

**T.C.
MARMARA ÜNİVERSİTESİ
AVRUPA BİRLİĞİ ENSTİTÜSÜ**

**AVRUPA BİRLİĞİ SİYASETİ
VE
ULUSLARARASI İLİŞKİLER ANA BİLİM DALI**

**A COMPARATIVE ANALYSIS OF THE EU'S
ENLARGEMENT POLICY TOWARDS TURKEY
With Special Emphasis on the Cyprus Problem**

Doktora Tezi

ERHAN ERÇİN

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ONAY SAYFASI

AB Siyaseti ve Uluslararası İlişkiler Anabilim Dalı Doktora öğrencisi Erhan ERÇİN'in "A COMPARATIVE ANALYSIS OF THE EU'S ENLARGEMENT POLICY TOWARDS TURKEY: WITH SPECIAL EMPHASIS ON THE CYPRUS PROBLEM" konulu tez çalışması....28.10.2008.....tarihinde yapılan tez savunma sınavında aşağıda isimleri yazılı jüri üyeleri tarafından oybirliği/ oyçokluğu ile başarılı bulunmuştur.

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ÖZET

Bu tezin amacı AB'nin Türkiye karşısındaki genişleme politikasının mukayeseli bir analizini yapmak ve "AB, müzakerelerin başarıyla tamamlanabilmesi için önceki aday ülkelere sunduğu şartların benzerini Türkiye'ye de sunuyor mu?" olarak belirlenen temel araştırma sorusuna cevap aramaktır. Bu bağlamda, AB'nin önceki genişleme dalgalarının önemli aşamaları ve kritik kararları dikkate alınarak oluşturulan çerçeve içerisinde Türkiye – AB ilişkilerinin geçmişi, bugünü ve geleceği analiz edilmektedir.

Tüm bu analizler zemininde savunulan ise diğer genişleme dalgalarındaki şartların tamamen aynısı Türkiye'ye sunulmuş olmasa da bunun arkasında yatan nedenin Türkiye'ye diğer Avrupalılardan farklı davranmak veya kültürel ve dini unsurların oluşturduğu normatif kriterlere dayalı ayrımcılık yapmak olmadığıdır. AB, özellikle de günümüzdeki Türkiye – AB ilişkilerini yöneten ve yönlendiren Müzakere Çerçeve Belgesinin ilk taslağını hazırlayan Avrupa Komisyonu, müzakerelere yönelik daha katı ilkeler ve prosedürler öngörerek bir sonraki genişleme dalgasının üye ülkelerin çıkarlarını tehdit etmeyecek ve Birliğin fonksiyonelliğini bozmayacak şekilde yer almasını garantilemeye çalışmıştır. Genişlemenin "açık uçlu bir süreç" olarak tanımlanması ve Aralık 1993 yılında gerçekleşen Kopenhag Zirvesi'nin ortaya koyduğu üyelik kriterlerinin sessiz unsuru olarak değerlendirilen "AB'nin özümseme kapasitesine" özel dikkat çekilmesi Türkiye karşısında takınılan bu tutumun çarpıcı göstergeleri arasında yer almaktadır.

Kıbrıs sorununun Türkiye – AB ilişkileri üzerindeki etkisinin ne olduğunu da detaylı bir şekilde inceleyen tez, Güney Kıbrıs Rum Yönetimi'nin AB'ye tek taraflı üyeliğinden kaynaklanan hakları kullanarak müzakereler süreci üzerinde yaratmaya çalıştığı engellemelere eleştirisel bir yaklaşım getirmektedir.

ABSTRACT

The objective of this dissertation is to make a comparative analysis of the EU's enlargement policy towards Turkey and accordingly, to seek an answer to the main research question that is *“has the EU provided similar incentives for Turkey to conclude negotiations successfully as it has done for former candidate countries?”* With this respect, the past, present and future of Turkey – EU relations are analysed on the basis of the framework drawn by taken into consideration the key stages and critical decisions of the previous enlargement rounds, particularly the fifth enlargement of the EU.

Accumulation of all these analysis eventually establishes the ground to argue that though the EU has not provided exactly the same incentives for Turkey as it did for former candidate countries, the intention behind this was not to treat Turkey as different from the European mainstream nor to discriminate against her on the basis of normative criteria shaped by cultural and religious characteristics. Rather, the EU, mainly the European Commission as the initial drafter of the NFD that governs contemporary Turkey – EU relations, tried to ensure that the next round of enlargement would neither threaten the interests of member states, nor risk the functionality of the Union by setting tougher principles and procedures for the negotiations. Defining enlargement as an “open-ended process” and drawing particular attention to the “absorption capacity of the EU” that has until now been considered as the silent aspect of qualitative membership criteria introduced in the Copenhagen European Council of December 1993 represent a few striking illustrations of this approach in view of Turkey.

Impact of Cyprus problem on the Turkey – EU relations has also been elaborated in detail throughout this dissertation and a critical approach has been brought to the Greek Cypriot Administration in regard to the attempts to create impediments in the negotiations by using the rights granted with their unilateral membership.

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List of Abbreviations

AP	Accession Partnership
CAP	Common Agricultural Policy
CEEC	Central and Eastern European Countries
COREPER	Committee of Permanent Representatives
EA	Europe Agreements
ECJ	European Court of Justice
EEC	European Economic Community
EFTA	European Free Trade Area
EU	European Union
GAERC	General Affairs and External Relations Council
IPA	Instrument for Pre Accession
NATO	North Atlantic Treaty Organisation
NFD	Negotiating Framework Document
NPAA	National Programme for Adoption of Acquis
PFAA	Programme for Future Adoption of Acquis
PHARE	Poland and Hungary: Aid for Reconstruction of Economies
TCA	Trade and Cooperation Agreement
TCCC	Turkish Cypriot Chamber of Commerce
TRNC	Turkish Republic of Northern Cyprus
UN	United Nations
UNFICYP	United Nations Peace Keeping Force in Cyprus

INTRODUCTION

In the contemporary studies of international relations, the European Union¹ (hereafter, EU), the newly emerging polity, has become one of the most interesting and at the same time challenging research topics for many scholars. The European integration process, which started as a result of converging economic interests of six founding European countries², gained further momentum in 1970s with its first round of enlargement. In half a century, after passing through four more rounds, it turned into a political Union of 27 member states that is determined to play a pivotal role in shaping politics not only within the borders of Europe, but also over the world as a powerful global actor.

From the very beginnings of the integration, Turkey has shown a keen interest and indeed, has considered being part of this process as a logical consequence of her modernisation policies. It is mainly this rationale that drove the then Turkish leadership to apply for associate membership in 1959 and go on to sign the Ankara Agreement in 1963 establishing an association relationship between the EEC and Turkey, as well as envisaging the accession of Turkey once parties fulfil their mutual obligations arising from the Agreement.³ On 17 December 2004, after waiting for four decades, Turkey was eventually invited to begin the talks over the course of 2005 that would probably lead to its full membership to the EU.

¹ According to its historical relevance EU / EEC and EC is used interchangeably throughout the whole dissertation.

² The six founding countries of the EU were namely France, Germany, Italy, Belgium, Netherlands and Luxembourg.

³ See Ankara Agreement Article 28, signed in 12 September 1963

It is said “probable accession” since the December 2004 Presidency Conclusions states explicitly in paragraph 23 that the negotiations between Turkey and the EU would be an open-ended process and in case the candidate state fails to assume fully the membership obligations prior to the accession, the EU would rather anchor Turkey to its structures with the strongest possible bonds.⁴

The need to clearly mention that accession negotiations would be open-ended differs from the method and the stated aims of the previous rounds of enlargements. Seemingly, in the case of Turkey, the European Council upon the recommendation of the European Commission needed to harden the accession criteria. One could, in this respect, link the EU’s adopted stance to Turkey’s perception as the “other” from the European mainstream.⁵ However, reaching such a strict judgement definitely requires a more in-depth analysis and particularly, a comparison with the approaches that dominated the previous enlargement rounds.

As is reflected in the title, the objective of this dissertation is therefore making a comparative analysis of the EU’s enlargement policy towards Turkey and accordingly, seeking an answer to the main research question that is *“has the EU provided similar incentives for Turkey to conclude negotiations successfully as it has done for former candidate countries?”* Undoubtedly, there are also many hidden questions to be answered during the attempt to judge the EU’s approach in view of Turkey. For example, what sorts of incentives had the EU used in other enlargement rounds? Can it be possible to make a generalization out of them and then, situate this generalisation into a theoretical explanation?

⁴ European Council (2004) “Presidency Conclusions”, Brussels, 16 – 17 December

⁵ Neill Nugent (2005) “Turkey’s Membership Application: Implications for the EU”, Jean Monnet / Robert Schuman Paper Series, Vol:5, No:26, p.1

Besides, in a more focused context to Turkey – EU relations, the historical developments that have prepared the ground for the contemporary legal and political framework in which the relations do prevail has to be figured out from a wider perspective, in other words, in consideration to the other policies surrounding the EU.

To this end, throughout this dissertation, an observation-case study method will be followed by focusing both the secondary and primary resources ranging from the most up-to-date EU documents to news. The key stages of the EU's past enlargement rounds will primarily be observed in order to induct a framework that could be applicable to all. With an aim of increasing its explanatory power, this framework will then be reviewed from a theoretical view point.

Considering that such a theoretical review will allow to better interpret the prevailing dynamics of the EU's enlargement and establish a ground for making comparative analysis, the coming Chapters will be structured as the application of the drawn framework to a case study on Turkey – EU relations. Overall, this study will mainly be composed of four comprehensive Chapters, which are decomposed into sections and sub-sections and the contents can be briefly summarised as follows.

