

Patchwork Europe? Towards a Continent of Variable Cooperation

Sieglinde Gstöhl
Graduate Institute of International Studies, Geneva
gstoehl@rappard.unige.ch

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Abstract

This paper analyzes the forms of variable cooperation in Europe and provides an overview of the different theoretical concepts. The author argues that the European Union's external variable cooperation is ultimately leading to variable integration. Changes in the international system have increased the demands for cooperation with the EU. Yet, the alternatives to membership which the European Union offered have not been satisfactory for most of its European neighbors. They did not provide an adequate match of substance and institutional set-up and therefore could not substitute for full membership. The longer and the more diverse the queue of applicants, the stronger the pressures for more flexible solutions. The EU's condition of a full acceptance of the existing *acquis communautaire* seems therefore untenable in the future. Incorporating new members must lead to more custom-tailored integration to accommodate the needs, capabilities and interests of such dissimilar countries as the former EFTAs, the Mediterraneans or the Central and East European states. The paper does not offer a fully-fledged new approach but points out theoretical lacunae in integration theory which still need to be filled.

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"Europe is too heterogeneous to allow
for only one form of integration."
Frans Andriessen, Financial Times, 23.10.1991

1. Of Insiders and Outsiders

The European Union has in the past made sure that all its members are treated equally with regard to the *acquis communautaire*.¹ In the classical fields of integration only temporary derogations were admitted. The purpose of such transitional periods was to ease the adjustment of member countries facing troubles with new common policies or to smoothe the accession of new members. Joining the EU basically meant accepting the *acquis* as it was. Any choice was restricted to the intergovernmental forms of cooperation outside the EC's supranational ambitions and outside the Internal Market (such as the Western European Union, the European Monetary System or the Schengen Agreements). Any talk of inner circles or exclusive clubs was taboo since the inception of the European Union.

The Treaty on European Union (TEU), which entered into force on 1 November 1993, broke with these traditional principles of *unicité* (single institutional framework) and solidarity. Maastricht for the first time allowed "variable cooperation" into the EU by enshrining British and Danish opt-outs and permitting a group of member states to move towards monetary union after 1997 provided they meet the necessary macroeconomic criteria. Nevertheless, the European Union has at the same time stipulated that new members must accept all the rights and obligations set out in its *acquis*. From the conclusion of the Maastricht Treaty on, the EU made clear that any future accession negotiations will be based on this Treaty. It then applied this rule to the EFTA countries joining on 1 January 1995.

The Commission's report "Europe and the Challenge of Enlargement", which was endorsed at the Lisbon European Council in June 1992, sets out the conditions and criteria for new members:² The three basic provisions of a European identity (Article O TEU), democracy and respect of human rights (Article F TEU) were complemented by the applicant state's acceptance of the Community system and its capacity to implement it. With regard to the former Communist countries, this obligation presupposes "a functioning and competitive market economy, and an adequate legal and administrative framework in the public and private sectors". With regard to the neutral EFTA countries, the acceptance of the emerging common foreign and security policy was added. The Commission stated very clearly that all new members must accept the *acquis* and that all they could hope for in the accession negotiations were "technical adaptations, temporary (not permanent) derogations, and transitional arrangements".³

On the one hand, the Union tried to safeguard its achievements against special requests from applicant countries. This is in accordance with the objective "to maintain in full the *acquis communautaire* and build on it" (Article B TEU). On the other hand, however, it is the Union itself which breaks with the principle of symmetrical integration and admits deviations for some member countries. Does this mean that the old-established members enjoy more privileges than the newcomers?

This paper discusses the theoretical concepts of "variable geometry" or integration "at different speeds" and examines the existing patterns of such cooperation. It elaborates the reasons why Europe is likely see more variable cooperation - an issue which is decisive for the future of the European Union. The conception of the Maastricht Treaty leaves the options of the EU's development open and offers a variety of means to adopt an integrationist as well as an intergovernmental path. Whereas the first pillar of the European Union - the Economic and Monetary Union (EMU) - follows the pattern of supranational integration, the two new pillars of the Common Foreign and Security Policy (CFSP) and of justice and home affairs are based on interstate cooperation.⁴ Their detachment from the classic Community, the use of the intergovernmental instead of the Community method and the emphasis on subsidiarity reinforce the predominance of the nation-states.⁵

The Intergovernmental Conference (IGC) to be convened in 1996 aims at revising the Treaty on European Union and should *inter alia* provide the institutional reforms required for further enlargement. If the concepts of variable cooperation have in the past been disapproved of by Brussels, they are nowadays likely to receive more attention. The IGC promises fundamental debates on the future of Europe and carries the potential of being a turning-point for the continent: "if there is unanimous acceptance that a 'one-speed' Europe is out, there is plenty of argument about what sort of 'multi-speed' Europe might replace it".⁶

2. Concepts of Variable Cooperation

The concepts of a Europe of different speeds, variable geometry or "à la carte" are no inventions of the 1990s. They have been floating around for the past two decades and emerged anew whenever the EC embarked upon efforts of deepening and/or widening. Moreover, the same concepts have been used with different meanings and given different names. The whole debate has been rather unstructured, ad hoc and - without commonly agreed definitions - rather confusing. It seems therefore necessary to start with a brief review of the major concepts put forward by politicians and academics.⁷

Directoire

The old French idea of a "directoire" (directorate) suggests that the Community needs a body of leadership composed of its most important member states such as the "Bonn- London-Paris triangle".⁸ Yet, any formalized proposal in this vein would meet the fierce resistance from the member states left out. De Schoutheete argues that a "directoire" (defined as "an operational alliance regularly composed of the large Member States") has never been an reality in Community affairs and will probably never be one.⁹

Two-speed or two-tier Europe

The concept of a multi-speed Europe classifies the countries according to the intensity of their participation. It enables some member countries to progress more rapidly than others towards common policies. The faster-moving group is open to new members if they are able to join. This approach has first been suggested in 1974 by the then German Chancellor Willy Brandt with a view to the economic divergence among actual and potential members.¹⁰ One year later the Tindemans Report on European Union built on this idea with regard to monetary union.¹¹ It suggested that those states which were able to should forge ahead while the Community would provide assistance for the lagging states to catch up. Fears that such a "two-speed" Europe might in the end not lead to a single-speed union but result in a permanent "two-tier" Europe gave rise to considerable opposition to this suggestion. Two decades later, the Tindemans formula finally took shape in the Maastricht Treaty.

