‘wider Europe’

Sandra Lavenex

**ABSTRACT** The ‘wider Europe’ initiative opens the possibility for a far-reaching association of the EU’s eastern and southern European neighbours which, by offering ‘everything but institutions’ (Prodi), proposes an alternative to membership. This article presents this initiative as part of an ambitious external governance agenda by the enlarged Union with the aim to manage its new interdependence in an altered geopolitical context. Focusing on the conception of interdependence and the institutional configuration of EU relations with its near abroad, external governance is defined and examined in three prominent ‘soft security’ issues: justice and home affairs, environmental and energy policy. It is argued that external governance seeks to expand the ‘legal boundary’ of the Union with only limited openings of its ‘institutional boundary’, thereby oscillating between an inclusionary and exclusionary approach towards its near abroad.

**KEY WORDS** Civilian power; energy policy; environmental policy; external governance; justice and home affairs; wider Europe.

## INTRODUCTION

Under the impression of the changed geopolitical configuration of ‘post-Wall’ Europe, Michael Smith has suggested that ‘after spending most of its life practising the “politics of exclusion”, the European Union (EU) has moved towards a “politics of inclusion” to reflect the changing demands of the European order’ (Smith 1996: 5). Whereas the ‘politics of exclusion’ were characterized by a territorially, culturally, legally and institutionally relatively bounded process of institution-building and integration between western European states, the ‘politics of inclusion’ are a reaction to the blurring of these boundaries, and refer to a more flexible ‘unbundling of territoriality’ (Ruggie 1993: 165ff.) which ‘may lead to the internalization of disturbance rather than its containment’ (Smith 1996: 23).

Smith’s thesis of a shift towards ‘politics of inclusion’ resonates well with recent EU initiatives towards a ‘wider Europe’ (Commission 2003a), addressing the challenge to define the EU’s relations with its European neighbours to the east and the south.<sup>1</sup> The questions whether the EU is moving towards an

inclusionary approach, and which motives and dynamics might foster such a shift, are at the heart of this article. Herewith, it proposes an alternative view on the EU's role as a 'civilian power' which has less to do with its common foreign and security policy (CFSP) or the EU's international actorness, but more with the external dimension of internal politics.

Taking an 'inside-out' view on EU politics, this piece explores the dynamics which spur the extension of parts of the Union's *acquis communautaire* beyond the circle of member states towards their immediate neighbourhood. These endeavours to extend the regulatory scope of the *acquis* may be conceived of as a form of external governance in which internal and foreign policy goals come together. Rule-extension towards non-member states may follow functional needs when it is seen to increase the efficiency and problem-solving capacity of internal policies. Conversely, it may serve foreign policy goals geared at stabilizing the neighbourhood of the enlarged Union.

This article starts with a definition of the notion of external governance and specifies it in a short discussion of the various forms of institutional affiliation linking third countries with the EU. The second section explores possible explanations for the 'extraterritorialization' of European policies in wider Europe in the context of the existing literature on the EU's international role. It is argued that shifts in the territorial scope of EU governance and the choice of policies which develop an external dimension are conditioned by two main factors: perceptions of interdependence and institutional roles and capacities. Institutional roles and capacities are the basis for the EU's responsibility to contribute to problem-solving in a given area and the condition for external action in this field. The perception of interdependence explains why the EU chooses to engage in external action and hence to bind third countries to the fulfilment of these internal policy goals. In short, it is argued that the EU's move towards external governance is conditioned by the resurgence of its fundamental identity as a 'security community' (Deutsch *et al.* 1957) in an altered geopolitical context. After enlargement, the EU faces the unprecedented challenge of defining its relations with neighbouring countries which will not, at least in the foreseeable future, receive the prospect of EU membership, but which play a crucial role in the maintenance of security and stability in Europe. In this context, 'soft security' risks constitute the background of the enlarged EU's enhanced engagement to the east and to the south. Three such 'soft security' fields are highlighted which form the broader geostrategic background of recent initiatives on 'wider Europe': justice and home affairs (JHA), environmental and energy policy.

Although it is too early to analyse the effects of these activities, this preliminary review confirms recent studies on eastern enlargement (Friis and Murphy 1999; Schimmelfennig and Sedelmeier 2002, 2004) and on the Northern Dimension Initiative (NDI) in the Baltic Sea region (Filténborg *et al.* 2002; Myrjord 2003), which argue that the EU is gradually expanding its governance beyond the circle of member states. Whether this really leads to 'fuzzy borders' and intermediate forms of membership in the EU's 'near

abroad' (Christiansen *et al.* 2000), thus confirming Smith's thesis of a shift towards 'politics of inclusion', however, is questionable.

### BOUNDARIES OF EU ORDER

Although not a state or a federation, the EU has hitherto operated within a relatively stable territory, delimited by its member states and the congruity of geopolitical, institutional, legal, cultural and transactional boundaries in post-war Europe. Notwithstanding earlier expansions, the necessity to define its future borders is a new challenge for the Union, and has only emerged with the current eastern enlargement. Yet, it is not only external change which leads to a redefinition of boundaries. In parallel with the geopolitical transformations, the internal character of the Union has also changed, creating supranational responsibilities in formerly national affairs, arousing new expectations on the part of the people towards 'Brussels', and altering the equation between state governments and EU institutions in policy-making and accountability.