Chapter I on Theoretical Approaches to the Main Dynamics of EU's Enlargement Policy will be devoted to the establishment of evaluation criteria from a theoretical perspective. First the key characteristics of the past enlargements will be revealed and particularly, the fifth enlargement that is not only the most recent but also the most advanced in terms of the guidance provided for applicants. In the light of these key characteristics, Section 1.1 will demonstrate that the EU's enlargement experiences have eventually paved the

way to the management of the process within a structured policy-framework bearing well-defined objectives, tasks and roles.

Section 1.2 will aim at providing a conceptual explanation to the structured policy-framework. Based on Hellen Wallace and Ulrich Sedelmeier's conceptualisation of enlargement as a "composite policy comprising of macro policy and many sectoral meso policies and in which distinctive group of policy-makers have primary policy responsibility for specific parts"⁶, this section, also in the light of the observations of the previous section, will rephrase the definition given for "macro policy" as representing various independent and intervening variables that launch the enlargement process; and for "meso policies" as representing the dependent variables, mainly the *acquis* based sectoral reforms assumed by candidate countries.

Following the rephrased definition, Section 1.2 will discuss, in general terms, the relationship between "macro and meso policies" as mutual reinforcements that have to progress in a synchronised way so that the realisation of enlargement takes place. Besides, through pointing out the importance of a mediator in the accommodation of mutual preferences of the EU member states and applicant countries, it will argue that the European Commission as an actor represented at both levels of the "composite policy" shall assume this role required particularly for the sustainability of enlargement policy.

During the analysis in Section 1.3, the conceptual explanation of composite policy will be situated into the theoretical explanations of rational choice institutionalism and

⁶ Ulrich Sedelmeier and Helen Wallace (1996) "Policies Towards Central and Eastern Europe" in H. Wallace and Wallace (eds.) Policy-Making in the European Union, Oxford University Press, p.367

constructivist institutionalism. Put it in a different way, an attempt will take place to better justify driving dynamics of macro policy as well as the mediating factors between macro and meso levels through visiting rational choice institutionalist and constructivist institutionalist hypotheses as regards the questions of why does the EU enlarge and how do institutions matter in the decisions to enlarge.

The hypotheses deducted for both questions will then be subject to a two-dimensional empirical analysis. During the first-dimension, the general hypotheses of rational choice institutionalists and constructivist institutionalists for macro dimension of the enlargement will be analysed in the light of the Torreblanca's theoretical model that is established on four independent variables of enlargement process, namely, "decision to enlarge, accession criteria, timing, and allocation of costs"⁷. During the second-dimension, the roles of two Community institutions that exercise Treaty-given power in the enlargement process, namely, the European Commission and the European Parliament will be explored.

As regards this empirical analysis, Chapter I will eventually argue in line with the rational choice institutionalist contentions that enlargement preferences of both member states and applicant countries are shaped on the basis of cost-benefit calculations. In other words, unless marginal benefits of integration exceed clearly the marginal costs of an alternative form of relationship / or an exclusion of an applicant country, it is much more difficult that enlargement takes place.⁸ Furthermore, the European Commission, as a key intervening variable due to its main asset to access policy-makers at both levels of the "composite policy"

⁷ Jose I. Torreblanca (2002) "Accommodating Interests and Principles in the European Union: The Case of Eastern Enlargement" in Helen Sjursen (ed.) "Enlargement and the Finality of the EU", *Arena Report*, No:7/02, p.10

⁸ Frank Schimmelfennig and Ulrich Sedelmeier (2005) "The Politics of EU Enlargement: Theoretical and Comparative Perspectives" in Frank Schimmelfennig and Ulrich Sedelmeier (eds) *The Politics of European Union Enlargement*, London: Routledge Publications, p.12

as well as the information, has a crucial role in formulating and devising the most appropriate strategies that would ensure marginal benefits out of enlargement both for incumbents and new comers.

Having said at the outset that Chapter I will constitute the evaluation criteria in mainly defining the rationale behind the incentives of EU used for the realisation of enlargement, the subsequent Chapters will represent a trial in the direction of assessing the applicability of this criteria in the case of Turkey – EU relations.

To begin with the Chapter II entitled Historical Analysis of the Implication of EU Enlargement Policy on Turkey – EU Relations, the logical flow of analyses will be structured with a view to making an introduction to the factors behind the fluctuations encountered in the recent history of Turkey – EU relations, which is believed to provide useful insights in interpreting motivations for both parties in their actions against the contemporary developments.

Equally, in order to ensure consistency with the empirical analysis conducted on the basis of Torreblanca's theoretical model towards the end of Chapter I, the developments that paved the way to the EU's "decision to enlarge" will be critically evaluated during this Chapter from rational choice institutionalist point of view.

In brief, whilst Section 2.1 will aim at highlighting the key events throughout the period that has witnessed Turkey's gradual transformation from associate to candidate status with the historical Helsinki decision in December 1999, Section 2.2 will explore the rational choice institutionalist explanation in view of the EU's "decision to enlarge" through focusing

developments taken place between December 1997 Luxembourg and December 1999 Helsinki from a wider perspective.

It is worth underlining also here that Chapter II will assess the obstacles created due to Greece's early inclusion to the EC and particularly, how it utilised from full-membership status in order to trade off between the removal of its veto power at the key turning points of Turkey – EU relations and the accession of a divided Cyprus⁹, which still today represents one of the major stumbling blocks in front of Turkey's membership bid as is discussed in detail in the last Chapter.

As regards the information gathered in going through a historical analysis of Turkey – EU relations, Chapter III entitled Analysis of the Incentives of EU Enlargement Policy in Contemporary Turkey – EU Relations will be seeking directly an answer for the main research question. In order to answer the question of whether the EU has provided similar incentives for Turkey to conclude negotiations successfully, the other three independent variables in the Torreblanca's theoretical model, "the accession criteria, timing and allocation of costs" will be comparatively analysed on the basis of the Negotiating Framework Document (hereafter NFD) provided for Turkey on 3 October 2005 and also in the light of the rational choice institutionalist explanation for Turkey's, member states' and EU's preferences in view of enlargement policy.

To this end, Chapter III will be decomposed into three sections. Considering that the Helsinki Decision represents the formal operationalisation of enlargement policy in Turkey –

⁹ Throughout this dissertation Cyprus or "Republic of Cyprus" in inverted comma represents the wholly Greek Cypriot owned structure of the 1960s bi-communal Republic, which is unrecognized by Turkey and Turkish Republic of Northern Cyprus.

EU relations, Section 3.1 will focus on the post-Helsinki period during which Turkey was fully involved in the EU's pre-accession strategy created for the Central and Eastern European Countries (hereafter CEECs). While comprehensively assessing the meso level reform objectives materialised in this period together with the assumed role of the European Commission, it will be aimed at demonstrating how the process of change can be smoother and more successful when mutual preferences of candidate countries and member states are effectively accommodated within the macro-policy.

Section 3.2 will then examine the 17 December 2004 Decision and the Negotiating Framework, which were both endorsed by the Council upon the Commission's proposal and supposedly represent the EU's accession strategy for Turkey. During this examination an attempt will take place in order to determine differentiations newly added as regards principles, substance and procedures of negotiations and their expected repercussions in Turkey's overall progress. The most striking points in Turkey's NFD are purely on technical grounds matched with the "General Negotiating Framework" provided for the CEECs as well as the NFD for Croatia.

Finally, Section 3.3 will provide rational choice institutionalist explanation in justifying what urged the European Commission to harden the accession criteria and also impose advanced derogations, such as restrictions on free movement of persons. As regards Turkey's, member states', and EU's respective preferences that shaped on the basis of the cost-benefit calculation, it will be argued that the European Commission well-anticipated the concerns of member states and effectively reflected them in the NFD through suggesting alternative ways of achieving the goals, which in Turkey's case is the sustainability of the relations without undertaking any irreversible commitment for accession. Equally, Turkey has

been, on its part, assured that the open-ended nature of enlargement will depend on the pace and content of the reforms to undertaken in the coming years.

However, what needs particular attention is the inclusion of Cyprus as a new political criterion in Paragraph 6 of the NFD that in fact represent the accession conditions to be fulfilled by Turkey. Such an injection not only contradicts with the main nature of negotiations – literally defined as the process of establishing mutual agreement between parties on how to harmonise legal and administrative structures with the requirements of the *acquis communautaire* so as to assume obligations of membership - , but also creates the perception that Turkey is being subject to the unjust treatment by the EU. Stated it in a different way, an unprecedented conditionality clause that touches the candidate country's red lines today represents the major stumbling block in Turkey – EU relations, which macro and meso levels fail to urge each other to reinforce change. That is why it is deemed an integral part of the analysis to be carried out during this dissertation to also have a closer look at the implications of the Greek Cypriots' unilateral accession to the EU in the absence of a comprehensive settlement.

Chapter IV focusing on Impact of the Cyprus Problem on EU Enlargement Policy towards Turkey will therefore aim at considering what could be the rational choice institutionalist calculations both for the EU and Turkey in reaching the current stalemate in the negotiations. In this direction, the analysis will proceed with three sections, the first two shedding light on the last one. With a view to better understanding the impasse Cyprus causes, Section 4.1 will first make an attempt to explain the roots of the Cyprus conflict and the EU's becoming a secondary party to this conflict from a retrospective approach. During Section 4.2, the EU's promises given to put an end to the Turkish Cypriots' isolation will be explored

in a critical way and it will be mainly questioned whether the benefits to be generated by the materialisation of these promises would be enough to justify the costs to be caused by Turkey's normalisation of its relations with Cyprus in the absence of a comprehensive settlement.

Finally, in the light of the highlighting points of the first two Sections, Section 4.3 will attempt to figure out what would be the rational choice institutionalist explanation for impact of the Cyprus Problem on EU Enlargement Policy towards Turkey. It will therefore mainly discuss that in the absence of the EU's clear commitment for Turkey's prospective membership, it is not rational for Turkey to give any unilateral concession on Cyprus that would in turn distort the established parameters on the island. On the other hand, the European Commission should use all instrumental channels in order to make member states understand that if Turkey suspends political dialogue once again due to the EU's unjust approach on Cyprus, the marginal costs of this suspension will far exceed the marginal benefits of allowing Turkey to go on with its EU bid.