Another notion in the same strand relates to two tiers instead of two speeds. Yet, the idea of a first and a second division of members has a rather negative undertone of relegation. The economically laggard countries in the lower tier seem to lose out in political influence over the more committed and economically stronger members of the upper tier.

In a testimony to the European Parliament, the former Commission President Delors has recently favored a concept of "deux Europe" with two institutional frameworks¹²: a loosely integrated "Grande Europe" of up to 30 countries with an inner core of fewer countries tightly integrated in the Community institutions. The more peripheral states have the option to later follow the "avant-garde". Even though this view corresponds to the multi-speed or core ideas, Delors has rejected the terms of "Europe à plusieurs vitesses" and "noyau dur" for their pejorative connotations.

Core Community

Thoughts of a core Community in the sense of the original EC membership have emerged in the wake of the enlargements with the (politically unwilling) Northern and the (economically weak) Southern states. Today, the political and economic congruencies need not be identical with the original Six. The core would consist of the countries which are both able and willing to strengthen their integration.

The idea of a "Kerneuropa" (core Europe) has recently been revived by a paper of the CDU/CSU Bundestag faction.¹³ It called for an institutionalization of the methods of variable geometry or multi-speed integration in the revision of the Treaty on European Union and featured an open core Europe of currently five countries. The mentioning of these core states (Germany, France and the Benelux) and the non-mentioning of others (in particular Italy, Spain, Portugal and Greece) has provoked vivid reactions.¹⁴

Concentric circles

The image of concentric circles is very similar to the concept of a core Community. It simply divides the periphery into several circles. The idea had been launched in 1984 by the then British Commissioner Tugendhat who argued that Europe should be thought of as "a spherical core surrounded by a series of concentric circles"¹⁵. At the center the classical Community is located with the common market to which all member states would have to subscribe fully, while the cooperative ventures around it (such as the EMS, foreign policy or research programmes) would be optional. Even though Tugendhat understood the concept as varying according to issue areas, later authors have primarily used it to describe a varying membership. The present European Union would then constitute one or two circles surrounded by the EU's special arrangements with other groups of countries, such as the EFTA states in the European Economic Area or the associated Central and East European countries as well as the Organization for Security and Cooperation in Europe (OSCE).¹⁶

The idea has recently been brought up again by the French Prime Minister Balladur. He views the countries of Europe organized in three circles¹⁷: at the core the European Union ("le cercle de droit commun") with the Internal Market and a common foreign and security policy, surrounded by the associated countries waiting to join the Union and finally the European countries of the former Soviet Union such as Russia, Belarus and the Ukraine which lack the "vocation" to join the EU. Furthermore, some members of the inner circle could in certain issue areas build closer ties among themselves such as "un cercle monétaire" or "un cercle militaire".

Less symmetrical but in the same line of thought lies the French President Mitterrand's proposal of a "confédération européenne (...) qui associera tous les Etats de notre continent dans une organisation commune et permanente d'échanges, de paix et de sécurité"¹⁸. Like in Gorbachev's "Common European House", in such a confederation all European countries could work together across different issue areas.

From an economist's point of view, Baldwin has criticized the "hub-and-spoke" pattern of current trade arrangements between Western and Eastern Europe. Instead he proposes a dynamic form of "concentric circles" for the progressive integration of non-members with the European Union.¹⁹ A first phase would redress the existing bilateralism and create a more coherent institutional framework by embedding the Europe Agreements between the EU and the Central and Eastern European countries (CEECs) into an "Association of Association Agreements". The second phase would add an intermediate step in the form of an "Organization for European Integration". It would look similar to the European Economic Area and grant the more advanced countries access to the Internal Market. Such a strategy would thus generate a pan-European trade system of three concentric circles.

Europe à la carte

From this point of view, each country can choose its integration menu "à la carte". The notion has been introduced by Ralf Dahrendorf in 1979.²⁰ He argued in favor of a bottom-up approach, subsidiarity and flexibility. Dahrendorf has often been misunderstood as defining the whole integration process as optional, and the concept has regularly been rebuffed as members - and even less so non-members - should not be allowed to pick and choose. Yet, in Dahrendorf's proposal there were also some dishes figuring on the standard menu in the sense of a minimum of common rules in core issue areas.

The "à la carte"-approach differentiates by issue areas and focuses on countries which are willing or unwilling to participate. By contrast, the two- or multi-speed concept segregates by countries and highlights not their willingness but their ability to integrate. In this sense, Great Britain's exclusion from the Social Protocol comes closest to "à la carte", while the British and Danish derogations with regard to EMU might still be considered transitional.

Partial membership

In a partial or associate membership a state participates in some but not all of the Union's cooperation areas. It can take different forms. For Pedersen the distinction between partial membership

and association lies in the different degree of membership rights.²¹ In a given issue area, a partial member would enjoy the same status as a full member whereas an associate would not. On the one hand, such a sectoral participation could be employed as a strategy of "incremental enlargement" which paves the way for further integration. On the other hand, an association runs the risk of creating categories of second- or third-class members.

