

Justifying EU Foreign Policy: The Logics Underpinning EU Enlargement

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The foreign policy of the European Union (EU) is in many ways a puzzle to students of International Relations. Doubts about whether there is in reality a European foreign policy contrast with empirical observations of the considerable influence exerted by the EU, if not always in the international system at large, then at least in Europe. Such observations imply that the EU has a 'foreign policy' of sorts. To better capture the EU's foreign policy, we need to ask different questions, beyond those of whether or not we are moving 'towards a common foreign and security policy'.² Hence, in this chapter, we ask what the EU's foreign policy (such as it is) is *for*; in other words, what is its 'raison d'être'? Taking the existence of an EU foreign policy as a given, we examine how this policy is justified.

Justifications of the EU's foreign policy have two addressees: the first is internal to the EU and consists of the member states and their citizens, the second is external and consists of non-member states and their citizens. The principal focus here will be on the EU's attempts to validate its foreign policy externally. At the same time, we assume that there is a connection between these attempts at external and internal justification in the sense that the former both shapes and reflects the latter.³

Before entering into a discussion about the *raison d'être* of the EU's foreign policy, it is important to clarify what we mean by foreign policy. We consider the EU's policy on enlargement as foreign policy. Defining enlargement as a form of foreign policy is not entirely uncontroversial, although it is hardly novel. In 1989, Roy Ginsberg classified

¹ The authors would like to thank the members of the ARENA group on Legitimate Governance, and in particular Erik Oddvar Eriksen, for comments on a previous draft of this chapter.

² See Stanley Hoffmann 'Towards a Common Foreign and Security Policy?', *Journal of Common Market Studies*, vol. 38, no. 2, 2000: 189-98.

enlargement as a type of foreign policy action, which resulted specifically from the process of 'externalisation': a foreign policy option that could be executed in response to outside pressure from eligible non-members who want to join the club.⁴ We would go further, and argue that enlargement is not merely reactive. In fact, the current enlargement process is influenced by explicitly political objectives that aim to reshape political order in Europe.⁵ Several observers have, however, argued that enlargement must be seen more broadly, not just as external policy. Lykke Friis and Anna Murphy have argued that enlargement has significant internal consequences, particularly for the internal development of the Union, which thus affects decision-making.⁶ This does not contradict the fact that the EU's enlargement policy addresses itself to, and has consequences for, actors outside the EU. As such, it is an example of the form of foreign policy that develops in a world where the domestic and international spheres have become increasingly intertwined. It should be stressed that enlargement is not a policy defined in the Common Foreign and Security Policy (CFSP) pillar, but is an EU policy spanning the pillars. Thus, we do not consider the CFSP to be the exclusive foreign policy production 'centre' of the EU.

In the next section, we present three analytically distinct approaches for examining the legitimacy basis for foreign policy in general. We then examine how the EU seeks to justify its foreign policy towards the applicant states in Central, Eastern and Southern Europe.

Three approaches to legitimisation

There are three analytically distinct ways in which a foreign policy can achieve legitimacy. They are grounded in different logics of action or justification for an individual actor: a logic of consequences, a logic of appropriateness and a logic of moral justification.⁷ Different

³ It is of course possible that the approach to legitimation will be different in these two cases. But in this context we assume that foreign policy can be seen as a part of a larger whole in the sense that the external image of a community also reflects inwards and contributes to shaping its internal distinctiveness.

⁴ Roy Ginsberg, *Foreign Policy Actions of the European Community: The Politics of Scale* (Boulder: Lynne Rienner, 1989), chapter 7. Other responses include association agreements, trade and aid agreements, development aid, diplomatic ties, and so on.

⁵ Recently Giuliano Amato (the Italian prime minister) and Gerhard Schroeder (the German Chancellor) wrote that 'enlargement to the Central and South-Eastern Europe, by creating stability, will contribute to reinforcing decisively our security' (KES's translation). In 'La Porta Stretta della Grande Europa', *La Repubblica*, 21 September 2000.

⁶ See their article, 'The European Union and Central and Eastern Europe: Governance and Boundaries', *Journal of Common Market Studies*, vol. 37, no. 2, June 1999.

⁷ E.O. Eriksen, 'Towards a logic of justification. On the possibility of post-national solidarity' in M. Egeberg and P. Lægread (eds), *Organizing Political Institutions. Essays for Johan P. Olsen* (Oslo, Scandinavian

criteria identify these logics: utility, values and rights, respectively. *Utility* refers to an effort to find efficient solutions to concrete problems or dilemmas. Policymakers seek legitimisation by achieving an output that could be seen as an efficient solution to given interests and preferences. *Values* refer to a particular idea of the 'good life' that is grounded in the identity of a specific community. Policy would be legitimised through reference to what is considered appropriate given a particular group's conception of itself and of what it represents. *Rights* refer to a set of principles that are mutually recognised as morally acceptable. In other words, policy would be legitimised with reference to principles that can be recognised as 'just' by all parties, irrespective of their particular interests, perceptions of the 'good life' or cultural identity.⁸

According to a logic of expected consequences, actors in the international system are rational, in the sense that they seek to develop policies that allow them to maximise their own interest. Policy-makers try to ensure the policy outcome that is the most efficient translation of a given set of interests or preferences. The assumption is that policy-makers do this by assessing the costs and benefits of various possible policy choices and their possible outcomes in light of their preferences and interests.⁹