CHAPTER I: THEORETICAL APPROACHES TO THE MAIN DYNAMICS OF THE EU'S ENLARGEMENT

Enlargement has always been part of the EU's "historic mission".¹⁰ During half a century, deepening and widening have been pursued in a parallel way and as a consequence, "today's EU with 27 member states and a population close to 500 million people is much safer, more prosperous, stronger and more influential than the European Economic Community of 50 years ago, with its 6 members and population less than 200 million".¹¹

It is thus come up with no surprise that the political importance of enlargement has added a whole new branch to studies of European integration process. Particularly, the challenges posed by the Eastern enlargement to the EU's identity, economy, institutions has opened up a very interesting "theoretical and empirical debate, in which at the theoretical level, the discussions have focused on whether EU enlargement policies conform either to rationalist or constructivist theories of institutions; and in which at the empirical level, the debate has been concentrated on the issues such as the decisions to enlarge (when, how and why it was taken), the selection of candidates (which criteria were used and how they are agreed upon), the timing for opening accession negotiations with the candidate countries (whether it preceded or followed policy, budgetary and institutional reforms) and last but not least, on the costs of enlargement (be of an economic, security or institutional nature)".¹²

¹⁰ Christopher Preston (1997) Enlargement and Integration in the European Union, London Routledge Publications, p.3

¹¹ "Foreword Note by Olli Rehn" in European Commission (2007) Understanding Enlargement: The European Union's Enlargement Policy, EC Publications, p.3

¹² Jose I. Torreblanca (2002), *op cit*, p.8

To put it in a slightly simplified way, the Eastern enlargement with its sheer size of non-ordinary applicants have provoked many leading scholars of European Integration, such as Christopher Preston, Neill Nugent, Jose I. Torreblanca, Frank Schimmelfening, Ulrich Sedelmeier and Helene Sjursen to conduct intensive research on both empirical and theoretical aspects of enlargement and seek answers to the questions of “why does the European Union enlarge, why does it make certain prioritization amongst applicant and how much diversity can the EU accommodate before it ceases to be a durable community”.¹³ Though the answers given by each of them varies in its scope and argumentation, they help drawing insights for inductive case studies and sketching a comparative framework for generalizable deductive research.

Given that the overall objective of this dissertation is to *provide a comparative analysis of EU's enlargement policy towards Turkey*, it is deemed important to make a review of this recently developed literature during this chapter and to sketch a conceptual and theoretical framework for the main dynamics of EU enlargement, which is then believed to shed light on the analysis and findings in seeking an answer to the main research question that is *whether the EU has provided the similar incentives for Turkey to conclude accession negotiations successfully, as it has done for former candidate countries*. Therefore, this Chapter will follow a three-fold approach in establishing evaluation criteria and with respect of the logical flow defined by John Groom in his below-cited words:

Different projections show us different worlds so that we may find what we are looking for in the sense that we impose meaning on “facts” rather than their speaking for themselves. There is a sense in which one can be pragmatic, but behind every pragmatic approach lays a theory of conceptualization. All social activity requires a

¹³ For further information see *Ibid*, Neill Nugent (2004) “European Union Enlargement”, Helene Sjursen (2002) “Why Expand? The Question of Legitimacy and Justification in the EU’s Enlargement Policy”, and Frank Schimmelfennig and Ulrich Sedelmeier (2002) “Theorizing EU Enlargement: research, focus, hypotheses and the state of research”

choice and that choice can not be exercised without some criteria for judgement – in short a framework, a conception and a theory¹⁴.

The first-fold analysis will examine past enlargement rounds and make an attempt to determine a framework that translates to what the objectives and challenges of enlargement are as well as how the distribution of tasks and responsibilities within the EC/EU take place during an enlargement round or in managing the overall enlargement process (Section 1.1). In doing this all the enlargement rounds, particularly the fifth enlargement, which is not only the most recent but at the same time the most advanced among the others, will be explored extensively. This journey back to the enlargement history also helps in revealing common and distinctive features of all successive enlargement rounds and in that respect, there will be a reference to Neill Nugent's well-structured findings, which define distinctiveness of enlargement rounds with "the number of applicants, the characteristics of applicants, the EU's level of development /depth of integration, the number and nature of policy issues creating difficulties and the length of accession process".¹⁵

Nugent also categorizes common features of enlargement under six headings: "motivations of applicants, motivations for existing members, managing applications, an elite-driven process, the impact on widening and deepening and their impact on the EU".¹⁶ All these features will be opened up in the coming analysis yet; different from the existing literature that the fifth enlargement round paved the way to the realization and management of enlargement process within the context of a structured policy domain due to the ever bigger challenges confronting the Union.

¹⁴ A.J.R. Groom (1990) "The Setting in World Society", quoted by Dimitris N. Chrysochoou (2001) Theorizing European Integration, London SAGE publications, p.32

¹⁵ Neill Nugent (2004) "Distinctive and Recurring Features of Enlargement Rounds" in Neil Nugent (ed) European Union Enlargement, Palgrave Macmillan Publications, pp.56 – 58.

¹⁶ *Ibid*, pp.59 - 68

To put it in a different way, during the first-fold of analysis and particularly, as regards the highlighted stages of eastern enlargement, it is aimed at demonstrating how the EU Heads of states and governments have recognised the need not only for redefining enlargement itself as a broad policy domain, but also the crucial role that the Commission must assume to ensure the efficient delivery of policy by using and inventing necessary instruments such as, accession partnerships, national programmes, regular reports...etc.

However, the realization of enlargement within a broad policy framework with attributed tasks and responsibilities to the related bodies at the EU level represents only one dimension of the process. Regardless of the “asymmetrical bargaining power”¹⁷, enlargement takes place as a result of the interaction between two parties. Candidate countries preferences and the accommodation of those preferences bear importance for the successful completion of the process.

During the second-fold of analysis, this perception inevitably leads to the conceptual explanation of the EU’s policy towards the CEECs by Ulrich Sedelmeier and Helen Wallace that is phrased as “a composite policy consisting of a macro policy and many sectoral meso policies and in which distinctive groups of policy makers have primary policy responsibility for specific parts of the overall policy”¹⁸ (Section 1.2.). Sedelmeier and Wallace have later taken their analysis from the EU’s policy towards the CEECs to a wider enlargement context and define the macro and meso dimensions of enlargement respectively as follows: “the broader dynamics that underpin the EU’s enlargement policy specifically the EU’s decision to

¹⁷ Frank Schimmelfennig and Ulrich Sedelmeier (2004) “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe”, Journal of European Public Policy, Vol:11, No:4, p.665

¹⁸ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.367

enlarge”; and “substantive policy outcomes in distinctive sectoral policy areas that are part of enlargement”.¹⁹

Besides, having acknowledged that the developed conceptual explanation still lacks the identification of factors that mediate between the broader dynamics of enlargement and specific sectoral outcomes, Sedelmeier, in his individual study, attempts to make an induction from the CEEC’s case and argues that the effective mediation and the accommodation of mutual preferences between these levels of the composite policy depends largely on the policy-makers’ ability to form “winning alliances”.²⁰

On the basis of Sedelmeier and Wallace’s contributions to the enlargement literature, there will be an attempt to explain the conceptualization of enlargement in more concrete words. In other words, bringing the policy framework and conceptual explanation together, “macro policy” will be further concretised as representing various independent and intervening variables that launch the enlargement process; whilst “meso policies” as representing the dependent variables. Since, it is assumed that, the “substantive policy outcomes at meso level” are mainly the *acquis* based sectoral reforms assumed by candidate countries at the expense of certain costs and on the basis of the European Commission’s policy monitoring instruments.

Needless to say, to what extent applicants succeed in these reforms is, at the end of the day, a crucial indicator for whether or not enlargement would be concluded with eventual membership. These findings then prepares ground to argue that clear and persistent

¹⁹ Ulrich Sedelmeier and Helen Wallace (2000) “Eastern Enlargement: Strategy or Secondary Thoughts”, in H. Wallace and W. Wallace (eds) Policy – Making in the European Union, Second Edition: Oxford University Pres, p.456

²⁰ Ulrich Sedelmeier (2002) *op cit*, pp. 627-628

perspective at “macro policy” level – which will be referred during theoretical analysis as the independent variable - is sine qua non to facilitate smooth and effective progress at “meso policies”. Besides, the Commission, as a body responsible for the delivery of enlargement policy as well as an actor represented at both levels, should mediate effectively with a view to ensuring not only the accommodation of mutual preferences of the EU member states and applicant countries, but also the continuity and sustainability of the policy.

This argument, in essence, grounds from the role played by the European Commission during the fifth enlargement. Though this is deeply analysed below, it is worth noting briefly here that the Commission played a key guiding role in ensuring that an agreement was reached that was acceptable to both the EU governments and candidate countries. Otherwise, as Derek Beach puts forth explicitly, “based upon often miserly offers tabled by governments, we can easily imagine that in the absence of the Commission, the final offer to the candidates might have been unacceptable to the candidates”.²¹

The third-fold analysis will lastly focus on drawing a theoretical pathway in order to enrich this conceptual explanation of enlargement policy (Section 1.3). Having regard to the recently developed literature, the theoretical analyses will start through a discourse between two competing IR theories, namely, *rational choice institutionalism vs. constructivist institutionalism*.

After briefly outlining the main findings rooted from the two institutionalist approaches and particularly, their distinctiveness in perceiving the enlargement process, there will be an attempt to demonstrate which of them is more useful in providing clear justification

²¹ Derek Beach (2005) The Dynamics of European Integration: Why and When EU Institutions Matter, Palgrave Macmillian Publications, p.244

for the composite nature of enlargement policy. To this end, in revealing their findings and perceptions in view of the enlargement process two main aspects – one is their well-known explanations to the question of why does the EU enlarge and the other is how do institutions matter in the decision to enlarge- will be focused. While their explanations to the question of why does the EU enlarge will provide us with driving dynamics for the macro dimension of “composite policy”, the answer to the second question, in other words, how do they see the preferences and role of institutions will reinforce the understanding on the mediating factors between macro and meso levels.