The model of partial membership corresponds to the "affiliate membership" proposed by the former Vice-President of the Commission Andriessen:²² "Affiliate membership would provide membership rights and obligations in some areas, while excluding others, at least for a transitional period. It would give the affiliate member a seat at the Council table on a par with full members in specified areas, together with appropriate representation in other institutions, such as Parliament." Andriessen suggested political cooperation and monetary affairs as possible starting points which could then be extended to other fields such as transport, energy, the environment or research and development. Each country would be enabled "to pursue integration according to its capacities and needs" and "with the perspective of possible accession".²³ The candidates Andriessen seemed to have in mind were mainly the Central and Eastern European countries and to a lesser extent the (neutral) EFTA countries. However, their primary target has been the direct access to the Internal Market. Moreover, the EC member states could hardly be expected to grant a non-member the same rights in any issue area. A real partial membership has therefore, unlike associations, not been realized.

Variable geometry

The term of "Europe à géométrie variable" derives from French discussions in the late 1970s.²⁴ The idea was not to downgrade cooperation in the existing Community areas but to allow for more selective collaboration in new issue areas which could even include non-members. Examples of such efforts outside the strict Community framework can be found in research and development. In contrast to the concentric-circles view, a pattern of variable geometry consists of polycentric circles which partially overlap. The notions of variable geometry and of a core Community both look at a state's capability and willingness to integrate, but they differ on the composition of a group. While the hard core consists of the same countries in all issue areas, variable geometry allows for different countries cooperating in different areas.

The concept of variable geometry soon began to invade the *acquis communautaire*. With the prospect of overlapping groupings, variable geometry seemed an attractive alternative to the more rigid notion of two speeds or the too elastic "à la carte"-approach. Despite the possibilities of opting in and out, it is in general based on a rather large core of common rules. Some authors even assume that it constitutes only a transitional stage towards full integration.²⁵ The opting-out can either be *ex ante* if a member state places itself outside a new field of cooperation from the outset (such as the United Kingdom and the Social Protocol) or *ex post* if a member state commits itself to a new type of cooperation but reserves the right to decide later whether or when to adhere to the more binding part (e.g. the Danish and British opt-out possibilities on the monetary union).²⁶ The latter corresponds to an "opting in".

Condominio

Schmitter's scenario of a "condominio" comes close to a variable-geometry Europe. He defines it as "a set of previously independent national states that agree to remove all barriers to the exchange of goods, services, capital and persons and to establish functionally specific authorities to regulate the conditions for these exchanges without, however, agreeing to govern their impact through a territorial redistribution of benefits"²⁷. A *condominio* would be composed of different subsets of states cooperating in different issue areas such as a pan-European environmental agency or a European Central Bank.

Differentiation

The label of differentiation sounds like a generic term for all kinds of variable cooperation. It is less politically loaded and has *inter alia* been used by the Commission for the flexibility already practised in Community legislation.²⁸ Differentiation is possible in time of implementation, in issue

areas or in countries. The major point of discussion has been whether it can be restricted to the means of management or whether it could also apply to the objectives of the member states.

De Schoutheete's notion of subsystems is similar to the concept of differentiation. Both concepts may in principle denote transitory and informal or permanent and formalized arrangements. Yet, de Schoutheete is much more specific. He defines a subsystem as a special, durable, formalized, effective and accepted relationship among some participants within a wider whole.²⁹

Graduated integration

Another variation of differentiation is captured in the German notion of "abgestufte Integration" (graduated integration). This metaphor put forward by Grabitz is derived from steps or terraces.³⁰ It argues that the broad goals of integration should be valid for all member states while in some cases only a sub-group might actually adopt measures to achieve a goal.

Summary

For clarification purposes, the concepts set out above can be summarized in a classification according to their differentiating criteria of member countries, integrated issue areas or both³¹:

TABLE 1 Classification of Concepts

COUNTRIES	ISSUE AREAS	BOTH
two/multi-speed Europe	Europe à la carte	variable geometry
two-tier Europe	graduated integration	condominio
core Community	Europe of concentric circles	differentiation
Europe of concentric circles	partial membership	variable cooperation

It should be noted that these concepts essentially represent political responses to the challenge of a heterogeneous Europe and not the economically optimal solutions. Moreover, some of them are confined to the members of the European Union whereas others (such as the concentric circles) have been applied to the whole continent. An additional distinction is therefore provided by the internal and external dimension to European cooperation. These concepts are also silent about the countries' motivations. Some of them would like to participate in a new integration scheme but are not yet able to. They may be granted transitional periods. Other member states are simply not willing to take part. They pose the real problems for the process of European integration.

Variable cooperation

The concept put forward in this paper is the one of "variable cooperation". I prefer this term to the concepts of a multi-speed and two-tier Europe or a Europe of variable geometry and concentric circles. These terms are value-laden, suggesting that there are different classes of members or a geometrical clarity which does not correspond to the actual pattern of cooperation. By contrast, the term of variable cooperation seems unbiased. Unlike a "hard core", it does not imply that the same group constitutes the avant-garde in all issue areas. While Italy, Spain and the United Kingdom might not be the first ones to join EMU, they are strongly committed to the development of a common foreign and security policy. Other constellations of countries might be keen on closer cooperation in other areas.