This multi-level and multi-actor constellation may best be captured in the notion of 'governance' as a form of political organization which cannot be adequately described anymore by the concept of externally and internally sovereign states (Jachtenfuchs 2001; Kohler-Koch and Eising 1999; Marks *et al.* 1996). With its emphasis on hierarchical and horizontal, formal and informal forms of policy-making, the notion of governance is particularly useful for studying relations with third countries which, although not EU member states, are included in the pursuit of (internal) policy goals. It also helps to move beyond the 'methodological nationalism' (Cerny 1997, quoted in Prakash and Hart 1999: 1) inherent in the vocabulary of domestic politics and international relations. Less than 'government', 'governance' is more than 'co-operation', as it implies a system of rules which exceeds the voluntarism implicit in the term co-operation. As Schimmelfennig and Sedelmeier point out, governance needs not to be 'new' or 'network governance' based on horizontal co-ordination and public-private partnerships. Instead, as shown in the case of Central and Eastern Europe, EU external relations may exhibit many features of 'old governance', including the highly asymmetrical relationship between insiders and outsiders; the imposition of predetermined formal rules; the exclusive participation of bureaucratic actors; and top-down communication structures (Schimmelfennig and Sedelmeier 2004).

The extension of governance beyond the EU member states constitutes a new perspective on the EU's international role. Whereas classically, studies have focused on the EU's external relations in terms of international trade, aid and co-operation as a civilian power (Duchêne 1973; Telò 2001) or, often more critically, the CFSP (e.g. Allen and Smith 1998; Hill 1993; Zielonka 1998), the notion of external governance is relatively recent and has hitherto only been applied to eastern enlargement (Friis and Murphy 1999) and the NDI in the Baltic Sea region (Filtenborg *et al.* 2002; Myrjord 2003). This paper argues that, although very much in flux and, in some cases, only in its

beginnings, as a concept, external governance reaches well beyond these limited regions and addresses, although to different degrees, all neighbouring countries of the EU.

Drawing on Smith's distinction between four types of boundaries, geopolitical, institutional/legal, transactional, and cultural (Smith 1996: 13ff.), external governance can be said to occur when the institutional/legal boundary is moved beyond the circle of member states. In contrast to Smith, however, I will show that the institutional and the legal form different boundaries which need not always move together. Institutional expansion may reach from more limited forms of participation in common, sector-specific organizations (e.g. agencies, committees, etc.) to observer status and, finally – in the case of full integration – also a voice in the EU polity, in which case the relationship becomes one of internal governance. The legal boundary refers to the regulatory scope of legal rules and expands when parts of the European Community (EC)/EU legal order or the *acquis communautaire* are transposed upon non-member states. Whereas accession rules determine that institutional membership presupposes the adoption of the *acquis*, the legal boundary of European rules can be extended without a parallel institutional expansion. Hence, the crucial criterion for external governance is the extension of the legal boundary of authority beyond institutional integration. In contrast to co-operation under an international agreement or convention, external governance takes place when parts of the *acquis communautaire* are extended to non-member states.

The outer contours of EU governance may be clustered along the different types of association with non-member states. Although important differences exist between individual countries, the following types of association may be distinguished:

- *quasi-membership* for comprehensive forms of association such as the European Economic Area (EEA) and the bilateral treaties concluded with Switzerland;
- *accession association* for the encompassing framework of enlargement negotiations with (until recently) the new member states of Central and Eastern Europe (CEE countries), Malta and Cyprus, and, although less developed, also with Turkey and the countries of the western Balkans;
- *neighbourhood association* with the Mediterranean and new eastern neighbours;
- *development co-operation* with the African, Caribbean and Pacific (ACP) countries;
- *transatlantic co-operation* with the USA and Canada.

While co-operation also exists with other countries or groups of states (e.g. Mercosur, Caucasus), these categories of external relations are specific in that they have all developed relatively stable forms of institutionalized interaction. Given its focus on 'governance', this article will also not consider institutionalized relations which only cover 'voluntaristic' co-operation. Although the notion of external governance can certainly be extended to specific aspects of the

transatlantic or most of EEA/EFTA (European Free Trade Association) relations, this paper concentrates on those countries which have been subsumed in the recent initiative on 'wider Europe', that is the 'neighbourhood association'.

## EXPANDING THE BOUNDARIES OF ORDER

From a theoretical perspective, the interest of this article is less in the actual forms that external governance takes or the degree to which it actually influences non-member states (i.e. in the sense of 'Europeanization') than in the causes which drive the EU to expand its boundaries of order. This interest has both an internal and an international dimension and thus transcends the traditional distinction between EU 'domestic politics' and its foreign relations. Drawing on recent literature on the EU as a civilian power and a system of governance, it is proposed to conceive of the Union as a polity in the making within an altered geopolitical environment, with its own conceptions of roles and responsibilities as well as perceptions of threat and interdependence.

### The EU as a civilian power

The (probably transitory) decline of power politics and the new impetus given to European integration in the 1990s have led to a 'revival' of Duchêne's conception of the EU as a civilian power (Telò 2001; Whitman 2002). Although lacking a clear definition, this concept stresses the 'soft' power exercised by the EU which basically consists in the external projection of its internal virtues through politico-economic (Rosecrance 1998) and normative means (Manners 2002; Nicolaidis and Howse 2003). From this perspective, association politics and the wider Europe initiative launched in 2003 may be seen as an attempt to expand the neofunctionalist model of peaceful co-operation based on regional economic integration and acceptance of a common set of values such as democracy, human rights, and the rule of law (Manners 2002). As already pointed out by Duchêne, the civilian power approach dissolves the strict distinction between the domestic and the external as its goal is:

to *domesticate* relations between states, including those of its own members and those with states outside its frontiers. This means trying to bring to international problems the sense of common responsibility and structures of contractual politics which have been in the past associated exclusively with 'home' and not foreign, that is *alien*, affairs.