These explanations will then be linked to some empirical observations on the undertaken positions and the assumed roles of European institutions during the final enlargement round. At this point, the period between the Luxembourg European Council in December 1997 and the Copenhagen European Council in December 2002 will be focused mainly, as these two critical dates respectively represent the official launch and official completion of the accession negotiations with the CEECs plus Cyprus and Malta.

In more general terms, this Chapter will argue that a careful explanation of enlargement policy, which is in composite nature, proves correct the rational institutionalists’ assumptions rather than the constructivists. In the words of Sedelmeier and Schimmelfennig, “the member states favour the integration of an outsider state – [and vice versa] – under the conditions that they will reap positive net benefits from enlargement ... and that these benefits exceed the benefits they would secure from alternative form of relationship”.²² Furthermore, the Community institutions, particularly the European Commission as a key intervening variable due to its ability to access policy-makers at both levels of the “composite policy”,

²² Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.12

has a role in formulating and devising appropriate strategies that would ensure positive net benefits out of enlargement both for member states and new comers.

1.1. EU's Past Enlargement Rounds

The EU, as it stands today, is a remarkable and unique achievement. It mainly represents the successful outcome of a challenging attempt to set aside differences among nation-states and build bridges of cooperation even through transferring some of their power to a new level, which indeed require much courage and vision since, “the countries that had fought each other for centuries agreed to decide together on essential questions for their future”.²³ The first step was the creation of European Coal and Steel Community in 1951. From that time until now, there have been significant achievements during the transformation of the Community into the Union, which have altered basically the main goals of integration – *finalite politique*²⁴.

The deepening of European integration has always gone hand in hand with the widening of EU membership. Each successive enlargement has pushed for deepening of the integration process and equally, the dynamic nature of integration and the ability to successfully accommodate new member-states has made the EU a more attractive place for other nation-states / candidates of future enlargement. Integrating new members has been, however, part of the plan from the very outset. The founding fathers were confident enough of their ideas to leave the door open for other European countries to join²⁵, which has been then

²³ European Commission (2007), *op cit*, p.5

²⁴ Christopher Preston (1997), *op cit*, p.29

²⁵ *Ibid*, p.6

reflected in Article 237 of the Treaty of Rome with the words of: “Any European State may apply to become a Member of the Community”²⁶.

The EU, up until now, handled effectively five rounds of enlargement. It was originally founded in 1957 with six members: Belgium, France, Germany, Italy, Luxembourg and the Netherlands. In the first round of enlargement, the UK, Ireland and Denmark became member states. Greece joined in 1981, and Spain and Portugal followed in 1986. The fourth round, which is also widely-known as European Free Trade Area (hereafter EFTA) enlargement, took place in 1995 and Austria, Finland and Sweden joined. In the EU’s biggest ever enlargement, namely the fifth enlargement, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia became member states in 2004 while Bulgaria and Romania followed them with three years delay in 2007.

Considering that the EU managed to build further on its own experiences at each time of widening, the main objective here is to seek the possibility of drawing a comparative framework that could be applicable to all enlargement rounds. In other words, it will be identified whether there is a resemblance or even a common ground among the past enlargement rounds in terms of objectives, challenges and management of the process. To this end, there will be a brief assessment of what their main characteristics are, with particular emphasis on the fifth enlargement.

Then, also with respect to Neill Nugent’s findings, an attempt will be made to demonstrate that prior to giving the green light for the fifth enlargement that was unique both in terms of the number of candidate countries and their level of economic development, the

²⁶ Treaty of Rome, Article 237, signed on 25 March 1957

EU redefined the enlargement process within the context of a well-structured policy and particularly, created necessary Community instruments in order to ensure that the policy would be materialized.

1.1.1. First Enlargement: The UK, Ireland and Denmark

The UK had first sought membership of the EC shortly after it began functioning in 1958. On 31 July 1961, the British Prime Minister announced their intention to this direction and revealed their commitment through a White Paper that the objective laid down in Article 2 and 3 of the Treaty of Rome, including the elimination of internal tariffs, a common customs tariff, a common commercial policy, and common agricultural policy was accepted without qualification.²⁷ The first enlargement of the Community, could, in fact, have occurred much earlier than it did if President de Gaulle of France had not opposed the UK applications both in 1961 and 1967.²⁸

The British and indeed, other five EC member states were completely surprised when de Gaulle expressed his doubts publicly about Britain's ability to make the necessary adaptations necessitated by EEC membership at a press conference in Paris on 14 January 1963.²⁹ In the press conference, he stated:

England in effect is insular, she is maritime. She is linked through her exchanges, her markets, her supply lines to the most diverse and, often the most distant countries. She pursues essentially industrial and commercial activities, and only slight agricultural ones. She has in all her doings very marked and very original habits and traditions. In short, the nature, the structure, the very situation that are England's differ from most of the continentals.³⁰

²⁷ Christopher Preston (1997), *op cit*, p.27

²⁸ Neill Nugent (2004) "Previous Enlargement Rounds" in Neill Nugent (ed), *op cit*, p.23

²⁹ Christopher Preston (1997), *op cit*, p.29

³⁰ The speech is quoted in full in *Ibid*, p.29

However, de Gaulle's opposition to the UK applications had been grounded from several other reasons which were hidden behind the ones he stated publicly. To be more precise, he feared that the UK would rival his desire to place France at the centre of the European stage; he believed UK membership would unsettle the developing Franco-German alliance; he thought that the UK would try to change some aspects of the Community that were of particular benefit to France, notably the emerging Common Agricultural Policy; and he was suspicious of the UK's close links with the United States, the Atlantic Alliance, that would likely pave the way for American penetration and domination of Europe.³¹ So the UK was barred from Community membership until de Gaulle was replaced as French President by Georges Pompidou in 1969, who believed that enlargement could strengthen the EC and the UK might serve as a useful counterweight to the increasingly strong and self-confident Germany.³²

Although Denmark and Ireland were initially not interested in joining the Communities, their special economic and historical links with the UK also resulted in both of them trying to join the EC as a result of the UK's attempts to gain membership³³, so they both applied and withdrew their applications on two occasions in the 1960s and then submitted once again in 1969. Like Denmark and Ireland, Norway followed the UK twice seeking EC membership in the 1960s and then again in the early 1970s.

In view of Britain's and the other three countries' applications, the European Commission was requested to prepare an opinion. The opinion that was published in October 1969, in fact the updated version of its preliminary opinion prepared in October 1967,

³¹ Neill Nugent (2004), *op cit*, p.23

³² *Ibid*, pp.23-24

³³ See both *Ibid*, p.25 and Christopher Preston (1997), *op cit*, p.37

recommended that the negotiations with all four applicants should be opened immediately as well as stating explicitly that successful enlargement requires full acceptance of the *acquis*.³⁴ Thus, in the Hague Summit of December 1969, the Head of States and Governments agreed with the Commission's recommendation and officially launched the accession negotiations on 30 June 1970, which following a remarkably rapid process were completed less than 18 months later.

However, although the Norwegian government completed negotiations simultaneous to its counterparts, the final agreement was then rejected by the Norwegian people in the referendum (by a narrow margin 47% in favour and 53% against³⁵) due to the dominantly raised suspicions about the implications for Norwegian agriculture, fishing and national sovereignty³⁶. As a result, only the UK and the other three applicants succeeded to join the EC on 1 January 1973.

In brief, it is fair to argue that the first enlargement round served to set out an initial framework for future rounds, mainly with its emphasis on the full acceptance of *acquis*, the role assumed by the Commission in launching the process and how a member state preference could be decisive as regards the evolvement of relations. Besides, de Gaulle's opposition to the UK not only highlighted the depth of adjustments expected from new comers, but also drew attention for the first time to the risk of dilution of the EC's achievement posed by enlargement, which has since become a concern that increasingly marked almost all enlargement rounds.

³⁴ European Commission (1969) "Opinion Submitted to the Council Concerning the Applications for Membership from the UK, Ireland, Denmark and Norway" EC Bulletin Supplement No: 10/69

³⁵ Anna Michalski and Helen Wallace (1992) The European Community: The Challenge of Enlargement, Royal Institute of International Affairs Publications, pp.93 - 94

³⁶ Neill Nugent (2004), *op cit*, p25

However, the Norwegian experience also made clear that accession is not always inevitable and may depend on a very fragile domestic consensus, thus not only member states' but also applicant's preferences matter in the realisation of enlargement regardless of the asymmetry between the two sides. Or put it in the words of Preston, "the reality of mutual expectations was much clearer" at the completion of the first round.³⁷

1.1.2. Second Enlargement: Greece

In June 1959, Greece applied to the Community for an Association Agreement under Article 238 of the Treaty of Rome. From Greece's perspective, the application was a choice in favour of the EC over the EFTA model of economic integration mainly due to the reason that the EC covered agriculture, the critical sector in Greece's economic structure, while the Community's motivation was essentially political: as a member of NATO, Greece was vital to the development of Mediterranean security policy which also needed to encompass Turkey.³⁸

The Association Agreement, namely the Athens Agreement, which clearly saw membership as an eventual goal though with no specific timetable laid out, was signed in July 1961. However, the implementation of the Agreement, which like the Community's ordinary association agreements with third parties was envisaging progressive trade liberalization in industrial goods, some limited concessions for agricultural exports to the Community as well as a financial protocol³⁹, was suspended following the military coup in Greece in April 1967.