This approach has, explicitly or implicitly, dominated studies of foreign and security policy. The classical realists, as well as their inheritors the neo-realists and neo-liberal institutionalists, ground their analysis in assumptions drawn from a logic of consequences.¹⁰ It is often argued that this approach is particularly suited to studies of foreign policy issues (as opposed to domestic political issues), because of the assumption of international anarchy. There is no superior authority that can 'lay down the law' from a more independent or objective position than the individual states. The international system is, in other words, seen to be in a 'state of nature'. In such a system, politics is a struggle for power and the best that one can hope for is a form of compromise between various and conflicting interests and preferences. Questions of values or of morality have little or no place in such a system: they

University Press, Oslo, 1999) and J.G. March and J.P. Olsen, 'The Institutional Dynamics of International Political Orders' *International Organization* (52, 4, 1998).

⁸ J.E. Fossum 'Constitution-making in the European Union' in E. O. Eriksen and J. E. Fossum *Democracy in the European Union: Integration through deliberation* (London, Routledge, 2000).

⁹ March and Olsen *ibid.*

¹⁰ Stephen Krasner, 'Logics of Consequences and Appropriateness in the International system' in Egeberg and Lægreid, *op. cit.*: 181-213. See also David A. Baldwin (ed.), *Neo-realism and neo-liberalism: The contemporary debate* (Columbia University Press, New York, 1992), and Andrew Moravcsik, *The Choice for Europe: Social purpose and state power from Messina to Maastricht* (London, UCL Press, 1998).

belong to domestic politics. The interest to be defended is given: ultimately the aim is guaranteeing the survival of the state. Often this slides into the position that it is the 'moral duty' of governments to defend the interests of their states against outsiders.¹¹

Much of the literature on the CFSP also seems to draw on such assumptions. Thus a central concern in many analyses of the CFSP is whether or not it is efficient, in the sense that it achieves the goals that it actually sets for itself. The conclusion is often that because the CFSP is inefficient; it is also virtually non-existent.¹²

As long as foreign policy is conceived of as a policy that seeks to protect the territorial integrity of a unitary state, it might be possible to argue that we do not need more than the logic of consequences to understand it. In other words, in the Westphalian system, the principal and ultimate 'raison d'être' of foreign policy could easily be seen as given.¹³ But it might not be the case any longer. 'Foreign policy' is changing. Domestic and foreign policy are intertwined in ways that they have not previously been. As actors other than the state exercise a form of foreign policy, the ability of the state to control the international activity of its citizens is reduced. Furthermore, states must, to a much larger extent than previously, refer to international norms and rules and to the interests and perspectives of actors outside their own territory when they formulate their own foreign policy. This intertwining of internal and external policy also leads to international calls for a justification of national policy choices –

¹¹ Hans Morgenthau, *Politics among Nations: the Struggle for Power and Peace* (New York: Knopf, 1948).

¹² Christopher Hill, 'Closing the capabilities-expectations gap?', in John Peterson and Helene Sjursen (eds.), *A common foreign policy for Europe? Competing visions of the CFSP* (London: Routledge, 1998): 18-38; Knud Erik Jorgensen, 'The European Union's Performance in World Politics: How Should We Measure Success?', in Jan Zielonka (ed.), *Paradoxes of European Foreign Policy* (The Hague, Kluwer, 1998); Hedley Bull, 'Civilian Power Europe, a contradiction in terms?', *Journal of Common Market Studies* (21, 2-3): 149-70.

¹³ The model of the Westphalian system holds the following characteristic features:

1. The world consists of, and is divided by, sovereign states which recognize no superior authority.
2. The processes of law-making, the settlement of disputes and law-enforcement are largely in the hands of individual states subject to the logic of "the competitive struggle for power".
3. Differences among states are often settled by force: the principle of effective power holds sway. Virtually no legal fetters exist to curb the resort to force; international legal standards afford minimal protection.
4. Responsibility for cross-border wrongful acts are a 'private matter' concerning only those affected; no collective interest in compliance with international law is recognized.
5. All states are regarded as equal before the law: legal rules do not take account of asymmetries of power.
6. International law is oriented to the establishment of minimal rules of coexistence; the creation of enduring relationships among states and peoples is an aim, but only to the extent that it allows national political objectives to be met.
7. The minimization of impediments on state freedom is the "collective" priority.' David Held, 'Democracy: From City-States to a Cosmopolitan Order?', in David Held (ed.), *Prospects for Democracy: North South, East, West* (Cambridge: Polity, 1993): 29.

on issues that previously were considered part of the national domain. In parallel one might expect that the requests for legitimisation emerging from the domestic community become more diverse. Utility arguments would rely on a shared idea of the 'national interest', but in an increasingly interdependent world a blanket reference to the national interest seems untenable. The whole conception of the national interest is founded on the idea of a state facing the outside world as one. As the state today controls movements across national borders to a much lesser extent, trans-national bonds can develop more freely. Furthermore, as domestic audiences become more diverse, their understanding of the 'national interest' may vary considerably. Hence, it is by no means certain that all actors will agree on what the national interest should be. Furthermore, it is not certain that all actors will feel the reflex of national loyalty and rally against 'foreign' interests.