(Duchêne 1973: 19f.; emphasis added)

The stabilization strategy deployed towards the CEE countries with its emphasis on economic integration and political transformation reflects in many ways the civilian approach (Ginsberg 1998; Sjursen 2002). The requirement to adopt the *acquis communautaire* and the use of conditionality, however, include a compulsory element which exceeds the voluntarism implicit in the notion of civilian power, or, in Rosecrance's words, the EU's 'magnetic force' (Rosecrance

1998). Especially when applied towards third countries which lack the prospect of membership, the attempt to extend the EU's legal boundary is not only a benevolent projection of acquired civilian virtues but also a more strategic attempt to gain control over policy developments through external governance.

### A governance perspective

The governance perspective allows us to maintain the focus on the EU's role as a civilian power while highlighting the prescriptive dimension inherent in a foreign policy based on the (partial) extension of rules. This approach focuses attention on the importance of the institutional setting for the kind of policy outcomes produced, and highlights the continuity between internal and external developments in EU policy-making (Jachtenfuchs 2001; Smith 2003). It allows us to look at the 'wider Europe' agenda as the continuation of an internal process of institutionalization, underlines the legacy of previous rules and procedures developed towards accession countries, and explains rule-expansion as an attempt to manage the external interdependence of the EU as a nascent political system. In this context, two dimensions emerge as crucial determinants for external governance: perceptions of interdependence and institutional roles and capacities.

Perceptions of interdependence and threat play a central role in the legitimation of political order. From this perspective, not just benevolent idealism, but also apprehensions concerning the enlarging Union's identity and its vulnerability towards developments in its 'near abroad' are the drivers of recent initiatives.<sup>2</sup> These apprehensions in turn are linked to the Union's self-understanding as a civilian 'security community' and the important responsibilities that EU institutions have acquired in core areas of domestic politics, especially those related to 'soft security' risks.<sup>3</sup> This perspective is reflected in various rhetorical justifications of recent initiatives towards the EU's neighbours and is rooted in a profound redefinition of security concerns in Europe. Speaking about the EU–Russia strategic partnership, for instance, the EU High Representative for Foreign and Security Policy, Javier Solana, noted that:

It is a long time since security was thought of only in terms of military force. We all know that security is far broader today, that it includes economic, environmental, and social issues. Indeed, non-military threats to security loom much larger in the mind of most people ... [but] are not adequately dealt with by any of our international institutions.... This is where the European Union must take up the challenge.

(Solana 1999: 1)

The strategic importance of the near abroad has recently been stressed in the European Security Strategy which states that:

The integration of acceding states increases our security but also brings the EU closer to troubled areas. Our task is to promote a ring of well-governed

countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and co-operative relations.  
(Solana 2003: 8)

The perception of interdependence is not a fixed entity, and varies with the conjuncture of security concerns within the Union. Drawing on Keohane and Nye's definition of interdependence (Keohane and Nye 1977) and critical security studies (i.e. Buzan *et al.* 1998; Huysmans 2000; Waever *et al.* 1993), interdependence in specified policy fields can be conceptualized on a continuum running from sensitivity to vulnerability when the related policy issues become perceived as a threat or security problem. Issues of interdependence may thus range:

from non-politicized (meaning the state [or, in this case, the Union] does not deal with it and it is not in any other way made an issue of public debate and decision) through politicized (meaning the issue is part of public policy, requiring government [i.e. EU] decisions and resources allocation ... to securitized (meaning the issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure).

(Buzan *et al.* 1998: 23f.)

The assumption is that the EU will try to expand its sphere of governance in particular in areas which have become securitized inside and where vulnerability is attributed to developments in the third country in question. Such a perspective explains not only why specific issues of 'domestic politics' gain priority in relations with neighbouring countries, but also why these priorities fluctuate over time, such as manifested in EU–Mediterranean relations.<sup>4</sup> Securitization from this perspective does not directly derive from objective external threats but is the outcome of framing processes within an evolving institutional environment.

The institutional context is the second dimension explaining the emergence of external governance by the Union – in contrast, for example, to purely bilateral intergovernmental activities of individual member states. This comprises institutional roles and capacities. Institutional roles refer to the EU's own conception of its tasks and responsibilities (Holsti 1970) and relate to the notion of civilian power. Role conceptions are strongly influenced by path-dependencies and the rules and routines emerging from earlier experiences (Pierson 1996), such as those made with enlargement. Awareness about role conceptions allows us to look at external governance not only as a strategic undertaking but also as a process shaped by existing patterns of foreign policy, and the corresponding conceptions of appropriate behaviour according to a 'logic of appropriateness' (March and Olsen 1989).