It took nearly seven years for Greece to restore a democratic regime and re-establish the civilian government accordingly. The military dictatorship collapsed only after Turkey's

³⁷ Christopher Preston (1997), *op cit*, p.45

³⁸ *Ibid*, p.47

³⁹ Stuart Croft et al. (1999) The Enlargement of Europe, Manchester University Press, p.165

peace operation to Cyprus in July 1974 and the then military withdrawal of Greece from NATO. Immediately after the victory of the centre right New Democracy Party led by Karamanlis in the general elections held in November 1974, the new government made clear its wish to become a full-member of the Community and submitted a formal application in June 1975.

In view of Greece's formal application, the Council again asked the Commission to prepare an Opinion. The Commission's opinion, which was adopted by the College of Commissioners on 28 January 1976, essentially proposed a "pre-accession period of unlimited duration" during which economic reforms necessitated by membership could be implemented, and at the same time drew attention to three contentious issues in relation to the membership of Greece: the state of Greco-Turkish relations; the economic implications of accession stemming from the structural weaknesses of the Greek economy, in particular, the large size of its agricultural population and weak industrial development; and the impact of Greece membership on the decision-making and policy development of the EU that in fact correspond to the classical debate on widening vs. deepening.⁴⁰

However, on 9 February 1976, the member states rejected the Commission's opinion and declared with respect to the assurance given by the Greek government that Greece's accession as a full member would not adversely affect the Community's relations with Turkey.⁴¹ Though, at that time, none of the member states was really enthusiastic about Greek membership, larger political and security issues prevailing within the Cold War conjuncture ultimately tipped the balance in favour of immediate negotiations and in particular, even the

⁴⁰ European Commission (1976), "Opinion on a Greek Application for Membership", EC Bulletin Supplement, No:2/76

⁴¹ Siotis (1989) "Greece: Characteristics and Motives for Entry" quoted by Karen E. Smith (2003) "The Evolution and Application of EU Membership Conditionality" in Marise Cremona (ed) The Enlargement of the European Union, Oxford University Press, p.110

Community's "paymaster", Germany, strongly pushed in this direction as a result of the consideration that the geopolitical stabilisation issues in the Eastern Mediterranean overrode the more prosaic economic arguments for and against Greek membership.⁴²

The EC thus moved quickly to the negotiations stage on the basis of the orthodoxy statement that Greece had to accept in full the *acquis communautaire* and the transitional arrangements were acceptable only if they were not at the expense of the pace of integration. The negotiations, opened formally in July 1976 in Brussels and completed in May 1979, paved the way to Greece' full membership of the Community on 1 January 1981.

Finally, it is worth noting that although the second round of enlargement negotiations followed the framework initially drawn by the first round of enlargement, particularly in terms of the high emphasis put on full acceptance of the *acquis* and the attitude of incumbents, the rejection of the Commission's opinion and equally, the isolation of accession negotiations from a wider debate surrounding the EC were achieved at a cost. As Preston puts it, for Greece, it meant constantly downgrading their negotiation positions with a fear that a strong stand would risk entangling their negotiations with the Iberians and for the Community, it meant internalising Greece's structural economic problems before developing adequate policy instruments.⁴³

1.1.3. Third Enlargement: Spain and Portugal

Despite the fact that Spain and Portugal's first encounter with the EC took place at the beginning of the 1960's, the prospect of full membership became a reality only after the collapse of the dictator regimes in 1974/75. Their applications were officially made in 1977.

⁴² Christopher Preston (1997), *op cit*, pp.52 - 61

⁴³ *Ibid*, p.61

The Commission, as was the case for the previous enlargements, prepared its opinion for each individual applicant, identifying the issues for consideration during the accession negotiations as well as welcoming both countries' applications as an encouraging step in the direction of consolidating their newly established democracies⁴⁴.

The issues identified in the Commission's opinions confronted the EC with many open questions in sectoral areas such as, the large scale of agricultural activity in both countries, the size of the Spanish fishing fleet, fears of cheap Spanish and Portuguese labour moving north, the implications for Structural funds.⁴⁵ As with the Greek experience, during the negotiations – which officially started with Portugal on 17 October 1978 and with Spain on 5 February 1979 - larger political and security factors however helped to overcome these difficulties; the member states wished to encourage political stability in southern Europe; there was the opportunity to widen and strengthen the political and economic base of the Community; and, by helping to link southern Europe to the north, there were strategic advantages for both Western Europe and NATO⁴⁶.

The negotiations, thanks to the prevailing political concerns at that time, completed successfully, mainly as a result of the flexible approach adopted by the Commission vis-à-vis the transitional arrangement and the Iberian enlargement eventually realised on 1 January 1986. Yet, the key lesson for the EC out of this experience would be that the EC policy reform needs to be confronted before enlargement can proceed since, though the EC used the prospect of obtaining full membership to create leverage over the applicants in ensuring

⁴⁴ See European Commission (1978) "Opinion on Portugal's Application for Membership", EC Bulletin Supplement, No:5/78 and European Commission (1978) "Opinion on Spain's Application for Membership", EC Bulletin Supplement, No:9/78

⁴⁵ Neill Nugent (2004), *op cit*, p.28

⁴⁶ *Ibid*, p.29

painful reforms necessitated by the *acquis*, the whole process demonstrated systemic weaknesses on the EC side once the point of exhaustion had been reached: “the vulnerability of negotiations to sectoral lobbying was disproportionate to the wider geopolitical interests at stake”.⁴⁷

1.1.4 Fourth Enlargement: Austria, Finland and Sweden

The fourth enlargement of the Community which took place in January 1995 was also the first enlargement of the Union. At the beginning of the 1990s, two sets of factors stimulated the five EFTA countries (Austria, Finland, Sweden, Switzerland and Norway) to seek membership of the EU: First, for Austria, Sweden and Switzerland, the end of the Cold War reduced the importance of their traditional neutrality and for Finland, the difficulties posed by the country’s geographic isolation and special position with the Soviet Union disappeared⁴⁸; and second, due to the links established between the EFTA and the EC, they were already socially, economically and politically similar to the EC member states.⁴⁹

The main signatories of the Stockholm Convention establishing the EFTA in 1960, who showed a desire to pursue their own agenda of economic development separate from the EC, redefined their interests within time - particularly in view of the end of the Cold War as well as the constant deepening of the EC model of integration with a new prospect of the Single European Market - and after initially attempting between 1989 – 1993 to reconcile these two models through the European Economic Area (EEA), they eventually applied for full-membership.⁵⁰

⁴⁷ Christopher Preston (1997), *op cit*, p.86

⁴⁸ Neill Nugent (2004), *op cit*, p.30

⁴⁹ Anna Michalski and Helen Wallace (1992), *op cit*, p.12

⁵⁰ Austria, Sweden, Finland, Norway and Switzerland applied for EC’s full-membership respectively on the dates of 17 July 1989, 1 July 1991, 18 March 1992, 25 November 1992 and 26 May 1992.

Though those membership applications of a relatively homogenous group of small, wealthy, trading nations with long traditions of democracy were welcomed by the EC, mainly by German, British and Danish governments⁵¹ and though the EFTA enlargement was particularly seen as a watershed in the EC's development since it represented the resolution of the tension that existed for nearly forty years between the EC and EFTA models of economic development⁵², the accession negotiations did not proceed as smoothly as expected and many problems encountered with domestic political interests proved to be incompatible with EU membership, such as the fisheries issue in the case of Norway, alcohol monopolies and free trade agreements with the Baltic States in the case of Sweden and Finland, and regional policy in general.⁵³

In this respect, it would not be wrong to argue that it was mainly due to those sensitive domestic political interests that full-membership was rejected for the second time in the national referendum held in Norway while Iceland and Switzerland withdrew themselves from the very beginning long before engaging into accession talks.

Overall, the fourth enlargement negotiations were conducted more speedily and more effectively than the third Iberian enlargement and applicants successfully joined the EU in January 1995. The average duration of the EFTA accession negotiations was the shortest in the Community's history. This was essentially because each of the applicants was already well-adjusted to EU membership, being prosperous and hence not posing potential problems for the EU budget, having already incorporated much of the Community *acquis* into national law (nearly 60%) and also the compromises they asked for during the transitional period in

⁵¹ *Ibid*, p.13

⁵² Christopher Preston (1997), *op cit*, p.87

⁵³ *Ibid*, pp.103 – 109

the implementation of the rest of the *acquis*, unlike previous enlargement rounds, did not affect major existing EU interests but rather their domestic interests; and having a well-established democratic political systems.⁵⁴

1.1.5. Fifth Enlargement: The Central and Eastern European Countries plus Southern Applicants

The end of the Cold War also generated a radical reorientation of the EC's policy towards the CEECs neighbours in part because it was quickly agreed among the EC governments and the European Commission that the EC would be the most appropriate form for a response, and in part because politicians from the CEECs directed their expectations directly at the EC.⁵⁵

On the EC side, though there was reluctance among member states to commit themselves to eastward enlargement even in principle, or even beyond that as one of the senior level Commission official noted in mid-1990s that "the EU's level of seriousness about enlargement at that time was not minimal, it simply did not exist"⁵⁶, all member states saw interest in ensuring that the large region on their doorstep is stable, secure and prosperous. On the other hand, on the CEECs side there was great enthusiasm for joining an international organisation that would facilitate and consolidate their re-integration into the world economy as well as being a departure from the Soviet sphere of influence, and the EU and the NATO

⁵⁴ Neill Nugent (2004), *op cit*, p.31

⁵⁵ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.356

⁵⁶ Lionel Barber (16 November 1995) "Brussels Keeps Shut the Gates to the East" quoted by Walter Matli and Thomas Plümper (2002) "The Demand-side Politics of EU Enlargement: Democracy and the Application for EU Membership", Journal of European Public Policy, Vol:9, No:4 p.551

were seen as the most important institutions to serve to this direction, both because of the practical benefits of membership and also because of what they represent.⁵⁷

Considering that the main dynamic existed in the previous enlargement rounds, namely the political willingness of member states due to wider geopolitical interests, was absent in the case of CEECs, the European Commission had to work within certain constraints while devising and proposing an appropriate policy, which in fact required a significant degree of innovation, creativity and strategic policy-making.