The concept of variable cooperation is general enough to cover differentiation according to countries, issue areas or both. Moreover, it applies to the internal as well as the external dimension of the European Union's cooperation, that is to the relations among members and those with non-members. The notion of cooperation, generally defined as the coordinated mutual adjustment of states' policies, is open with regard to the intensity of collaboration. It applies likewise to supranational integration efforts and to intergovernmental cooperation of or within the Union.³²

Variable cooperation implies on the one hand that non-members can participate in certain EU undertakings and on the other hand that not all present EU members must take part in all areas of

Ist enlargement	3	3	3	3	3	3	3
Denmark	3-	3X	3-	3-	3X	3(-)	3(-)
Ireland	3-	3X	3-	3X	3X	3X	3X
United Kingdom	3X	3(-)	3-	3-	3-	3X	3X
2nd enlargement	3	3	3	3	3	3	3
Greece	3X	3-	3X	3X	3X	3X	3X
3rd enlargement	3	3	3	3	3	3	3
Spain	3X	3X	3X	3X	3X	3X	3X
Portugal	3X	3X	3X	3X	3X	3X	3X
4th enlargement	3	3	3	3	3	3	3
Austria	3-	3X	3X	3X	3X	3X	3X
Finland	3-	3-	3-	3X	3X	3X	3X
Sweden	3-	3-	3-	3X	3X	3X	3X

Except for Denmark, all the EU countries which are members of the North Atlantic Treaty Organization (NATO) are also members of the Western European Union (WEU), the EU's military organization. Denmark, Ireland and the three new neutral member states Austria, Finland and Sweden have opted for an observer status in the WEU. The Maastricht Treaty made the WEU "an integral part of the development of the Union" and requested it to "elaborate and implement decisions and actions of the Union which have defence implications" (Article J.4(2) TEU). The Intergovernmental Conference in 1996 will decide on the future fate of the WEU and the Common Foreign and Security Policy. The long-term aim is to transform the WEU into the defense component of the European Union and the European pillar of the Atlantic Alliance.

All the EU member states participate in the European Monetary System (EMS) but they have not been equally obliged to participate in one of its components, the Exchange-Rate Mechanism (ERM). While Greece has always remained outside, Italy and the United Kingdom have suspended their membership in the ERM since the monetary crisis in September 1992. From the new member states only Austria has so far joined the ERM on 9 January 1995.

In 1985 France, Germany and the Benelux countries signed the first Schengen Agreement on the abolition of the controls at the common frontiers. The agreements have finally entered into force on 26 March 1995 for seven countries (Belgium, France, Germany, Luxembourg, Portugal and Spain). Austria is about to join "Schengenland". Greece and Italy have signed up but are still struggling with legal and technical problems for its implementation. The Nordic EU countries have shown an interest in joining but remain outside for the time being since their participation would not be compatible with the Nordic Passport Union which includes the two non-members Iceland and Norway.

The Treaty on European Union splits Europe into different "speeds" for the creation of the Economic and Monetary Union (EMU). The so-called third stage of EMU, that is the adoption of a single currency, may come about in 1997 if a majority of member states satisfy the economic convergence criteria. If there is no such majority, the common money will be introduced in 1999 among those countries which fulfil the necessary conditions. Yet, Denmark and Great Britain, which in 1991 both fulfilled the convergence criteria, negotiated protocols which make their entry conditional upon a referendum in Denmark and a separate decision by the government and parliament in the UK. In order to solve the "Danish problem" created by the "no" vote in June 1992, the Edinburgh European Council in December 1992 explicitly acknowledged that Denmark will not participate in the third phase of the EMU.³⁴

With regard to a common social policy, the United Kingdom has always been sceptical. In 1989 it refused to sign the (legally not binding) Social Charter and in 1991 it opposed the chapter on social policy foreseen in the draft Treaty on European Union. The other eleven countries therefore agreed on a special Protocol on Social Policy which enables them to "continue along the path laid down in the 1989 Social Charter" and to use EC institutions and procedures. The Protocol states that the United Kingdom "shall not take part in the deliberations and the adoption by the Council of Commission proposals". An additional Agreement on Social Policy sets out the objectives and procedures in more detail. The three new member states have accepted the social policy as being part of the *acquis communautaire*. The directives adopted in this field are, however, not applicable in the UK.

Like its precursor, the European Political Cooperation (EPC), the Common Foreign and Security Policy (CFSP) remains an intergovernmental tool. It provides for consultation, coordination and the adoption of joint actions. Besides foreign policy, the CFSP includes "all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence" (Article J.4(1) TEU). The Edinburgh European Council approved that Denmark will not become a member of the WEU and that it will not participate in defense discussions.³⁵ At the same time, the Council reiterated that for new members "the conditions of admission will be based on the acceptance in full of the Treaty on European Union and the *acquis communautaire*".³⁶

The Cooperation on Justice and Home Affairs (CJHA) constitutes the third pillar constructed at Maastricht. It calls for collaboration in fields such as asylum policy, border controls, immigration policy as well as judicial, customs and police cooperation. Decisions are in principle taken unanimously. At the Edinburgh Summit the Danish government unilaterally declared that the citizenship of the Union foreseen in the Maastricht Treaty could in no way replace Danish citizenship and that Denmark would in general not agree to transferring its sovereignty over justice and home affairs to the supranational level.³⁷ In other words, the Danish government will not accept a shift of justice and home affairs from the third to the first pillar. It should be noted that the Edinburgh Agreement permits Denmark to give up its exemptions at any time and revert to full participation.

Table 2 is not meant to provide an exhaustive list. There are other forms of variable cooperation among EU members such as the Benelux Economic Union, the "Elysée Treaty" of 1963 between France and Germany, the "Eurocorps" composed of French, German and Belgian troops or the participation in R&D programmes.