If it is increasingly difficult for nation states to refer to the 'national interest', it is even more so for a collectivity such as the European Union. In a situation where the member states share the same threat perception from the outset, it might only be necessary to make instrumental calculations about how to respond to such threats. Hence, for a traditional alliance operating in a bipolar system, a logic of consequence might be sufficient. However, in a situation such as post-1989 Europe, where there is no obvious common threat or threat perception, the answers to the questions of why a common foreign and security policy is needed and what issues it should deal with are not self-evident. Thus, other types of arguments in favour of a common foreign and security policy are needed. Security and foreign policy for whom and against whom becomes a logical enquiry. Thus in the case of the EU a central concern emerges: 'what is EU foreign policy for'? The common interest is not self-evident, nor is common identity, the second 'leg' that the foreign policies of states seem to stand on.

The changing nature of foreign policy, and the emergence of foreign policy-making on a collective EU level, raises the question of the basis on which we should act also at the international level— which interests, values, norms should be promoted and protected? The challenge is increasingly to establish or create a collective understanding of not only what needs to be done, but also the very issues to be dealt with. Action needs to be recognised as legitimate and necessary by a collection of states not just by a single state. Such dilemmas of justification have traditionally been seen as the privilege of the domestic political sphere. So,

for example, when discussing environmental policy the question has not only been how one should go about ensuring the best possible protection of the environment, but why we should protect nature in the first place. What is ultimately at stake then is the kind of society we want to live in – which values we should defend. These are questions of qualities and standards that are difficult to resolve through a logic of consequences.¹⁴ What we observe is that such questions also emerge at the European level.

A further factor contributing to foreign policy-making in the EU may also be the need to legitimise the policy in the eyes of its intended addressees. This would seem particularly necessary in the case of states seeking to join the EU. If applicant states do not feel that the EU's enlargement policy is legitimate, not only could the EU find it difficult to exercise influence over those states (for example, by convincing them to fulfil the membership conditions), but doubts about the legitimacy of the EU's decisions to include or exclude states could damage the credibility of the borders of the EU. Finally, the doubts of new member states about EU legitimacy could be carried with them into the EU. The perceived lack of external legitimacy could thus feed into perceptions of a lack of internal legitimacy.

Legitimation of foreign policy may be provided through a second logic of action - a logic of appropriateness. Policy would develop on the basis of a particular idea of the values represented by a specific community. The question of security for whom and against whom would be answered with reference to the values considered central to the community's self-understanding and identity.¹⁵ However, such culturally-bound conceptions may be difficult to defend at the international (including European) level. It could be too optimistic to assume that there is a collective identity at the European level that could underpin the development of a common foreign policy. Values could collide at that level. In this case, there is a third way that might provide the basis for co-operation other than one based on values.

¹⁴ E. O. Eriksen in Egeberg and Lægveid (eds): 219-22 and E. O. Eriksen and J. Weigård *Kommunikativ handling og deliberativt demokrati: Jurgen Habermas teori om politikk og samfunn* (Oslo, Fagbokforlaget, 2000).

¹⁵ The concept of 'appropriateness' is ambiguous in the sense that it suggests rule-bound behaviour. Behaviour could thus be seen as guided by either habit or duty. Whereas 'habit' does not require much conscious reflection on the part of the actors, 'duty' – defined as related to the actor's particular role - does. This ambiguity is not the main point here because we assume that actors are rational in the sense that they are able to explain and justify their actions. Thus, a logic of appropriateness is seen to grow out of duty rather than of habit.

To assess the validity of different perspectives, and to resolve collisions between different norms and different ideas of the good life, it would be necessary to find out whether or not a particular position could be universalised. The 'test' for the various positions then would be to what extent the particular solution would be considered fair by all parties, if they switched places. This is the logic of moral justification.¹⁶ A decision would have to be considered fair by all participants regardless of their particular cultural identity, interests and preferences. The analysis is not based on a 'means-ends' conception of rationality where actors are rational when they chose the most efficient means to achieve exogenously defined ends. Rather actors are seen as rational when they are able to justify and explain their actions. They are not just seen as self-interested, but also as having the ability to be reasonable. The political process is conceptualised as a process of reason that aims to come to a shared understanding. The outcome would be determined by the best argument – the argument that would be considered just by all parties - rather than a process of bargaining where the outcome is determined by the balance of power between the actors.

In wielding enlargement and specifically the conditional offer of membership, what kind of logic underpins the EU's foreign policy? What can be considered to be the *raison d'être* of the EU's foreign policy?

Setting conditions for enlargement

First of all, what are the EU's membership conditions? In this section, the evolution of the conditions is traced, and we use the three logics of action to analyse them. To what extent are the conditions the outcome of calculations of utility? Are they based on a particular idea of the EU or are they legitimised with reference to universal principles that can be viewed to be of equal validity to all actors regardless of their cultural identity? In the section that follows, we use the logics of action to analyse how the EU has actually applied membership conditionality, and how it has justified its actions.

The conditions for membership have clearly been evolving since the Community's beginnings. The basic condition - European identity - was set out in the 1958 Rome Treaty (article 237) - 'Any European state may apply to become a member of the Community'.

¹⁶ This concept is developed by Eriksen in Egeberg, and Lægreid (eds), *op cit*.

During the Cold War eligibility was not such a troublesome issue, as membership for states outside the Western half of the continent was unthinkable. Other West European countries were either not interested and/or were not democratic. The first enlargement of the Community, to Britain, Ireland and Denmark, did not take place on the basis of explicit membership criteria.