1.1.5.1. From 1989 to 1993: Europe Agreements as New Pattern of Association

Relationship

The first move from the Commission was to develop bilateral Trade and Cooperation Agreements (hereafter TCAs) with the individual countries. Following a suggestion by the then US President, George Bush, at the G7 summit in July 1989, Jacques Delors also accepted on behalf of the European Commission the task of coordinating aid from G24 (the western industrialised countries) with which other international organisations and agencies such as, the Organization for Economic Cooperation and Development, Monetary Fund and the Paris Club were associated.⁵⁸ In a complementary nature, the Commission led by Jacques Delors, adopted an activist role and proposed an “action plan” intended as a “framework for action by the Community”.

The Action Plan included measures ranging from emergency humanitarian aid to the improvement of market access, and from macroeconomic assistance to the setting up of the Community’s own programme for financial and technical assistance, namely Poland Hungary

⁵⁷ Heather Grabbe and Kirsty Hughes (1998) Enlarging the EU Eastwards, Chatham House Papers, p.4 and p.29

⁵⁸ Christopher Preston (1997), *op cit*, p.197

Aid for Reconstruction of Economies (hereafter PHARE programme). The materialisation of the Commission's proposed "action plan", particularly the PHARE programme, turned the Commission's role into the role of patron vis-à-vis the CEECs and opened channels to impose demanding conditions on its clients.⁵⁹

Still, the reflections of the Commission's immediate actions in view of changing conditions in Central and Eastern Europe were rather a mixture of caution and ambition, and were quite limited in delivering the aimed objectives. The piecemeal and barely adequate nature of TCAs for the scale of the economic and political issues confronting the CEECs, to a great extent, served those critical reflections.⁶⁰

The need for a longer-term strategic policy was first acknowledged in the Strasbourg European Council Summit in December 1989, at which the EU leaders agreed "to create a new type of association agreement as a part of the new pattern of relationship in Europe".⁶¹ The newly agreed perspective urged the Commission to move quickly to design the content and the scope of the new pattern of association relationship to be engaged with the CEECs and in August 1990. It proposed to the Council that "second generation" association agreements, which would pursue the objective of phased economic and political integration of Eastern Europe, should be first negotiated with Czechoslovakia, Hungary and Poland, and eventually with other countries.⁶²

⁵⁹ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.356

⁶⁰ J. Rollo (1992) "Association Agreements between the EC and CSFR, Hungary and Poland" quoted by Christoher Preston (1997), *op cit*, p197

⁶¹ European Council (1989) "Presidency Conclusions", Strasbourg, 8 – 9 December

⁶² European Commission (1990) "Association Agreements with the Countries of Central and Eastern Europe: A General Outline", Commission Communication to the Council, (COM/90/398), Brussels

The “second generation” of association agreements negotiated and completed by the beginnings of the 1990s, namely the Europe Agreements (hereafter the EAs) extended beyond the scope of traditional association agreements in making provisions for political and cultural dialogue, and co-operation. Although the EAs represented an upgrade in relations with the CEECs, they again felt short of expectations, “in terms of their content, the manner of their negotiation and in aspects of their implementation”.⁶³ “In terms of content”, there were two issues creating discomfort on the side of CEECS:

- First, many of the key provisions of the agreements were protectionist and the limitations imposed on “sensitive” agricultural products, steel, coal and textiles were precisely those in which the CEECs had comparative advantage and on which, international trade theory suggests export-led growth should be based;⁶⁴
- Second, the agreements’ preamble only made reference to the wish of the candidate countries to become members in the future, but not the EC’s acceptance of this goal as a shared objective. In its original wording, the EAs’ preamble says that “the EU recognised eventual membership as the associates’ final objective, and that this association in view of the parties will help to achieve this objective”, however, as Torreblanca contends, “this was all the more strange if one takes into account that the EC membership clause had been a standard clause in past association agreements with Greece, Turkey, Malta and Cyprus”.⁶⁵

⁶³ Christopher Preston (1997), *op cit*, p.199

⁶⁴ *Ibid*, p.199

⁶⁵ Jose I. Torreblanca (2002), *op cit*, p.15

In terms of “the manner of their negotiations”, the member states, due to the substantial financial aid they provided to the East Europeans, were reluctant to grant the European Commission exclusive competence in this field – in contrast to the trade agreements concluded with third parties under the Community’s Common Commercial Policy – and though the negotiations were conducted by the European Commission, they were at the end subject to the Council voting unanimously under the Article 238 procedure, which left the Commission with limited room for manoeuvre.⁶⁶

Finally, the CEECs dissatisfaction with “aspects of the [EAs] implementation” was essentially grounded from the Commission’s attempt to introduce an element of economic and political conditionality. With a view to facilitating the efficient use of technical and financial assistance, the Commission linked the agreements implementation to the actual accomplishment of political, economic and legal reforms in the partner country. However, considering that the EU refrained from undertaking a clear commitment vis-à-vis the future evolvement of relations and also during negotiations adopted a highly protectionist approach for the existing sectoral interests groups in its internal market, it would be naive to expect the Commission’s injected conditionality clause to be effective over the CEECs “triple transition of democratization, marketization and state-building”⁶⁷.

The real reorientation in the EU’s policy towards the CEECs was first signalled in the Maastricht European Council in December 1991. After the attempted coup in Moscow in August 1991, the restoration of stability in the political and security sphere of the CEECs

⁶⁶ David Phinnemore (1995) “The European Economic Area, Europe Agreements and the Future of Association” quoted by Christopher Preston (1997), *op cit*, p.199

⁶⁷ C. Offe (1991) “Capitalism by Democratic Design? Democratic Theory Facing the Triple Transition in East Central Europe” quoted by Tim Haughton (2007) “When Does the EU Make Difference? Conditionality and Accession Process in Central and Eastern Europe”, Political Studies Review, Vol:5, p.233

became more apparent than ever in the view of EU Heads of States and governments⁶⁸ and they accordingly agreed “to examine the general implications of accommodating new member at Lisbon, in June 1992”⁶⁹.

The Commission, to this end, set up a task force to draft a report on “The Challenge of Enlargement” that mapped out the issues that needed to be considered if the EU was to enlarge further⁷⁰. The Commission’s report presented to the Lisbon European Council on 26 – 27 June 1992 formed the basis for the EU leaders’ discussions on enlargement. The key points highlighted in the report can be briefly summarised as follows:

- The Commission at the very outset acknowledged that the content of enlargement has changed, yet, in order to ensure that the EFTA enlargement would proceed along classical lines⁷¹, it restated the orthodox classical position:

The accession negotiations ... must be conducted in such a way as to contribute to the strengthening of the Union. The accession of new members will increase its diversity and heterogeneity. But widening must not be at the expense of deepening. Enlargement must not be dilution of the Community’s achievements. On this point there should be absolute clarity, on the parts of the member states and of the applicants (Paragraph 6).⁷²

- In order to eliminate any ambiguity during prospective accession negotiations, the *acquis* was for the first time defined in a very explicit way:

the contents, principles and political objectives of the Treaties including the Maastricht Treaty; the legislation adopted in implementation of the Treaties and the jurisprudence of the Court; the declaration and resolutions adopted in the Community

⁶⁸ Alan Mayhew (1998) Recreating Europe: The European Union’s Policy Towards Central and Eastern Europe, Cambridge University Press, p.42

⁶⁹ European Council (1991) “Presidency Conclusions”, Maastricht, 10 – 11 December

⁷⁰ European Commission (1992) “The Challenge of Enlargement”, EC Bulletin Supplement, No:3/92

⁷¹ Anna Michalski and Helen Wallace (1992), *op cit*, p.47

⁷² European Commission (1992), *op cit*, para.6

framework; and, the international agreements and the agreements between member states connected with the Community's activities (Paragraph 11).⁷³

In the same context, the Commission also stated the need to “show comprehension for the problems of adjustments which may be posed for new members and will seek adequate solutions”, whilst retaining acceptance of the *acquis* (para 12).⁷⁴

- Last but not least, as regards the CEECs, the Commission sent a clear message to the member states that:

the countries, which are not yet in a position to accept the obligations of membership, have political needs that go beyond the possibilities of existing agreements. They desire the reassurances that they will be treated as equal partners in the dialogue concerning the Europe's future (Paragraph 38).⁷⁵

In the light of the issues highlighted in the Commission's report, the Lisbon European Council took some decisions which were critical in setting out an approach to enlargement of the Community, with some qualifications as regards the candidate countries and with some conditions which would have to be fulfilled before accession negotiations can start⁷⁶.

To be more precise, it can fairly be deduced on the basis of the Presidency Conclusions, the Lisbon Council clarified two important points that would likely guide the future debate on the EC – CEECs relations, particularly on whether the CEECs would be considered as potential candidates or not: First, the member states distinguished between EFTA countries and the CEECs as “immediately” eligible for membership or “not immediately” eligible. Second, by reaffirming its objective of remaining open to “any European State whose system of governance is founded on the principle of democracy ... that

⁷³ *Ibid*, para.11

⁷⁴ *Ibid*, para.12

⁷⁵ *Ibid*, para.38

⁷⁶ Anna Michalski and Helen Wallace (1992), *op cit*, p.47

aspire to full participation [of the Union] and who fulfil the conditions for membership” and by agreeing that coming [EFTA] round of negotiations on accession would be on the basis of the Treaty agreed in Maastricht⁷⁷, the Council not only defined the Maastricht Treaty’s ratification as a prerequisite of any other enlargement⁷⁸, but also implicitly invited aspirants among the CEECs to apply for membership.

It is finally worth noting as regards the Lisbon Council that in the last section of the Presidency Conclusions devoted to the CEECs, the member states reaffirmed “the Community’s will to develop its partnership with these countries within the framework of the Europe Agreements in their efforts to restructure their economies and institutions”, which then immediately urged the Commission to propose a new formula of “reinforced association” in a communication for discussion at the Birmingham European Council (in December 1992).