Institutional capacities refer to the dynamic distribution of competences and resources in the EU's multi-level system and provide the background for the Union's accountability to engage in governance activities. The question

whether an underlying soft security issue such as organized crime or energy supply is perceived as one of European order or not, and whether political action is expected from the national government or the European level, can only be understood in the light of the dynamic evolution of the *acquis* and the evolving powers of EU institutions. Hence, an issue may become a matter of EU external governance if the Union has been granted responsibilities in this area and has the institutional competence to act in external relations. This relationship is, however, dynamic, as member states' understanding that the EU may be better suited to tackle underlying transnational problems will promote such a transfer of competences, as the following case studies show. Finally, supranational accountability arises also from the general principles and objectives of the Union, among which figure prominently the safeguarding of an 'area of freedom, security and justice', the protection of the environment, and, as stated in the draft Constitution, the contribution to peace and security in the world (Article 3 Draft Treaty Establishing a Constitution for Europe, 18 July 2003).

The following section interprets the emerging agenda of external governance in relations with the EU's eastern and southern neighbours in the light of these theoretical considerations.

#### INCLUDING THE 'NEAR ABROAD': WIDER EUROPE AS AN ANSWER TO INTERDEPENDENCE

The recent Commission initiative on 'wider Europe' goes back to the European Council meeting in Copenhagen in December 2002 where the EU Heads of State and Government decided that the Union should enhance relations with its neighbours in order to 'avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union'. This new vulnerability of the enlarging Union was confirmed in the Commission's Communication on 'wider Europe' which states that:

interdependence – political and economic – with the Union's neighbourhood is already a reality. . . . Closer geographical proximity means the enlarged EU and the new neighbourhood will have an equal stake in furthering efforts to promote transnational flows of trade and investment as well as *even more important shared interests* in working together to tackle transboundary threats – from terrorism to air-born pollution.

(Commission 2003a: 3; emphasis added)

This interpretation was subsequently confirmed by the European Council meeting in Thessaloniki in June 2003, in which the EU Heads of State or Government declared their will to 'reinforce . . . shared values and promote . . . common interests . . . [by] developing new policies toward wider Europe' (European Council 2003: 13).

In short, this new initiative opens the perspective of the furthest possible association below the threshold of membership: 'all the neighbouring countries

should be offered the prospect of a stake in the EU's Internal Market and further integration and liberalization to promote the free movement of persons, goods, services and capital' (Commission 2003a: 3). In the words of Commission President Romano Prodi, this will include 'everything but institutions' (Prodi, quoted in Kempe and van Meurs 2003a: 25). At the same time, the EU expects these countries to line up with its own structures, that is 'demonstrating shared values and effective implementation of political, economic and institutional reforms, including aligning legislation with the *acquis*' (Commission 2003a: 10). Beyond the general aim to alleviate economic disparities, such an alignment is in particular expected in those issues identified as 'threats to mutual security'. As such, the Commission detects: 'the trans-border dimension of environmental and nuclear hazards, communicable diseases, illegal immigration, trafficking, organized crime or terrorist networks' (Commission 2003a: 6), while 'progress made by the partner countries ... in the field of JHA' – that is, justice and home affairs – is given priority in the Council's Thessaloniki Conclusions (Council 2003: §5). Although not mentioned explicitly in these documents, another issue which has been identified as a priority area of pan-European co-operation and where the EU perceives worrying vulnerability *vis-à-vis* its neighbours is energy supply.

The following sections examine emerging patterns of external governance in JHA, environmental and energy policy in the light of the analytical dimensions developed above and thereby explore the geopolitical background of the 'wider Europe' initiative. This is based on a review of existing frameworks of co-operation between the EU and its neighbours. In the case of the Eastern European countries, these are the Partnership and Co-operation Agreements (PCAs), the Tacis programme, the Common Strategies towards Russia and Ukraine and specific action plans in the respective policy fields. Governance towards the Mediterranean countries is retraced in the multilateral Euro-Mediterranean Partnership and the bilateral Euro-Mediterranean Association Agreements (EMAA) concluded with Morocco and Tunisia, the MEDA programme, as well as policy-specific initiatives. The basic contention is that it is necessary to look at these already existing co-operation frameworks in order to understand the dynamics and the motives behind rhetoric declarations on pan-European governance in a 'wider Europe'.

### External governance in justice and home affairs

Justice and home affairs co-operation in the Union developed as a 'compensatory measure' for the safeguarding of internal security after the abolition of internal border controls in the Union<sup>5</sup> and comprises police and judicial co-operation in criminal and civil matters, border controls, the fight against drugs, organized crime and terrorism, and asylum and immigration policy (Titles IV EC and VI EU). Coupled with their political salience in domestic debates, immigration and asylum policies were thus framed together with criminal matters as issues of 'internal security' in the European 'area of freedom, security

and justice' (Huysmans 2000; Lavenex 2001). Although JHA is one of the most recent fields on the EU agenda, and still carries strong characteristics of intergovernmental co-operation, it occupies centre stage in current debates on the future of Europe.<sup>6</sup> Hand in hand with its internal consolidation, this issue has rapidly developed a strong external dimension.<sup>7</sup> The Amsterdam Treaty gave the Commission the competence to negotiate external agreements in those areas of JHA which were transferred to the Community pillar<sup>8</sup> and the external dimension was officially embraced by the Tampere European Council in 1999. This stipulated that JHA concerns should be 'integrated in the definition and implementation of other Union policies and activities', including external relations (European Council 1999). The main guidelines for this programme were laid down in a report, which the EU Heads of State or Government formally adopted one year later at the Feira European Council (Council 2000). These include:

- the external dimension of migration policy: effective control of the EU's external borders and signing of readmission agreements with countries from which migratory flows originate;
- the fight against specific forms of crime such as financial crime, money laundering, corruption and trading in human beings;
- the fight against drug trafficking;
- the strengthening of non-military aspects of crisis management and security through police co-operation in crisis regions.