The same is true of the following Table 3 of the EU's external relations with the rest of Europe. In addition to the list below, numerous bilateral and regional agreements link some or all EU states to

European non-members: the Organization for Security and Cooperation in Europe (OSCE), the North Atlantic Cooperation Council (NACC) embracing NATO and the former members of the Warsaw Treaty Organization, the "Partnership for Peace" agreements between NATO and Eastern European countries as well as Austria, Finland and Sweden, the Council of Europe, the Nordic Council, the Baltic Council, the Central European Initiative and so on. This shows that the European Union is offering and participating in a whole range of variable cooperation and of alternatives to full membership.

TABLE 3 Variable Cooperation with European Non-Members

ISSUE AREAS	³ Association/ ³ Free Trade	³ Agreements	³ Cooperation ³ Agreements	³ Economic ³ Area	Europe	³ European ³ Associates	³ WEU
EFTA	³	³	³	³			
Iceland	³	³	³		X	³	X
Liechtenstein ³		³	³	X	³	-	
Norway	³	³	³	X	³	X	
Switzerland	³	X	³	³	-	³	-
Mediterranean		³	³	³	³		
Cyprus	³	X	³	³	³	-	
Malta	³	X	³	³	³	-	
Turkey	³	X	³	³	³	X	
Eastern Europe		³	³	³	³		
Albania	³	³	X	³	-	³	-
Bulgaria	³	³	³	X	³	³	X
Czech Republic		³	³	³	X	³	X
Hungary	³	³	³	X	³	³	X

Poland	3	3	3	X	3	3	X
Romania	3	3	3	X	3	3	X
Slovakia	3	3	3	X	3	3	X
Slovenia	3	3	X	3	(X)	3	3
Baltics	3	3	3	3	3		
Estonia	3	X	3	(X)	3	(X)	3
Latvia	3	X	³ (X)	³ (X)	3	³ X	
Lithuania	³ X	³ (X)	³ (X)	3	³ X		

The EU has entered classical Association Agreements with Turkey (1963), Cyprus (1972) and Malta (1970) which foresee the gradual establishment of a customs union. None of them has reached this goal yet but all three countries have formally applied to join the EU. The Turkish association agreement provides for the establishment of a customs union by the end of 1995 at the latest. It also concedes the principle of eventual eligibility for full EC membership. Yet, Turkey's application of 1987 has two years later been rejected by a negative Commission opinion which stated that the country was economically and politically "not yet ready". By contrast, the Corfu European Council in June 1994 confirmed that the two small Mediterranean islands of Cyprus and Malta, which applied in 1990 and whose association agreements do not refer to membership at all, will be part of the next enlargement round.³⁸ In March 1995 a deal was reached which allowed Greece to give up its resistance against the completion of the EU-Turkey customs union in industrial products by 1 January 1996 while promising that accession negotiations for Cyprus (and Malta) will begin six months after the conclusion of the 1996 IGC.³⁹ The governments of both the politically divided Cyprus and of the neutral Malta have undertaken to meet all obligations deriving from the Treaty on European Union.

The EU has between 1989 and 1993 signed Trade and Economic Cooperation Agreements (TCA) with all the Eastern European countries. This first generation of agreements was designed to support the reform processes and was based on the Most-Favored-Nation Clause and the General System of Preferences. It has gradually been replaced by a new generation of more substantial association agreements which came to be known as the Europe Agreements. At present, only Albania and Slovenia have remained on the TCA level. Estonia, Latvia, Lithuania and Slovenia will shortly sign Europe Agreements which will supersede the cooperation agreements. Due to the fact that the Baltic states maintained already free trade agreements with the Nordic countries, two of which joined the EU this year, the trade components of their TCA agreements have by 1 January 1995 been replaced by free trade agreements.

Except of the Baltic states, the independent states of the former Soviet Union are not listed in the above table. They are in general not considered eligible for EU membership. With some countries of the Commonwealth of Independent States (CIS) the EU is concluding so-called Partnership and Cooperation Agreements (PCA). Agreements are under way with Russia, Ukraine, Moldova, Kazakhstan, Kyrgyzstan and Belarus. They are replacing the Agreement on Trade and Commercial and

Economic Cooperation with the former Soviet Union signed in 1989. The PCAs cover political, commercial, economic and cultural cooperation. They constitute non-preferential agreements, but the PCAs with Russia, Ukraine and Moldova refer to possible future free trade arrangements. The European states which have no agreements in the above-mentioned categories such as the republics of former Yugoslavia are not mentioned either. In addition, Andorra and San Marino are missing. Both of them have concluded customs agreements with the EU.

The Europe Agreements with Poland and Hungary entered into force on 1 February 1994, those with the Czech and Slovak Republics, Bulgaria and Romania on 1 February 1995. They combine an asymmetrical opening of the EU markets, economic, financial and cultural cooperation and the approximation of laws with a political dialogue. The Copenhagen European Council in June 1993 for the first time agreed that the associated states in Central and Eastern Europe can become members of the European Union if they so desire and as soon as they are able to fulfil the necessary economic and political conditions.⁴⁰ The Copenhagen Summit also proposed that the associated countries enter into a "structured relationship" with the institutions of the Union. This new political dialogue involves the holding of joint advisory meetings in different Community areas, the CFSP as well as justice and home affairs. It is a part of the Union's emerging strategy to prepare for the accession of the associated states⁴¹ and has earlier been referred to as the "European Political Area" (EPA)⁴².