Yet, neither in the Birmingham, nor in the Edinburgh European Council (in June 1993), the Commission’s communication was not discussed in detail. It was postponed as the agenda point of next meeting and expressed as “decision on the various components of the Commission’s report in order to prepare associate countries for accession to the Union” – the first official indication that the CEECs might be considered as candidates for membership of the EU.⁷⁹

⁷⁷ European Council (1992), “Presidency Conclusions”, Lisbon , 26 – 27 June

⁷⁸ Anna Michalski and Helen Wallace (1992), *op cit*, p.48

⁷⁹ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.359

1.1.5.2. From 1993 to 1995: Introduction of Qualitative Membership Criteria as Step towards Enlargement Policy

A key step in the process occurred at the June 1993 Copenhagen European Council where, in the knowledge that the applications from the CEECs were likely in the near future, EU Heads of States and governments declared in the Presidency Conclusions that “the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required”⁸⁰.

So as to address the decades-long concern that enlargement would not threaten the functioning or continuing development of the EU, the Copenhagen Council also laid down – for the first time in the Community’s history – the broad framework / outline of conditions required for being granted full membership. As is demonstrated while previous enlargement rounds were being explored, all that existed hitherto was the legal basis under the Treaty of Rome Article 237 (which had been later modified slightly by Article O of the Treaty on EU⁸¹) and the Commission’s orthodoxy statement on the full acceptance of *acquis* by the applicants with a few non-permanent transitional arrangements that would not impede the Community’s effective functioning. The Copenhagen conditions – or criteria, as they came to be known – were therefore designed in a way so that prior to accession, convergence would be ensured between existing and new member states in respect of their political and economic systems

⁸⁰ European Council (1993) “Presidency Conclusions”, Copenhagen, 21 – 22 June

⁸¹ The updated wording of Article O of TEU, which different from the original Article 237 of the Treaty of Rome includes the assent of the European Parliament, states that “*Any European State may apply to become a Member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members...*”

and also their adoption of Union laws and policies⁸² - which, as explicitly defined in the Commission's Lisbon Report, all together make up the *acquis communautaire*.

Table 1.1 Membership Criteria Established with the Copenhagen European Council⁸³

EU accepts conditionally eventual membership of the CEECs

provided that CEECs have:

- stable institutions (guarantee of democracy, rule of law, human rights, minority rights)
- functioning market economy and capacity to cope with competitive pressures inside the EC
- ability to adopt the *acquis*; accepted aims of political, economic, and monetary union; and provided that the EU has:
 - capacity to absorb new members without endangering the momentum of European integration

The Copenhagen European Council, as is stated by Mayhew, may go down in history as a decisive step in the integration of Western and Central Europe since, from that point on, enlargement obtained “a sort of inevitability” even in the absence of a predetermined timetable.⁸⁴ In this view, the Presidency Conclusions, in fact, marked an important change in the EU's approach to enlargement in general that later paved the way to the formulation of a broader policy framework with defined objectives and attributed tasks.

The role assumed by the Commission ahead of the Copenhagen Summit also served this outcome. The Commission's careful formulation of the “qualitative criteria for membership”⁸⁵, on the one hand minimized the grounds for opposition among the hesitant

⁸² Neill Nugent (2004), *op cit*, p.35

⁸³ European Council (1993), *op cit*, pts.3 - 13

⁸⁴ Alan Mayhew (1998), *op cit*, p.164

⁸⁵ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.357

member governments towards prospective enlargements and on the other hand, constituted the baseline to develop enlargement policy and the necessary tools required for its effective delivery.

Before Denmark handed over the Council Presidency to Germany, another European Council meeting took place in Corfu, in June 1994. There, it was stated even more explicitly that CEECs and southern applicants would be granted full membership once they successfully fulfil the “qualitative criteria” determined in the Copenhagen and the member states also assigned a responsibility to the Commission to draw a concrete strategy that would make the Copenhagen agreement more operational in practice.⁸⁶ The Commission, in turn, came up with a quick response and submitted a strategy to the approval of member states at the Essen European Council Meeting that took place 18 month after the Copenhagen Council.

The strategy adopted in December 1994 under the German Presidency was perceived as the most tangible step in the direction of assisting associates to meet the conditions required for membership⁸⁷ or, it could be even said that the strategy then named as “pre-accession strategy” was the first invented instrument in order to fill the underneath of the recently initiated framework for enlargement policy. To cut a long story short, its main components can best be summarised as follows: improved trade opportunities through liberalization in agriculture; a cumulation of rules of origin; more effective use of PHARE programmes; and the further operationalisation of the structured political and cultural dialogue.⁸⁸

⁸⁶ European Council (1994a) “Presidency Conclusions”, Corfu, 24 – 25 June

⁸⁷ Alan Mayhew (1998), *op cit*, p.164

⁸⁸ European Council (1994b) “Presidency Conclusions”, Essen, 9 – 10 December

1.1.5.3. From 1995 to 1997: Agenda 2000 and Launch of Accession Negotiations

Given that the EU, through learning from its own experiences, has moved towards adopting an enlargement policy; and the Copenhagen conditions together with the complementary steps taken in the Essen European Council constituted the framework of this policy and put a clear perspective to the CEECs that they would become a full member subject to their progress in the democratization and marketization efforts, between March 1994, when Hungary applied, and January 1996, when the Czech Republic applied, 10 CEECs formally applied to the EU⁸⁹. The December 1995 Madrid European Council was timely to formally react to these applications by assigning three important tasks to the Commission, the outcome of which would then guide the way and the pace of enlargement:

Table 1.2 The Madrid European Council : Assigned Tasks to the European Commission⁹⁰

The Commission has been asked to

- submit a comprehensive opinion on the individual candidates ‘as soon as possible’ after the conclusion of the IGC due to start in 1996;
- prepare a ‘composite paper’ on enlargement, both to evaluate the effects of enlargement on the EU’s policies, particularly agriculture and structural policies, and to make proposals for the ‘financial perspective’ from 2000 for the EU budget
- determine an indicative date to open accession negotiations with the CEECs alongside Malta and Greek Cypriot Administration, six months after the end of the IGC.

The Madrid European Council led to the issuing in July 1997 of the Commission’s influential communication “Agenda 2000: For a Stronger and Wider Union”, which claimed that enlargement could be achieved with little cost provided that significant reforms were

⁸⁹ See Annex I Chronology of Enlargement

⁹⁰ European Council (1995) “Presidency Conclusions”, Madrid, 15 – 16 December

undertaken in major policies of the Union, mainly the Common Agricultural Policy (hereafter CAP) and Regional Policy.⁹¹ Another important aspect of the Agenda 2000 was the introduction of the Accession Partnerships (hereafter APs) documents, which contain priorities for candidates grouped around short and medium term perspectives expected to be mirrored into National Programmes for the Adoption of Acquis (hereafter NPAA). The whole idea behind introducing the APs is to further tighten up, control and target the preparation process of the candidates.⁹²

As for the Opinions on the applicants, which were prepared on the basis of the Copenhagen criteria, the Commission recommended that negotiations should be opened with the five of the 10 CEECs – the Czech Republic, Estonia, Hungary, Poland and Slovenia – plus Cyprus⁹³, but should be delayed with the other five – Bulgaria, Latvia, Lithuania, Romania and Slovakia – until their economic (and in case of Slovakia, political) transitions were further advanced.⁹⁴ The Luxembourg European Council accepted the Commission's recommendations in December 1997 and the negotiations with what came to be referred to as "5 + 1 first wave" candidates began in March 1998 under the UK Presidency.

The enlargement strategy adopted in Luxembourg was then updated in Helsinki 1999, where it was decided to launch accession negotiations also with the second wave "5 + 1" states.⁹⁵ The 8 CEECs plus 2 southern applicants were eventually granted full membership in

⁹¹ European Commission (1997a) "Agenda 2000: For a Stronger and Wider Union", EU Bulletin Supplement, No:5/9, Brussels.

⁹² Klaudijus Maniokas (2000) "Methodology of the EU Enlargement: A Critical Appraisal", Lithuanian Foreign Policy Review, No:5, p.8

⁹³ Although at that time Malta was eligible as well to start accession negotiations, it was delayed to the second wave candidates due to the suspension of its application to the EU following the election of Labour Government in October 1996.

⁹⁴ For more detail please see European Commission (1997a), *op cit.*

⁹⁵ European Council (1999) "Presidency Conclusions", Helsinki, 10 – 11 December

May 2004 and the fifth enlargement was formally completed with Bulgaria and Romania's accession to the EU in January 2007.

In order to avoid repetition, the changes that occurred between 1997 and 1999 and the striking aspects during the fifth enlargement negotiations are not explored here in detail because, as is mentioned at the introduction to this Chapter, after briefly outlining theoretical explanations of enlargement, there would be an empirical analysis on the assumed roles of the Community institutions during this period with a view to demonstrating which theoretical explanation is more useful in the justification of prevailing dynamics from the beginning until the completion of the enlargement process.

1.1.6 Common Characteristics of EU's Past Enlargement Rounds

As is mentioned in the introduction to this chapter, the striking points and main characteristics of the past enlargement rounds have been explored with an aim of drawing a comparative framework for enlargement. It is also acknowledged, at the very outset, that Neill Nugent's well-structured findings about the distinctive and recurring features of the enlargement rounds already exists in contemporary literature⁹⁶ and provides us very useful insights. It is, in this sense, considered timely to go briefly through Nugent's findings, which are often taken as a starting point of the many studies seeking for the methodological explanation of enlargement⁹⁷. Such a brief literature review in the light of the key characteristics of the five enlargement rounds will better help us to see in a better way that the fifth enlargement round paved the way to the realization and management of the enlargement process within the context of a structured policy domain.