It was not until the mid-1970s that membership conditions became a matter of concern, because of the unfolding events in southern Europe. In April 1978, the European Council declared that 'respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership in the European Communities.' This was a clear signal to Greece, Portugal and Spain that they could become Community members if they proceeded with democratisation. Specific membership conditions for the three countries were not spelt out, but certainly included genuine free elections, the right balance of party strength (pro-democracy parties in the ascendance), and a reasonably stable government.¹⁷ The Commission's opinions on the three applications, however, only mention briefly the transition to democracy. Much more attention was given to consideration of the applicant's economic and administrative capacities, and implications for the Community of enlargement.¹⁸ Nonetheless, the importance of democracy as a basis for membership at this stage of the Community's history was an important signal that it was not just an economic integration project: deeper values linked the member states. This interpretation is reinforced if we bear in mind that Portugal and Spain asked to open membership negotiations in the early 1960s, and that their candidatures were not taken seriously because they did not have democratic governments.

This remained the situation on membership eligibility until the end of the Cold War, which had the effect of dramatically increasing the number of states wanting to join the Community. The ever growing queue of membership applicants, including the EFTANs as well as the Central and East European countries, made it imperative for the Community to set out additional membership requirements. This was a way to impose order on a clamour of

¹⁷ Geoffrey Pridham, 'The International Dimension of Democratisation: Theory, Practice and Inter-Regional Comparisons', in Geoffrey Pridham, Eric Herring and George Sanford (eds), *Building Democracy? The International Dimensions of Democratisation in Eastern Europe* (London: Leicester University Press, 1994): 24.

¹⁸ See the EC Commission's opinions: 'Opinion on Greek Application for Membership', *EC Bulletin* 2/76; 'Opinion on Portuguese Application for Membership', *EC Bulletin* 5/78; 'Opinion on Spain's Application for Membership', *EC Bulletin* 9/78.

demands that threatened to engulf the Community, and more significantly, endanger the process of deepening begun with the 1987 Single European Act and 1989 Delors report on Economic and Monetary Union.¹⁹

In a report to the June 1992 Lisbon European Council, the Commission re-stated that there were three basic conditions for membership: European identity, democratic status and respect of human rights. But it suggested several additional criteria. The trend towards 'variable geometry' or 'multi-speed Europe' - codified in the Maastricht Treaty opt-outs for Britain and Denmark - was to stop with the current member states. Applicants had to accept the entire Community system, the 'acquis communautaire', and be able to implement it. This included the single European market and the Maastricht provisions on Economic and Monetary Union. An applicant state had to have a functioning and competitive market economy; if not, 'membership would be more likely to harm than to benefit the economy of such a country, and would disrupt the working of the Community'.²⁰ Applicant states also had to accept and be able to implement the common foreign and security policy. This was implicitly aimed at the neutral applicants (Austria, Finland, Sweden), who might impede development of a common defence policy, a Maastricht Treaty objective: 'An applicant country whose constitutional status, or stance in international affairs, renders it unable to pursue the project on which the other members are embarked could not be satisfactorily integrated into the Union.'²¹ What the Commission set out clearly, therefore, was that 'widening must not be at the expense of deepening. Enlargement must not be a dilution of the Community's achievements.'²² The Community thus seems to be applying a logic of consequences here: enlargement could not be permitted to damage the progress made in implementing a single European market, a single currency, or a common foreign and security policy. But the logic of appropriateness seems to fit even better: enlargement could be justified only if it contributed to, or at least did not threaten, the ongoing process of integration agreed at Maastricht. And the assumption clearly is that the applicants would not be seeking to join if they did not consider this a legitimate policy basis. Finally, the logic of moral justification becomes important if we view these conditions as an attempt to protect and promote certain key principles – those of democracy and human rights.

¹⁹ H. Sjurson 'Enlarging the Union' in S. Stavridis et. al *New challenges to the European Union: Policies and Policy-Making* (Aldershot, Dartmouth 1997): 151-171.

²⁰ European Commission, 'Europe and the Challenge of Enlargement', *EC Bulletin Supplement 3/92*: 11.

²¹ *Ibid.*

²² *Ibid.*: 10.

The 1992 report was just the first step of the 1990s to explicate membership conditions. The next step arose as a result of the widening vs. deepening debate within the Community, specifically with respect to the Central and East European countries (CEECs). Soon after the end of the Cold War, the CEECs declared that their number one foreign policy objective was to 'rejoin Europe', which entailed joining the EU (and NATO). Many within the EU and Eastern Europe argued that the Union would have to promise that the CEECs could eventually become member states, because this would provide them with a 'reward' for continuing with reforms even as those reforms caused hardship. Furthermore the sense of duty and responsibility of Western Europe towards 'the other half' of Europe was underlined. For some time, these voices were weaker than those urging a more cautious approach, who cited the considerable upheaval widening would cause within the EU. The widening vs. deepening debate within the EU eventually resulted in Copenhagen summit declaration in June 1993. The European Council agreed to enlarge as part of its pledge to support the reform process in the CEEC, on which peace and security in Europe depended.²³ But it also set specific conditions that the CEEC applicants would have to meet.