The Agreement on the European Economic Area (EEA) entered into force on 1 January 1994. It basically extended the EU's internal market to the countries of the European Free Trade Association (EFTA). The EFTA countries took over the *acquis communautaire* in the fields of the free movement of goods, persons, services and capital as well as the horizontal and flanking policies. The agreement does not cover the common commercial policy and the EU's third-country relations, the common agricultural and fisheries policies, economic and monetary policy, the common transport policy, regional policy, budget contributions, direct and indirect taxation, Euratom, political cooperation and the areas covered by the Maastricht Treaty. The EEA/EFTA countries are involved in the decisionmaking process of future legislation. For this purpose, new institutions have been created such as an EEA Council of Ministers for the general guidelines, an EEA Joint Committee for the operation of the Agreement as well as a Joint Parliamentary Committee and a Joint Consultative Committee of advisory nature. For surveillance and enforcement purposes the EFTA countries have established an independent EFTA Surveillance Authority and an EFTA Court. Following its rejection of EEA membership in 1992, Switzerland's relations with the EU are still governed by the Free Trade Agreement of 1972. Moreover, it is currently negotiating bilateral sectoral agreements with the EU. Liechtenstein, which forms a tight customs and currency union with Switzerland, is joining the EEA on 1 May 1995 after adapting its bilateral relations with Switzerland. Since the EU accession of Austria, Finland and Sweden on 1 January 1995, the EEA consists of fifteen EU member states and three EFTA countries.

The NATO countries Iceland, Norway and Turkey have joined the Western European Union (WEU) as associate members while the Baltic States, Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia became associate partners.

It is obvious from the pattern in Table 3 that the European Union prefers a group-to-group dialogue in its external relations. The EU has asked the EFTA countries to speak with one voice in the EEA negotiations and has treated them as a group in the subsequent accession talks. The Visegrad countries plus Bulgaria and Romania and the independent states of the former Soviet Union are in general dealt with as a group. The European Economic Area has served as a model for the European Political Area (or structured relationship) with Eastern Europe and is now to act as a prototype for the planned Euro-Mediterranean Economic Area embracing the Maghreb (Algeria, Morocco, Tunisia, Libya) and the Mashreq countries (Egypt, Jordan, Lebanon, Syria) as well as Israel and the Occupied Territories.⁴³

4. From External to Internal Variable Cooperation

The economic and security context of the European continent has in the late 1980s and early 1990s dramatically changed due to two major causes: on the one hand, the relaunching of European integration with the completion of the internal market and the Treaty on European Union and on the other hand, the end of the Cold War leading to the demise of Communism and the disintegration of the Soviet Union. These developments alone do not necessarily generate a large number of states applying for membership in the European Union. They may imply a reexamination of a country's security policy and an intensification of its economic relations with the EU, but they need not lead to enlargement. The EU has been offering alternatives to membership in the form of external variable cooperation. There also exist other European organizations in the field of security. Moreover, the Union has so far not extended its however limited internal variable cooperation to applicant countries but kept a rather high membership hurdle.

I argue that external variable cooperation is ultimately leading to internal variable integration. The gradual merging of Table 3 with Table 2 will lead to more gaps in the latter. Since the late 1980s, new forms of variable cooperation have boomed in the EU's external relations due to the structural developments mentioned above: the growing global and in particular Western European economic interdependence and the end of the Cold War with all its security implications. Yet, the EU has not been able to escape the pressures towards enlargement. Since "any European state may apply to become a Member of the Union" (Article O TEU), it can hardly put the membership bids off forever. Given the number and diversity of the potential new members, a widening process must lead to more flexible cooperation within the Union. This is all the more so, as the seed of internal variable integration has already been sowed in the Maastricht Treaty.

This argument raises several questions: why has the changing international context led to more demands for cooperation with the European Union, why has the EU's cooperation with non-members not prevented or put off their membership applications, and why does widening undermine symmetrical integration?

The first question of why states cooperate can sufficiently be answered by contemporary theories of international cooperation such as neoliberal institutionalism.⁴⁴ International regimes reduce transaction costs and uncertainty and allow to realize mutual gains. By adding the dimension of domestic politics, a country's motives for European cooperation will be further elucidated. In addition, economics offers helpful approaches to explain the benefits of trade and economic integration.⁴⁵ In the light of the EU's Internal Market project and the end of the Cold War, there are obvious economic and political incentives for non-members to strive for closer ties with the European Union, be they long-standing trade partners whose concern for neutrality has been sharply decreased or former Communist countries in transition to democracy and market economy. This section thus focuses on the other two questions.

No viable alternatives

The answer to the question why external variable cooperation leads to an expansion of the Union is not obvious. Neither integration theories nor the more general International Relations theories are of any help in this regard. They do not explain why and how states conduct their integration policies⁴⁶ nor why the EU would accept applicants, in particular those which are likely to put heavy strains on its economic resources or hamper its political goals. There is no theory of enlargement. The interaction of the demand side (why and when a country seeks to join) and the supply side of integration (why the Union has an interest in embracing new members) calls for further theoretical investigation.

As a heuristic device to understand a country's integration policy, I propose that the goals of maintaining sovereignty and obtaining security, wealth and voice need to be compared for the different policy options. While joining the European Union implies a loss of operational sovereignty (i.e., of legal freedom of action in certain issue areas), it promises a gain in economic benefits and more political influence on relevant decisions. Many countries would also value EU membership as an increase in security. Since these four goals can usually not be promoted at the same time, the crucial question is how a government (or in the case of a referendum the population) assesses certain tradeoffs such as between sovereignty and wealth, sovereignty and security, sovereignty and institutional

participation rights or voice and wealth.⁴⁷ Different countries weigh these relationships in different ways.