This development of a foreign policy agenda reflects the fact that in the vision of an 'area of freedom, security and justice' threats are increasingly seen to arise from outside the Union, thus blurring the traditional distinction between 'internal' and 'external' security. The EU's neighbours play a crucial role as borderlands, a 'ring of friends' (Commission 2003a: 4) which will attenuate its 'sharp edges' (Grabbe 2000) towards the 'zones of turmoil' (Singer and Wildavsky 1993) to the east and the south. Of course, the terrorist threat has only added to the securitization of JHA.

In the Euro-Mediterranean Partnership (EMP) JHA and, in particular, migration control have occupied a central position from the onset. This is expressed in the Commission Communication accompanying the launch of the so-called Barcelona process: 'if migration pressures are not adequately managed through a careful co-operation with the countries concerned, it is easy to predict the risk of friction to the detriment of international relations and the immigrant population itself' (Commission 1994: 6). Although strong divergences of interests long obstructed concrete results (Pastore 2002: 111), large-scale projects were recently decided on in the field of migration management and border control as part of JHA regional co-operation.<sup>9</sup> Concrete measures include the training of officials, support of legal and institutional reforms, as well as the development of a 'twinning' system modelled on the programme for the candidate countries.

Apart from the multilateral framework of the EMP, external governance takes

place at the bilateral level through association agreements. The Agreements concluded with Tunisia<sup>10</sup> and Morocco<sup>11</sup> include identical provisions on migration policy, which is given first priority in the list of co-operation issues in the social field (Chapter III, Article 71). In Article 71, the contracting parties agree to carry out projects and programmes aiming at '(a) reducing migratory pressure, in particular by improving living conditions, creating jobs and developing training in areas from which emigrants come'; and '(b) resettling those repatriated because of their illegal status under the legislation of the state in question'.

Since the Amsterdam Treaty, JHA has also received a prominent position in relations with the eastern neighbours. While the PCAs with Russia, Ukraine and Moldova which entered into force between 1997 and 1999 define the general framework for co-operation,<sup>12</sup> the priority of JHA is reflected in the Common Strategies towards Russia<sup>13</sup> and Ukraine<sup>14</sup> of 1999.<sup>15</sup> On the basis of the country strategies, the EU adopted more detailed Action Plans with Russia on Combating Organized Crime<sup>16</sup> and Ukraine on JHA.<sup>17</sup> As reflected in the title, the priorities for Russia lie in combating organized crime with a focus on judicial and law enforcement co-operation.<sup>18</sup> The thematic priorities mentioned in the document include financial crime such as money laundering; trafficking in persons, drugs and explosives; stolen property, corruption and illegal immigration. The priorities towards Ukraine concern irregular migration, border management, visas and organized crime.

The financial and technical aspect of this co-operation is mainly covered by the Tacis national and regional (Tacis CBC) programmes. When Tacis was initiated in 1991, technical assistance was a stand-alone activity which covered mainly economic transformation. Since 1996, and in particular the new Council Regulation of December 1999<sup>19</sup> and the Tacis Regional Co-operation Strategy Paper for 2004–2006,<sup>20</sup> JHA figures prominently as one of three themes in this co-operation (next to sustainable management of natural resources and promoting trade and investment flows). The growing emphasis on JHA is salient over the years: within the regional strategy it increased from 0.5 million euro in 1996 to 11.5 million euro in 2002 (compared to 16.5 million euro for environmental co-operation which has the biggest budget in Tacis). The 2004–2006 regional planning strategy foresees the distribution of a 49 million euro budget which will be split up into 55 per cent for organized crime and terrorism, 20 per cent for asylum and immigration and 25 per cent for border control. In addition, the national Tacis Indicative Programme for Russia foresees another 40 million euros for JHA for 2004–2006 (about 10 per cent of the overall budget).<sup>21</sup>

While these activities mainly aim at expanding the regulatory scope or legislative boundary of EU policies, the institutional dimension of external governance in JHA is exemplified by the endeavours of Europol to conclude co-operation agreements with third countries including Morocco and Russia, to allow not only for the transmission of personal data but also 'the secondment of liaison officers from third countries and third bodies to Europol and, where

necessary, the secondment of liaison officers from Europol'.<sup>22</sup> In addition, there is intensifying co-operation at the operational level, documented in particular in joint patrols at sea (the Mediterranean) and land borders (e.g. Germany–Poland–Ukraine, Finland–Russia).<sup>23</sup>

### External governance in environmental policy

Environmental policy is another traditional area of domestic politics which received a basis in European governance relatively late (with the Single European Act 1987) and has quickly developed an external dimension. Although co-operation with third countries in environmental issues has occurred before, it gained new emphasis in the EU's Sixth Environmental Action Programme (2001–2010) which stresses the necessity 'that environmental concerns are fully and properly integrated into all aspects of the Community's external relations' (Com (2001) 31 final: 59f.). Community external action in environmental matters is also formally enshrined in Article 174 IV(1) EC which reads: 'Within their relative spheres of competence, the Community and the Member States shall co-operate with third countries and with the competent international organizations.'<sup>24</sup>

The securitization of environmental concerns is less tangible and probably also less acute than in JHA; however, these have always played a role in the Mediterranean (Haas 1990) and have been gaining importance with eastern enlargement and intensified international co-operation to tackle global problems. According to Margot Wallström, EU Commissioner for the Environment: 'we [i.e. the EU] must seize the opportunity to ensure that enlargement is used to deepen the co-operation between the expanding EU and its neighbours in the wider region' (European Communities 2003: 1).