The Copenhagen European Council declared that those CEECs that had concluded a Europe agreement were eligible for EU membership, provided they could meet three conditions: they must have a functioning market economy with the capacity to cope with competitive pressures and market forces within the EU; they must have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; and they must be able to take on the obligations of EU membership including adherence to the aims of economic and political union. An additional condition specifies that the EU must be able to absorb new members and maintain the momentum of integration. The Copenhagen conditions are by and large similar to the conditions set out in the Commission's 1992 report, with an important addition: respect for and protection of minorities. This reflects the 'lessons learned' from the Yugoslav war.²⁴ Again, the conditions can be interpreted as

²³ European Council, Copenhagen, 21-23 June 1993, Conclusions of the Presidency, SN/180/93: 13.

²⁴ These lessons also inspired agreement on a French plan for a Pact on Stability in Europe. The Pact was a forum in which the Central and East European applicants were strongly encouraged to settle problems over borders and minorities, which could threaten European security - and much more importantly, any eventual enlargement process. See the Joint Action convening the Pact (Council Decision 93/728/CFSP in Official Journal of the European Union, L 339, 31 December 1993); the 'Concluding Document from the Inaugural Conference for a Pact on Stability in Europe', *EU Bulletin*, no. 5, 1994; and 'Political Declaration adopted at the Conclusion of the Final Conference on the Pact on Stability in Europe and List of Good-Neighbourliness and Cooperation Agreements and Arrangements', *EU Bulletin*, no. 3, 1995.

utility-enhancing: the more the applicants did for themselves in terms of implementing political and market economic reforms, the less hassle they would cause the Union.

But the logic of appropriateness also fits here: the values that the CEECs must accept are quite specific to the EU (implementation of the *acquis*, adherence to EU objectives). In addition, the logic of moral justification is also present in the form of the political conditions (democracy, rule of law, human rights and protection of minorities). Incidentally the first three political conditions (excluding the protection of minorities) are also the basis for the EU's relations with other 'third countries'. Since 1995, agreements with third countries are to contain a human rights clause, which allows for measures to be taken if human rights and democratic principles are violated by the parties to the agreement.²⁵ The Union justifies this stance by explicit reference to universal instruments, in particular the United Nations Declaration on Human Rights.²⁶ The 'universality' of these conditions suggests that these are not just EU-specific values, but reflect widely accepted principles.

The Copenhagen conditions applied only to Europe (association) agreement signatories: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia. They were not specifically intended for Cyprus, Malta or Turkey, which had applied for membership in 1990, 1990, and 1987, respectively. But since then, they have been understood to form the basic conditions even for these three applicants.

Since Copenhagen, more general statements of the membership conditions have been made. The Amsterdam Treaty formalised the political conditions of membership, declaring that 'the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States' (article 6). Any European state that respects these principles may apply to become a member of the Union (article 49).

The Amsterdam Treaty conditions are explicitly stated to be the common values of the member states. But one important omission, as compared to the Copenhagen conditions,

²⁵ The human rights clause is really two clauses: the first states that respect for human rights and democratic principles are 'essential elements' of the agreement; the second permits appropriate measures to be taken in case a party to the agreement has failed to fulfil an essential element.

²⁶ See, for example, Commission Communication, 'On The Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries', COM (95) 216 final, 23 May 1995.

should be noted: protection of minorities. Minority rights are controversial within the EU, as the member states are divided over the concept. France, for example, is more inclined to emphasise individual rights, and has not ratified the Council of Europe's Framework Convention on National Minorities. Nor, for that matter, have Belgium, Greece, Luxembourg, the Netherlands, or Portugal.²⁷ Yet the protection of minorities has formed an important condition in relations with Central and East European countries (most notably, in the Copenhagen conditions)- a case of the EU setting conditions for outsiders which it could not set internally. The insistence on minority rights can be attributed, at least in part, to the logic of consequences: the danger of 'importing' ethnic conflict into the Union had to be countered by the efficient solution of guaranteeing minority rights. That minority rights are not an explicit part of the Union's 'political acquis' reinforces the interpretation. However, it could also be argued that the minority rights condition reflects a logic of moral justification, or reference to more universal principles motivating individuals. Since 1990, state conduct towards minorities has increasingly been the subject of standard-setting at both European (Organisation for Security and Cooperation in Europe, Council of Europe) and international (United Nations) levels.²⁸ However, if some EU member states are not willing to adopt formally those standards themselves, then it could be difficult to interpret this as underpinned by a logic of moral justification.

Another condition has also since been set: that of 'good neighbourliness'. Good-neighbourliness implies a willingness to cooperate with neighbours, but also – more concretely – to agree on borders. It first cropped up in the EU's Pact for Stability, the conference held in 1994-95 to encourage the Central and East European applicants to reach bilateral and multilateral agreements guaranteeing minority rights and borders. In its Agenda 2000 report on enlargement, published in July 1997, the European Commission stated that it 'considers that, before accession, applicants should make every effort to resolve any outstanding border dispute among themselves or involving third countries. Failing this they

²⁷ So the Council of the European Union's *Annual Report on Human Rights 1999/2000* does not list the Council of Europe Framework Convention for National Minorities as one of those human rights instruments signed by EU member states. But the European Commission's *Enlargement Strategy Paper 2000* makes a point of listing (in annex 3) which applicant states have signed the Framework Convention (all except for Latvia, Poland and Turkey).