With the collapse of the Communist regimes, the European Union of Twelve suddenly gained economic and political dominance in Europe. Its new role as the continent's most important actor, its economic prosperity and the non-members' fears of exclusion or discrimination made the EU an attractive club to join. The imminent demands for membership opened up the old "deepening versus widening"-debate. There were several schools of thought⁴⁸: While the "widening-first" school argued in favor of quick enlargement, the "deepening-first" proponents stressed the necessity of further intra-Community integration. In between, the advocates of "widening-and-deepening" wanted to pursue both goals at the same time by a differentiation of membership. Finally, for the "deepening-for-also-widening" school closer integration was a precondition for enlargement in the sense that institutional reforms should prepare the EC for future memberships. In the short run, the EU decided to protect its deepening by not allowing any accessions before the completion of its Internal Market, before the financial perspective for the coming years (the "Delors II" package) was agreed, and before the Maastricht Treaty was ratified. The agenda of the IGC 1996 supports the deepening-for-also-widening school. In the long run, however, it seems that the widening-and- deepening approach is gaining the upper hand.

In order to deter or at least postpone membership applications, the Union needed to offer alternatives to membership. Not providing any cooperation scheme could have entailed political and economic costs. The EU could not ignore the bids of the EFTA countries which as a group represented its most important trading partner. The costs of failing to welcome the former Communist countries were potentially enormous due to the threat of mass migration and a politically unstable and explosive neighborhood. The civil war in former Yugoslavia constituted an impressive lecture in this regard.

The EU therefore set out to construct some sort of half-way houses for its European neighbors. However, the outcome of this exercise has been so short of what was desired that many countries have nevertheless tabled membership applications. They have obviously considered the alternatives inadequate. The European Economic Area is the best example. Five out of the seven EFTA countries (i.e., all except for Iceland and Liechtenstein) applied for EC membership even though the Community had on the basis of the *acquis* granted them almost full economic participation to its internal market without the political burdens of the Maastricht Treaty. Yet, the institutional arrangements of the EEA remained far from what EFTA had hoped for.⁴⁹ The lack of real influence in the decisionmaking process leading to new common rules and the need to establish "quasi-supranational" EFTA structures for the surveillance and judicial mechanisms contributed to their policy change in favor of membership.

The Central and Eastern European countries have from the outset left no doubts about their objective to join the European Union as full members. In particular the Visegrad countries have repeatedly announced target dates for their entry which sounded rather unrealistic. The EU on the other hand proved rather reluctant in the beginning. It was, for instance, only due to the insistence of the CEECs that a brief reference to the possibility of membership as the ultimate objective was inserted in the preamble of the Europe Agreements. Moreover, the CEECs regarded any proposal that did not seem like a mere preparation for full membership with suspicion. Suggestions that the Central and Eastern European countries should join EFTA and possibly the EEA have not been pursued.⁵⁰ The interests with regard to issues such as agriculture, migration and political cooperation seemed too diverging. Only Slovenia, which is among the last ones to conclude a Europe Agreement, inquired - without success - about a membership in EFTA and possibly the EEA.⁵¹

Even though the different agreements and programmes for Eastern Europe provide scope for the gradual development of a close association, they have frequently been criticized as falling short of delivering the means necessary to succeed in creating well-functioning market economies and stable democracies.⁵² The Europe Agreements have, for instance, not established free trade in products which are politically sensitive in some EU member states (steel, iron, coal, textile and agricultural products) but where the CEECs would best stand a chance to compete successfully. The "free movement of persons" is very restricted and the funds have always been considered as inadequate. As

a full member of the EU, an Eastern country would benefit from unrestricted access to the Internal Market including the Common Agricultural Policy and from cohesion funds. Moreover, since the Europe Agreements are kept on a bilateral basis, they give the associated countries less "voice" than the EEA. The "political dialogue" with the EU has so far not contributed very much to satisfy Eastern Europe's need for stability and security. Even though the gradual trade liberalization has been improved and accelerated, Poland and Hungary have in spring 1994 lodged formal applications for full EU membership.

In the associated Mediterranean countries Cyprus, Malta and Turkey "there has been a growing realisation that association, and particularly a customs union, represents an unsatisfactory half-way house"⁵³. It puts them in a position where they have to obey EU rules without having a say in their formulation and where they have to open their markets to EU competition without having access to the EU's structural funds, agricultural subsidies and other benefits that only accrue to full members.

The unhappy experience of the EEA negotiations, the mediocre success of the Mediterranean association agreements and the imperatives which have transformed the cooperation agreements with Central and Eastern European countries into pre-accession treaties indicate the difficulty of establishing any viable alternative between membership and non-membership. The crux of the problem is an adequate match of substance and institutional set-up. A common legal order between the EU and a group of third countries is only conceivable on the basis of the dynamic *acquis communautaire* but any participation in the Union's decisionmaking process can only be very rudimentary.

A "third way" somewhere between a free trade arrangement and full membership is only available at a price. For many countries the price has been too high. The EFTA states applying for EU membership sought for more voice and maybe some minor additional economic advantages than the EEA offered them. In the case of the Mediterranean candidates, the economic incentives were clearly in the foreground, reinforced by the prospects of more participation rights. For the Central and Eastern European countries it might be a mix of economic attraction and security concerns.

The challenge of diversity

The answer to the question why an enlargement of the Union entails more flexible integration arrangements is not obvious either. Some authors claim that widening is likely to lead to further deepening due to an "institutional spillover"⁵⁴. In the same way as the Single European Act eased the Southern enlargement, the 1996 IGC must help prepare the institutional conditions for the accessions to come. Expansion may indeed create incentives for formal institutional change. Yet, this change does not necessarily mean symmetrical deepening and more centralization for all members but it may as well take the form of variable integration.

Again, neither integration theories nor the contemporary International Relations theories offer a straightforward explanation. Reasons for variable cooperation can be found in the nature of the EU itself as the organization's capacity for efficient decisionmaking is likely to suffer as the number of members increases. However, this process could be accommodated by a further centralization of the decisionmaking mechanisms. A more powerful source pushing towards variable cooperation is embodied in the heterogeneity of the current and prospective member states.