With the southern neighbours, co-operation has existed since the 1980s and has mainly focused on protection of the common Mediterranean Sea which is seen as one of the most vulnerable regions in the world. Within the EMP, the main framework for co-operation are the Short and Medium-term Priority Environmental Action Programme (SMAP) and the Mediterranean Action Plan (MAP), which is for developing policy recommendations and/or legal instruments to be used and implemented within the EMP. The main financial instrument is the LIFE–Third Countries Programme which has hitherto covered by 80 per cent of its funding technical assistance in the Mediterranean countries.

Whereas environmental co-operation with the Mediterranean has remained relatively stable over the last years, recent initiatives towards 'wider Europe' give priority to the eastern neighbours<sup>25</sup> where the Commission has expressed its determination to 'take the lead' in addressing substantial environmental challenges (Commission 2003b: 15). The urgency attributed to these problems is reflected in the latest assessment on Europe's environment (European Environmental Agency 2003) which recalls the dramatic floods in central

Europe in summer 2002, hazardous waste disposals, and more generally pollution as environmental risks for the whole of Europe.

The PCAs concluded with the eastern neighbours commit both sides to strengthening co-operation on environmental matters and set out priorities. The Communication on EU–Russia Environmental Co-operation<sup>26</sup> identifies as such combating climate change, efficient use of energy, improving public health, and improving resource efficiency. For Russia and Ukraine, sub-committees and ad hoc working groups have been established within the PCA framework to deal with environmental, climate change and sustainable development issues. Beyond these bilateral relations, however, an indication of the partial transformation of the EU's institutional boundary in the environmental field is the ratification of bilateral agreements which provide for the acceding states' participation in the European Environmental Agency (European Communities 2003: 9). The most pronounced boundary shift, however, concerns the legal boundary. Not only do the PCAs request the signatories to move towards the convergence of environmental policies and laws with EU environmental standards, but, as recently stated by the Commission, 'EU legislation will become the principal and most effective means of international law making for most countries of the region', with the EU becoming 'increasingly the principal driving and co-ordinating force in the normative field for environmental improvement and sustainable development in Europe' (Commission 2003b: 14f.).

#### External governance in energy policy

*Energy. Let's Overcome Our Dependence* – this is the title of a recent report published by the Directorate-General Energy and Transport in the European Commission (2002). After invoking a scenario of threats which would occur in the case of energy shortages, the document goes on to specify that:

If no action is taken in the next 20 to 30 years, ... our external energy dependence will rise to a level of 70% on average, going up to 90% in the case of oil products. This situation makes us vulnerable, particularly on account of our economic dependence on certain types of energy, such as oil and gas, and on particular exporting countries, such as Russia for natural gas and the Middle East for oil.

(Commission 2002: 2–3)

Although in its Green Paper on energy security strategy the Commission regrets that 'the Union suffers from having no competence and no community cohesion in energy matters' (Commission 2001: 28), this perception of vulnerability is gradually translating into the EU's relations with its eastern and southern neighbours. Notwithstanding this weak institutional basis, the Commission is determined to 'present a united front' and 'to muster all its economic and political weight to face its major external energy suppliers' (Commission 2002: 6).<sup>27</sup> Stressing these countries' 'vital role' in the Union's energy policy, the Commission's 'Communication on the Development of

Energy Policy for the Enlarged European Union, Its Neighbours and Partner Countries' goes on to argue that the EU's neighbours 'will progressively become full, important and equal players in the European Union's internal gas and electricity markets' (Commission 2003c: 4). Major initiatives in this direction include the Euro-Med Energy Forum launched in 1997, the creation of a Euro-Maghreb Electricity Market Committee, and the launch of the EU–Russian Energy Dialogue in 2000.

This expansion of the European energy markets, however, would involve a major reorganization of the Mediterranean and eastern European countries' energy sectors, including the adoption of the principles of market economy, adjustment and modernization of energy structures, promotion and development of the private sector, and institutional and regulatory reforms.<sup>28</sup> In the words of the Commission, this does not suggest 'the entire and wholesale exportation of all standards and regulatory frameworks pertinent to the energy sector'; however, a few pages later, the same document admits that 'wherever possible, standardized or common rules should be adopted' (Commission 2003c: 5, 14).