²⁸ See Jennifer Jackson Preece, 'National Minority Rights vs. State Sovereignty in Europe: Changing Norms in International Relations?', *Nations and Nationalism*, vol. 3, no. 3, 1997.

should agree that the dispute be referred to the International Court of Justice.'²⁹ The Helsinki European Council reiterated this condition in December 1999: it

stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border disputes and other related issues. Failing this they should within a reasonable time bring the dispute to the International Court of Justice. The European Council will review the situation relating to any outstanding disputes, in particular concerning the repercussions on the accession process and in order to promote their settlement through the International Court of Justice, at the latest by the end of 2004.³⁰

This condition can be said to reflect the common values of the EU. The way in which the EU approaches dispute resolution is via cooperation and, preferably, integration. As Lily Gardner Feldman has argued, one of the EU's core legitimating values is 'the development of a "peace community" entailing reconciliation between former enemies.'³¹ The encouragement of regional cooperation is a long-standing objective of the Union. And good-neighbourliness is one of the conditions for closer ties with the EU that the southeast European countries (Albania, Bosnia-Herzegovina, Croatia, Macedonia, and Serbia/Montenegro) must meet. Still, there is a universal principle in favour of peaceful resolution of disputes over the use of force, so that it is difficult to see this as a value that is distinctive of the identity of the EU. Furthermore, it must be pointed out that considerations of utility also underpin the Union's insistence on good-neighbourliness: there is clearly no desire to 'import' disputes into the Union. This becomes even more important bearing in mind that the condition regarding peaceful resolution of disputes could also be seen as the results of Greek pressure to use the Union to compel Turkey to resolve the Cyprus dispute according to Greek preferences. Justifying this, not only within the Union but also outside of it (not least in Turkey itself), is however proving controversial, and not all of the member states are willing to place so much pressure on Turkey.³²

²⁹ European Commission, 'Agenda 2000: For a Stronger and Wider Union', *EU Bulletin Supplement 5/97*: 51.

³⁰ Helsinki European Council, 10-11 December 1999, Presidency Conclusions: paragraph 4.

³¹ Lily Gardner Feldman, 'Reconciliation and Legitimacy: Foreign Relations and Enlargement of the European Union', in Thomas Banchoff and Mitchell P. Smith (eds), *Legitimacy and the European Union: The Contested Polity* (London: Routledge, 1999): 66.

³² *European Voice*, 23-29 November 2000.

All three logics thus seem to be at work in the formulation of the EU's membership conditions. The conditions reflect not only considerations of utility and efficiency (only countries with market economies, capable of abiding by the obligations of membership and implementing the *acquis* can join; they must also protect minority rights so as to prevent conflict), but also EU-specific values (only European states can apply; acceptance of the *acquis* and commitment to continue integration is necessary) and universal principles (minority rights, human rights, democracy) play an important part. Problems may arise in the process of implementing the enlargement policy if these considerations collide or turn out to be incompatible, and priorities must be set. This is discussed in the next section.

As long as utility considerations give way to the respect for universal principles it is possible to conclude that the overarching logic for the EU's policy is that of moral justification. In other words, for the EU's policy to be based on a logic of justification this logic must be applied consistently.

The EU's Use of Conditionality: Following the Logic of Moral Justification?

In applying membership conditionality, the EU has not been entirely consistent. Candidates have been treated differently – and the EU's reasons for so doing have not always been clear. The use of conditionality with respect to the CEECs has been most consistent, although even here, the conditions have been ignored in favour of other considerations. But still the CEECs strongly desire to join the EU – and thus accept its values - and are willing to try to meet the conditions; furthermore they consider the prospect of membership highly likely. The contradictions among the logics guiding EU membership conditionality are not causing serious problems – the EU's policy is accepted as legitimate in that the applicants continue to fulfil the conditions.

All membership applications must be judged by the Commission in terms of the extent to which the applicant state meets the Copenhagen conditions. The emphasis on the criteria of respect for human rights and democratic principles has been important. A couple of examples of this can be cited here.

In 1994 and 1995, Romania appeared to have been heading towards more nationalistic and racist politics, as extremist parties gained power. The EU indicated that these developments

would not help Romania's application for membership, and from mid-1995 the Romanian government - prompted by President Ion Iliescu - changed its course: over the next year, the ruling Social Democrats broke with extremist parties and an agreement with Hungary was negotiated. A new reformist government took office in November 1996, and relations with the EU improved significantly.³³ This was not enough, however, for the Commission and European Council to include Romania in the first round of membership negotiations, because Romania did not meet the conditions regarding economic readiness and acceptance of the *acquis*.

Even more pressure was put on Slovakia during the period of the Meciar government - the EU delivered demarches and issued numerous warnings that Slovakia must meet democratic norms before it could join the EU. In 1997, the Commission and European Council agreed that Slovakia should not be included in the first round of membership negotiations, primarily on the basis of political criteria.³⁴ Yet the Meciar government remained in power and did not alter its behaviour in response to the EU's pressure. In October 1998, however, Slovak voters chose a new coalition government, which was united by a desire to join the EU and NATO.