If we apply the same analytical framework of sovereignty, security, wealth and voice as above, we find that the completion of the Internal Market and the end of the Cold War have produced three major groups of applicants: the EFTA countries, the Central and Eastern European countries and the Mediterranean countries. With the exception of Portugal, the former and current EFTA countries (Austria, Denmark, Finland, Iceland, Liechtenstein, Norway, Sweden, Switzerland, and the United Kingdom) proved to be "reluctant Europeans" which seemingly followed the mottos "join as late as possible" and "no more integration than necessary". By contrast, the Central and Eastern European countries classify as "eager Europeans" seeking to join as soon as possible. The same seems to be true for the Mediterranean countries (Greece, Spain, Portugal, Cyprus, Malta, and Turkey). This general taxonomy is confirmed by the pattern of variable cooperation in Table 2.

are hardly able to fulfil the existing *acquis*⁶⁰, this prerequisite would amount to an exclusion. It will therefore not be sustainable in the medium-term future.

While there is a need for further integration, deepening becomes increasingly difficult. The "dilemma of diversity" is pushing the EU towards more flexible integration. Such a development does not mean that the existing Union is going to be diluted into a much looser entity. It implies, however, that the days of a uniform integration pace are finally over as the Maastricht Treaty has already indicated.

5. Conclusions: Towards a Patchwork Europe?

What are the prospects of internal variable cooperation at the 1996 Intergovernmental Conference? Taking into account the confusing use of the different concepts as well as the possibility many contributors are just floating some trial balloons in the run-up to the conference, any attributions of positions must be handled with caution.⁶¹ Nevertheless, it seems safe to conclude that nobody really wants a "Europe à la carte". The European Parliament has clearly rejected this approach and reaffirmed its vision of a European Union in which all member states have equal rights and obligations and none of them is a priori excluded. However, it has also for the first time conceded that "if a small minority of states attempted to block all progress during the 1996 Intergovernmental Conference, ways would have to be found of allowing states which want to pursue their efforts to achieve European integration still to do so".⁶² Commission President Jacques Santer also admitted that a multi-speed approach might be necessary but he emphasized that there should be no permanent exclusions, discriminations or Europe à la carte.⁶³

Likewise, the leaders in the largest member countries have recognized that in the future some states may want to proceed further than others. Even though Chancellor Helmut Kohl insisted that the CDU/CSU paper, whose co-author Wolfgang Schäuble is one of his closest collaborators, was not an official document, he confirmed that his party did not want "the slowest ship to decide the pace of the convoy" nor an "Europe à la carte".⁶⁴ The French and British prime ministers rejected the German ideas of more federalism and a hard core. Edouard Balladur has instead put forward the concept of concentric circles⁶⁵, while John Major favors multiple cores where varying groups of countries might choose to integrate further and faster in different issue areas (except for the Internal Market, international trade and environmental matters).⁶⁶ Major's approach comes closest to an "à la carte"-view but earlier on he has labelled it a "multi-speed, multi-track, multi-layered Europe".⁶⁷ The French minister for European Affairs Lamassoure also identified areas of common rules (Internal Market, international trade, external relations, security) and issue areas from which member states could opt out (monetary union, the WEU, the Eurocorps, migration control, cooperation on justice and home affairs). He added, however, that all derogations should be temporary.⁶⁸

There seems to be an emerging consensus on the possibility and the need of variable cooperation with a differentiation according to countries and issue areas. However, the highly controversial question how this cooperation will be operationalized still needs to be answered. The IGC will have to decide which issue areas are eligible for opting in or out, which criteria authorize participation and non-participation and what the procedures should look like. The concept of variable cooperation allows to organize future integration and cooperation on a relatively high common level with the flexibility required for some members to proceed further or faster.

Several other conclusions can be drawn from the preceding discussion. First, the condition of the full acceptance of the *acquis communautaire* is untenable in the future. In contrast to the EFTA round of enlargement, the countries of the next accessions will not be able to fully apply the *acquis* from the outset. Moreover, if the current members are not all equally participating in the entire scope of cooperation, the Union can hardly ask the applicants to do so.

Second, the possibility of variable cooperation inside and outside the European Union blurs the borders between members and outsiders and perforates the formerly clear-cut line between deepening

and widening of the Union. Variable cooperation is a means of combining deepening with widening. In fact, it seems the only way to make the two strategies compatible. Polish and Hungarian officials, for instance, have welcomed the debate on variable cooperation "because it makes East European aspirations to become members of the EU more credible"⁶⁹.

Third, the challenge of the IGC 1996 is how to apply the concept of variable cooperation in an expanding Union. The attractions of variable cooperation are great: able and willing states could press ahead according to their own pace while the others could stay behind and maybe catch up later. The Central and Eastern European applicants could be accorded generous transitional periods to prepare for full membership. However, the risks of variable cooperation are also considerable, if it grants too much latitude: the Union's decisionmaking capacity might be weakened and the integration process slowed down as the core of common commitments shrinks and the possibility of negotiating package deals is reduced. Commissioner Van den Broek correctly pointed out that "the paradox is between what you want politically on the one hand, and what is mathematically sustainable on the other".⁷⁰ The crunch question is to what set of common rules or "constitution" all member states have to subscribe.

Europe has embarked upon a journey which will not lead to the United States of Europe but which will do better justice to its diversity. The continent's heterogeneity is both its vice and its virtue. Like with so many things in life, the art is finding the happy medium which will give some structure to the patchwork pattern. If everything in Europe is changing after the end of the East-West conflict, the European Union must ask itself whether it still can remain what it was or wanted to become.