The motivation behind the expansion of the Union's energy market and its concomitant principles and regulations is, on the one hand, the desire to have market access in the transit and producing countries for energy supply and to increase their attractiveness for foreign private investors. On the other hand, it is clearly geared to the transformation of oligopolistic or quasi-statist energy sectors in countries like Russia or the southern Mediterranean in order to liberate energy supply from the control of what are seen to be unstable élites and cartels. Similar to the unpopularity of certain measures in the area of migration control, these ambitions face strong opposition in the relevant countries. This is reflected, for example, in the failure to ratify the European Energy Charter in Russia, which is mainly due to the opposition of big business in the country (Bordachev 2003: 88). Yet, internal obstruction notwithstanding, recently introduced energy laws in Russia as well as Ukraine increasingly tend to conform to European standards (Bordachev 2003: 97; Dodonov 2003: 268f.). Whereas until now, third countries' willingness to co-operate in energy matters has been mainly triggered by the promise of investment in infrastructure, recent developments indicate a reorientation of the conditionality approach to open also the perspective for full participation in EU Regulation Fora such as the 'Florence' and 'Madrid' Fora for Gas and Electricity (Commission 2003c: 22). In the light of the theoretical considerations developed above, this would suggest that, owing to the high degree of securitization of its energy dependence, the EU might be willing to expand (admittedly secondary) parts of its 'institutional boundary' for the sake of the export of its market model and regulatory templates, or, in other words, external governance.

## CONCLUSION

Against the background of the enlarging EU's changing geopolitical environment, the purpose of this article was to explore the motives behind the recent

wider Europe initiative towards its southern and new eastern neighbours. Does this initiative confirm a shift towards the 'politics of inclusion' in a changing European order, as Michael Smith prognosticated eight years ago (Smith 1996)?

Based on a differentiated understanding of the notion of inclusion, this article suggested conceiving of the EU's neighbourhood policies as a form of external governance which consists in the (selective) extension of the EU's norms, rules and policies, i.e. its legal boundary, while precluding the opening of its institutional boundary, i.e. membership. This strategy rests on two main pillars: first, the EU's role as a civilian power including its repertoire of institutional practices and capabilities, and, second, its perception of interdependence which is conditioned by the evolution of its internal responsibilities and a changing geopolitical environment. In both dimensions, experiences with the current eastern enlargement play a crucial role: they offer a template for external action and alter the perception of vulnerability towards a new neighbourhood. In this light, the wider Europe agenda is the EU's attempt to manage its new vulnerability towards its neighbours through a strategy similar to that applied during enlargement, i.e. external governance.

This article reviewed EU external governance in three traditionally domestic issues which have become so-called 'soft security' risks: JHA, environmental and energy policy. In all three policy fields, the EU's intention to export parts of its legal *acquis* through instruments similar to those applied during enlargement politics was documented. In some cases, such as participation in Europol, the European Environmental Agency or energy fora, we could also find a selective opening of the EU's institutional boundary.

Three main problems, however, circumscribe the prospects of this approach and threaten to create a new 'capability–expectations gap' (Hill 1993). First, as the examination of the EU's attempts to export parts of its policies shows, external governance fulfils a dual purpose. It is not only motivated by benevolent civilian 'milieu goals', but is also driven by strategic 'possession goals' (on these terms, see Smith 2004). External governance combines a foreign policy strategy geared at stabilization and integration with the attempt to bind third countries to the pursuit of internal policy goals and thereby benefit from the latter's political and material problem-solving resources. Experiences with the extension of the Schengen *acquis* to the CEE countries and the resulting tensions around the issues of Kaliningrad (Moshes 2003) and cross-border exchanges (Grabbe 2002) or the tedious negotiations in the energy sector are just a few salient examples of conflicts of interests which may seriously inhibit a strategy based on the uni-directional export of EU policies and templates.

Whereas in the case of the CEE countries the conditionality approach acted as a leverage also for unpopular adaptations, the lack of membership prospects or other attractive incentives poses serious limits to external governance. The wider Europe initiative addresses this challenge by offering full participation in the single market, including freedom of movement. However, it will take

many more commitments to make this promise credible, and the challenges linked to the admission of ten new member states will highlight the lack of additional material resources to be invested in the near abroad.

Finally, the third problem arises from the specific geopolitical constellation of the new neighbourhood, that is the position of Russia as a second regional power in the east, and the continuity of intra- and inter-state conflicts in both regions.

To conclude, it is too early to predict the outcome of the EU's new neighbourhood relations. Yet, the processes and activities analysed in this article confirm the EU's strengthening commitment as a civilian power which consists in the attempt to tackle interdependencies through the external projection of internal solutions. Coming back to Smith's distinction between the 'politics of inclusion' and the 'politics of exclusion', this approach is indeed based on partial integration. However, the asymmetry of neighbourhood relations and the necessarily selective opening of EU structures and policies make it difficult to speak about a real shift towards the 'politics of inclusion'. Rather than inclusion, external governance may in the long run result in patterns of differentiated integration with negotiated partnerships in selected policy fields of mutual interest. This development, which would also require adaptation on the part of the Union and its member states to the needs and expectations of neighbouring countries, could, if successful, result in a wider Europe not so much in terms of common institutions but more in terms of a 'security community'.