The European Commission in the first instance (Agenda 2000, July 1997) considered that only five CEECs were eligible to open negotiations with the EU because they came the closest to meeting the Copenhagen conditions. The Luxembourg European Council in December 1997 agreed with this assessment and the Czech Republic, Estonia, Hungary, Poland and Slovenia began negotiations in March 1998. This in and of itself increased the pressure on the remaining five CEECs to make faster progress towards meeting the conditions. But there were concerns that differentiating among the CEECs would alienate those that were further behind. In particular two applicant countries, Bulgaria and Romania, were already suffering as a result of instability and war in southeastern Europe, and were in danger of being even further isolated.

The Helsinki European Council in December 1999 agreed to open negotiations with the remaining five applicant countries. The justification for opening negotiations was that all five of these countries met the Copenhagen political conditions (as opposed to Turkey, which did

³³ See Karen E. Smith, *The Making of EU Foreign Policy: The Case of Eastern Europe* (London: Macmillan, 1998): 142-3.

³⁴ *Ibid*: 141-2.

not - see below), and some came closer than others did to meeting the remaining conditions. Although negotiations have been opened now with all ten CEEC candidates, the European Council has made it clear that 'in the negotiations, each candidate State will be judged on its own merits. This principle will apply both to opening of the various negotiating chapters and to the conduct of the negotiations.'³⁵ This should keep up the pressure on all the applicant states to meet the Copenhagen conditions, while still reassuring them that they will join as soon as they are ready, even though some of them may be negotiating for many years before they accede to the EU. With this policy, the EU has glossed over some of the difficulties the CEECs are having in meeting the 'non-political' conditions. But by and large, conditionality has been applied consistently and the applicant states are clear about what is required of them, and consider the process legitimate enough to continue to strive for membership by fulfilling the conditions.

The case of the eastern Mediterranean, and specifically the Republic of Cyprus and Turkey, is quite different. In both, the same formal conditions were an issue, even though technically speaking, neither application was subject to the Copenhagen conditions (which were formulated for those CEECs that had concluded Europe agreements). The EU evaluated the economic situation, ability to implement the *acquis*, human rights, and democracy. The Republic of Cyprus applied for membership in 1990. In June 1993, the Commission's opinion on the application was largely positive - not only did the Republic of Cyprus meet the necessary political and economic criteria, but the Commission was also convinced that Cyprus' accession would 'increase security and prosperity' and help 'bring the two communities closer together'. It stated that 'Cyprus' integration with the Community implies a peaceful, balanced and lasting settlement of the Cyprus question'. The Commission felt that a positive signal should be sent that Cyprus is eligible 'and that as soon as the prospect of a settlement is surer, the Community is ready to start the process with Cyprus that should eventually lead to its accession.'³⁶ In June 1994, the Corfu European Council agreed that Cyprus should be involved in the next enlargement. A year later, the Cannes European Council declared that negotiations with Cyprus should be opened six months after the conclusion of the 1996 intergovernmental conference. Formal membership talks with Cyprus

³⁵ Helsinki European Council, 10-11 December 1999, Presidency Conclusions: paragraph 11.

³⁶ Cited in Graham Avery and Fraser Cameron, *The Enlargement of the European Union* (Sheffield: Sheffield Academic Press, 1998): 95-6.

opened in March 1998. The prospect of a settlement, however, seemed no surer than it had been in 1993.

The Union has repeatedly stated that it supports a just and lasting settlement of the Cyprus question, and that the prospect of accession will provide an incentive for this. But it has not stated that accession will be blocked should no settlement be reached, and it has continued to negotiate with the Republic of Cyprus although no representatives of the Turkish Cypriot community are included in the delegation (the Republic of Cyprus is effectively negotiating the entry of the entire island). The Helsinki European Council stated that 'a political settlement will facilitate the accession of Cyprus to the European Union.' But 'if no settlement has been reached by the completion of accession negotiations, the Council's decision on accession will be made without [this] being a precondition.'³⁷ Conditionality has not been applied consistently here, as good-neighbourliness has been ignored. The Greek position seems by and large to have prevented the Union from stressing the criteria of good neighbourliness, although other member states also appear to be reluctant.³⁸ At the same time, the EU's policy does not seem to be inspired by utility, because the cost of including Cyprus before the conflict is solved would be high, perhaps higher than the internal difficulties that might follow from refusing to give way to Greece. One of the reasons why the EU is reluctant to insist too strongly on 'good neighbourliness' could instead be linked to a logic of appropriateness: there could be agreement that all EU member states must take into consideration the particular problems of one of their fellow member states, or there may be a sense in which the Greek community in Cyprus is 'one of us' to an extent that the Turkish community is not. Further investigation of this possibility is still needed.

The case of Turkey is equally complicated. In 1987, it applied for membership; in 1989, the Commission's opinion concluded that it would not be appropriate or useful to open accession negotiations with Turkey. The Commission, Council and European Parliament have persistently raised problems regarding Turkey's human rights and democracy situation, and the EP has blocked aid and the customs union because of Turkey's human rights record. However, Turkey had reasons to suspect that it would never become a member of the club even if it had a fully functioning democracy and exemplary human rights record. It has

³⁷ Presidency Conclusions, paragraph 9(b).

watched the EFTAs and the CEECs jump the queue, while various European politicians cited cultural and religious factors for its exclusion,³⁹ and Greece placed obstacles in the way of closer relations. This doubt seemed to be confirmed when the December 1997 European Council placed Turkey in its own separate category of applicant states, although it confirmed its eligibility for membership. Turkey then suspended its relations with the EU.

More recently, of course, relations have improved. The Helsinki European Council in December 1999 classified Turkey as an official candidate (entailing inclusion in the pre-accession strategy and conclusion of an Accession Partnership), although it made it clear that membership negotiations would only be opened once the political conditions have been met. The good-neighbourliness condition can also be interpreted to imply that Turkey's disputes with Greece over territory as well as Cyprus must be resolved first: the extent to which Turkey is to contribute to resolving the Cyprus dispute before it can start negotiations that has recently been the source of some tension in its relations with the EU.⁴⁰ As a result of its inclusion of Turkey in the accession process, the EU's credibility seems to have increased. Yet it is still not clear how willing Turkey is to undertake the necessary reforms (such as outlawing the death penalty). Turkish elites, as Lauren McLaren notes, do not put as much emphasis on key political and foreign policy reforms as the EU does.⁴¹

In the process of implementation of the enlargement conditions some inconsistencies become evident. This is particularly so in the case of the EU's policy towards Cyprus and Turkey. Here this inconsistency leads to doubts about the suggestion that the overarching logic of enlargement is that of moral justification.

³⁸ For an overview of the EU's approach to the Cyprus problem, and a discussion of four possible scenarios for the future, see Neill Nugent, 'EU Enlargement and the "Cyprus Problem"', *Journal of Common Market Studies*, vol. 38, no. 1, March 2000.

³⁹ Most notoriously, in 1997 EU Christian Democratic leaders rejected the idea of Turkish membership largely on cultural grounds. See Barry Buzan and Thomas Diez, 'The European Union and Turkey', *Survival*, vol. 41, no. 1, Spring 1997: 45. As Buzan and Diez also note (p. 43), fears of large scale waves of migration from Turkey into the EU (most particularly, into Germany) have also been high on the list of concerns of the effects of Turkish membership.

⁴⁰ *European Voice*, 23-29 November 2000. This is particularly contentious because membership negotiations with Cyprus have not been made conditional on precisely the same issue.

⁴¹ Lauren M. McLaren, 'Turkey's Eventual Membership of the EU: Turkish Elite Perspectives on the Issue', *Journal of Common Market Studies*, vol. 38, no. 1, March 2000.

Conclusion

This chapter took as its starting point the empirical observation that the EU has an impact on the world and that we can thus assume that it has a foreign policy of sorts. Following from this intuitive starting point we sought to enquire what the 'raison d'être' of this policy might be. Whereas most of the literature on the CFSP seem to assume implicitly that the EU's foreign policy can only be justified if it produces concrete results that correspond to the collective or individual interests of the EU member states, we suggested that two additional approaches to justifying the EU's foreign policy might be employed: the first of these would refer to common values, the second to universal principles. These approaches should be seen as analytically distinct, which means that all three could be present in the EU's foreign policy. They rely on an assumption of rationality that extends beyond that of 'rational choice' theory. An actor is considered to be rational if he/she is capable of explaining and justifying his or her reasons for making a particular policy choice. These reasons could be material gain, but they could also be a sense of what is appropriate given an actor's role or duties or what is right given universal standards of justice. This expansion of the possible *raison d'être* of the EU's foreign policy seems all the more reasonable bearing in mind that national foreign policies do not seem to suffer from the same 'existentialist dilemmas' when they fail to obtain their objectives. For example, if United States foreign policy is ineffective, we do not conclude that it is non-existent. This suggests that also here there are other elements that help to justify their existence.

As an illustration of the EU's foreign policy, we used the policy on enlargement, and in particular the use of membership conditionality. Thus, the ambition here has not been to produce an exhaustive study of the EU's enlargement policy in all its dimensions, but to suggest an alternative approach of studying the EU's foreign policy.

Looking at the conditions that the EU sets out for membership we found that all three logics seem to be present. The important question then becomes the extent to which one logic can be seen either as overarching, or if not overarching then at least as having more 'weight' than the others have. Here, we discussed whether or not the logic of moral justification is overarching. Our preliminary discussion found that in the case of the EU's policy towards the CEECS, there seemed to be consistency in favour of this logic. However, in the case of the Mediterranean applicants such a conclusion at this point seems more difficult. Two preliminary conclusions can be drawn from this, both of which would need further

investigation. One would be to say that the EU is a primarily self-interested actor in the enlargement process: in other words, when push comes to shove, when it will cost something either in terms of concrete funds or in terms of having to confront specific national interests, universal principles have to give way. Alternatively, one could stress the importance of values. This would suggest that in addition to the considerable cost of confronting Greece over Turkey, there are value-based assumptions involved in the decisions made on enlargement, about who is European and who is not. Some indication of this is found in a comparative study of the EU's financial aid to democratic reform in Turkey and Poland. It is clear that Poland has received much more support towards democratic transition than Turkey has since the end of the Cold War, thus suggesting a clear prioritisation.⁴²

Such a conclusion would be particularly interesting given that we often take it for granted that 'there is no such thing as a European identity' and that this is a drawback for the EU's foreign policy. Such a conclusion would suggest that despite the looseness of this identity, a sense of a common cultural sphere is assumed and might – for good and for bad – be the source of further foreign policies.

⁴² Åsa Lundgren *Europeisk identitetspolitik. EU's demokratibistånd till Polen och Turkiet*, PhD dissertation, Uppsala 1998.