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## NOTES

- 1 In EU terms, 'wider Europe' refers to all those neighbouring countries that were not given the prospect of EU membership, that is the southern Mediterranean countries (in accordance with the EU definition Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestine Territories, Syria and Tunisia), and the eastern neighbours (Belarus, Moldova, Russia and Ukraine). Turkey and the countries of the western Balkans are not included owing to the prospect of their EU membership (Commission 2003a; see below).
- 2 The neglect of the geopolitical context is a classic criticism directed towards the civilian power approach; see Bull (1982).
- 3 Although there is some degree of contention in the academic literature on the usefulness of the concept of 'soft security' in contrast to 'hard', military security, it has had a steep career and may be seen as part of the new security paradigm after the end of East–West confrontations. Such risks can be located at different levels: the individual, societal, state, and the regional level (Moroff 2002).
- 4 After the launch of the EEC 'Global Mediterranean Policy' in 1973, the EU's attention towards the Mediterranean declined almost completely, before re-emerging in the 1990s with the introduction of the 'Euro-Mediterranean Partnership' in 1995 (Aghroun 2000; Maresceau and Lannon 2001; Yesilada 1998).
- 5 See the Annex to the First Schengen Agreement on the Gradual Abolition of

- Checks at the Common Borders of 14 July 1985 printed in Pauly (1993: 187ff.) and Lavenex and Wallace (2005).
- 6 This is reflected in the final report of the Working Group on 'Freedom, Security and Justice' of the European Convention which stresses that 'if the European Union is to win the maximum support of its citizens, it must show that it can deliver concrete results on issues that really matter ... such as cross-border crime, asylum policy or control of the Union's external borders' (European Convention WG X 2002: 1).
  - 7 For a comparative analysis of the external impact of EU immigration policies on non-member states and international organizations, see the contributions in Lavenex and Uçarer (2002).
  - 8 That is, asylum, immigration, border controls, and police and judicial co-operation in civil matters (Article 63 EC).
  - 9 See 'Regional co-operation programme in the field of justice, in combating drugs, organized crime and terrorism as well as co-operation in the treatment of issues relating to the social integration of migrants, migration and movement of people' (2002–2004), framework document endorsed by the Fifth Europe–Mediterranean ministerial conference. See also European Commission, *The Barcelona Process. The Euro-Mediterranean Partnership, 2001 Review*. Brussels 2002: 29; the Euro-Med Regional Strategy Paper and Regional Indicative Programme for 2002–2006 (resp. 2004); and the Strategy Paper for Morocco for the same period.
  - 10 OJ 1998, L 97, 30/3/1998.
  - 11 OJ 2000, L 070, 17/03/2000.
  - 12 Negotiations on a similar agreement were concluded with Belarus in 1995; however, its adoption and implementation were halted owing to the political developments under President Lukashenko.
  - 13 European Council, Common Strategy of 4 June 1999 on Russia, *Official Journal of the European Communities*, 24 June 1999 L 157/1 (1999/414/CFSP).
  - 14 European Council, Common Strategy of 11 December 1999 on Ukraine, *Official Journal of the European Communities*, 23 December 1999 L 331/1 (1999/877/CFSP).
  - 15 The Common Strategies are a new instrument of common foreign policy co-operation introduced with the Treaty of Amsterdam and set out overall guidelines in areas where the member states have important interests. Each strategy specifies its objectives, its duration and the resources that will have to be provided by the EU and the member states. The corresponding document on the part of the Russian government is its 'Medium Term Strategy for the Development of Relations between the Russian Federation and the EU (2000–2010)' of November 1999.
  - 16 EU Action Plan on Common Action for the Russian Federation on Combating Organized Crime published in OJ 2000/C106/5 of 13 April 2000.
  - 17 EU Action Plan on JHA in Ukraine of 10 December 2001, published in OJ 2003/C 77/01 of 29 March 2003.
  - 18 In the field of judicial co-operation, this involves the adoption of pertinent international instruments and the identification of contact points and exchange procedures with EU judicial agencies, while law enforcement concentrates on enhancing training of law enforcement officials, the establishment of a framework for the exchange of technical, operational, strategic and intelligence information, as well as the setting up of exchange programmes and the strengthening of border controls.
  - 19 Council Regulation No. 99/2000 of 29 December 1999 concerning the provision of assistance to the partner states of Eastern Europe and Central Asia.
  - 20 Commission 2003 Tacis Regional Co-operation: Strategy Paper and Indicative Programme 2004–2006 of 11 April 2003. See also the Tacis Programme Annual Report 1999, Report from the Commission – COM(2000) 835 final. Although

Belarus has been suspended from enhanced strategic co-operation, the fact that it did participate in an Inter-state and Cross-border Co-operation programme, covering activities relating to border crossings, shows the importance attributed to this issue.

- 21 Source: Commission 2003 Tacis Regional Co-operation strategy paper.
- 22 Council Decision of 27 March 2000 authorizing the Director of Europol to enter into negotiations on agreements with third states and non-EU related bodies, Official Journal C 106, 13/04/2000 P. 0001–0002.
- 23 Although led by individual member states, these operational activities are part of EU external governance since they are based on official EU documents and report regularly to the Council.
- 24 On the question of exclusive versus shared competences in external environmental relations, see Thieme (2001).
- 25 This is, for example, reflected in the fact that the third assessment on Europe's environment by the European Environment Agency includes, apart from western Europe and the candidate states, for the first time Russia, Ukraine, Belarus, Moldova and the countries of the Caucasus (European Environmental Agency 2003).
- 26 COM (2001) 772 final of 17 December 2001.
- 27 See also the Commission's Green Paper 'Towards a European Strategy for the Security of Energy Supply' (Commission 2001).
- 28 See, for example, the list of objectives in the energy sector in the Euro-Med Regional Strategy Paper 2002–2006 on p. 25, the Ministerial Declaration of the Euro-Mediterranean Energy Forum of 21 May 2003, or the EU–Russian Energy Dialogue which started in October 2000.

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