⁹⁶ Neill Nugent (2004), *op cit*, pp.56 - 68

⁹⁷ See Dimitry Kochenov (2005) "EU Enlargement Law: History and Recent Developments: Treaty – Custom Concubinage", *European Integration Online Papers*, Vol:9, No:6, pp.2 - 3 available at <http://www.eiop.or.at/eiop/texte/2005-006a.htm> and Klaudijus Maniokas (2000), *op cit*, p.2

To begin first with Nugent's analysis on the distinctiveness of enlargement rounds, he identifies five main features, which are "the number of applicants; the characteristics of applicants; the level of development of the EC/EU, the number and nature of policy issues creating difficulties and the length of the accession process".⁹⁸ Considering these features in comparison with the explored enlargement rounds, it is impossible not to agree with Nugent. In other words, for "the number and characteristics of applicants", it should be convincing enough that though the EC/EU showed a tendency towards negotiating with groups of countries (other than the second enlargement round), the applicants number, level of economic development, geographic location (for example, the first enlargement brought in northern countries whereas the second and third enlargement rounds brought in southern countries) and the political culture (for example, the EFTA enlargement covered countries with mature and well-established democracies whereas the Eastern and the Southern enlargements covered the ones that experienced dictator political regimes in their very recent history) have varied from one round to another.

It is also fair to conclude that "the EC/EU's level of development" and accordingly, "the number and nature of policy issues creating difficulties" have also been divergent from one enlargement to the other. This becomes even more visible especially when it is considered that the European integration progress dynamically and every widening of its membership has resulted in the deepening of the EC's decision-making structures (mainly, in the increase of QMV) and common policies. Lastly, a feature that is interdependent with the first two is "the length of accession process" since, "the number of applicants and their characteristics" are the main indicators or determinants on the duration of the accession process. To illustrate again with an example, the EFTA enlargement, thanks to the applicants' inherited political and

⁹⁸ Neill Nugent (2004), *op cit*, pp.56 – 57

democratic culture, was marked by the shortest accession negotiations in the EC/EU's history whilst the Iberian enlargement of 10 years ago took far longer despite the fact that the EU's regulatory environment surrounding its common policies was at that time less complicated than the mid-90s.

Moving now directly to the “recurring features” – similarities – of the past enlargements, Nugent groups them under six headings: “motivations of applicants; motivation of exiting member states; managing applications; an elite driven process; the impact of widening and deepening; and their impact on the EU in general”.⁹⁹ To make an overall assessment to see to what extent Nugent's findings correspond with the above-highlighted stages of enlargement rounds, it can be said that approximately 80% correspond, except the little nuances as regards the “managing applications and an elite driven process”. Almost in all enlargement rounds, both applicants and member states sought to gain benefits ranging from economic to security. The enlargements realised during the Cold War times, for example, were mainly marked by member states' geopolitical calculations and their desire to ensure “soft security” throughout the whole continent through by contributing to the democratic consolidation and market liberalization efforts of applicants.

Yet, it is worth noting that in order not to allow geopolitical concerns to supersede over the functionality of the Union, full commitment was also gained in every enlargement round prior to launching accession negotiations that new comers unconditionally accept *finalite politique* as well as the established body of Community legislation¹⁰⁰ (for example, as is the case for Greece or the Iberians). With the end of the Cold War period, geopolitical interests have been replaced with the benefits that would directly support the integrationist

⁹⁹ *Ibid*, pp.57 – 68

¹⁰⁰ Jose I. Torreblanca (2002), *op cit*, pp.28 - 29

ambitions and also meet the demands of sectoral interests groups in the existing member states, such as the creation of wider markets and the preservation of the dynamism within the EU's internal market¹⁰¹ (for example, the EFTA enlargement).

A benefit oriented approach also prevails on the side of the applicant and drive them to undertake painful reforms so as to be granted a final reward, which is in their view equal to economic welfare, political stability and “soft security” protection generated by the EU's full-membership¹⁰² (for example, the fifth enlargement is probably the best example of how applicants strive to ensure that final reward would be full membership at the end of the day).

Similarly, as emphasized since the beginning of this chapter, every widening was followed by deepening, which directly had impact on the EU's institutions, decision-making procedures and sectoral policies. So, it is again most appropriate to categorise “the impact on widening and deepening” and “the impact on EU” as “recurring features” of enlargement rounds. One good way of demonstrating the positive correlation between widening and deepening is probably revealing the consecutive developments in the EC/EU's history in a chronological order, which shows that nearly each round of enlargement was then followed by a Treaty mainly aiming at the consolidation of the content and scope of the original Rome Treaty.

What has been observed in contrast to Nugent's findings is however the changing methodological approach of the EU in view of the “management of applications” during the fifth enlargement round and as part of this changing attitude the efforts of both member states

¹⁰¹ *Ibid*, p.29

¹⁰² See Tim Haughton (2007), *op cit*, pp.243 – 244 and also Frank Schimmelfennig and Ulrich Sedelmeier (2004), *op cit*, pp. 663 -664

and applicants to ensure wider participation of various stakeholders in the accession negotiations rather than “the elite driven process”. To be more precise, as regards the first one Nugent contends that “although the mechanics for dealing with enlargement have been developed [and fine-tuned over the years], they have mostly conformed to a similar overall pattern in each round” and respectively, explain the central features displayed during each enlargement round as follows¹⁰³:

1. “The European Council decides whether an application is acceptable in principle”.
2. “...[If] it is acceptable in principle then it asks the Commission to produce a report on whether the applicant meets the conditions of membership and to evaluate the strengths and weaknesses of the application”
3. “The Commission report on an application is known as its Opinion (or avis) [and] normally takes some months to produce”. (Yet, as Preston points out the time taken to prepare opinion has, in the past, varied from four months – for Norway in 1993 - to three years for Turkey, Malta and Cyprus on the basis of the sensitivity and the complexity of the application.¹⁰⁴). “... All Opinions contain a recommendation on whether or not to proceed to accession negotiations”.
4. “[On the basis of that recommendations – although the second enlargement round represents a contrary case] the European Council sets the date for opening of accession negotiations”.
5. “The negotiations are divided into sectoral areas. Before detailed negotiations between the applicants and the EU can begin in any sectoral area, the latter must agree, by unanimity, on its common position...”
6. “The negotiations between the EU and applicants are overseen by the Council of Ministers (Foreign Ministers) working with the Commission on the EU side and by national governments on the applicants’ side...”
7. “When all the negotiations are deemed by Ministers to have been finalised, they are referred to the highest political level – the European Council – for formal completion. The European Council sets the date for the signing of an accession treaty and a target date for EU admission.”
8. “Accession treaties must be ratified by the EP and by all existing and applicant states according to their own preferred procedures”.

¹⁰³ *Ibid*, p.60 - 61

¹⁰⁴ Christopher Preston (1997), *op cit*, p.13

Furthermore, at this point, he also establishes a linkage with “elite-driven process” and argues that “all EU enlargement rounds have been controlled by political elites, in both existing and applicant states, on the basis of the principles that have been outlined [above]”¹⁰⁵. However, as implied above, in contrast to other rounds of enlargement, the fifth enlargement brought in a new methodology based on the *principle of conditionality*, which could not be passed unnoticed.¹⁰⁶ It is already underlined while exploring the main characteristics of the fifth enlargement round that the development of this principle dates back to the Europe Agreements signed in 1991, which at that time proved to be ineffective due to the discontent of the CEECs with the scope of these Agreements. The reinforcement of the conditionality principle corresponds to the introduction of Copenhagen Criteria in 1993¹⁰⁷, when the aspirant countries after a long and contentious debate at the EU level were provided with a prospect for membership, and this principle is given even further effect with the APs proposed within the package of Agenda 2000.

The real change brought by conditionality is the consolidated role of the Commission within the process. Through this principle the Commission had turned into a “patron” vis-à-vis applicants. Maniokas, who also acted as the Deputy Chief Negotiator of Lithuanian’s accession process, defines the Commission’s evolving influence in the enlargement process with these words:

At the earliest stages of development [of the new enlargement methodology] the Commission acted as a main generator of ideas and as a promoter of the case of enlargement against unwillingness of some member states to undertake serious steps forward....the Commission was always the main protagonist of this exercise [and] ... and gradually almost monopolised [its role].¹⁰⁸

¹⁰⁵ *Ibid*, p.62

¹⁰⁶ Dimitry Kochenov (2005), *op cit*, p.18

¹⁰⁷ Klaudijus Maniokas (2000), *op cit*, p.3

¹⁰⁸ *Ibid*, pp.7 -8

He also takes his analysis stemming from his personal experiences to a wider context and explores the interaction between the member states and the Commission prior to giving the go ahead for negotiations as follows:

...the European Council and the member states played a leading role in designing the shape of enlargement only at certain critical periods and more at the initial stages of development. While it was the European Commission, which designed the concept of the Europe Agreements and led to the historic decision made at Copenhagen, member states' role was crucial in determining the range of countries chosen as the applicants as well as pushing the Commission for more concrete targets in terms of negotiation dates as the Madrid Council demonstrates. [Yet, once the big decision taken in the 1997 Luxembourg European Council], calls for stricter conditionality and the tools designed to control it [such as APs, regular reports and NPAAAs] provided the Commission with a principal role in the enlargement or, from the other side, accession process.¹⁰⁹

In this context, to redefine the features of the fifth enlargement, which would likely prevail in the prospective round of enlargements, on the basis of the above analyses and also with some injections from the Kochenov's recently sketched "chronology of enlargement events"¹¹⁰, the new model / framework should be as follows:

- The aspirant states express desire to join the EU and the EU, in turn, formulates an association relationship based on gradual and mutual market liberalization as well as structured dialogue on political and cultural issues. The association relationship is basically supported by the EU's financial and technical assistance and aims at the advancement of political and economic conditions to a higher level in the associates.

- Depending on the pace in the evolvement of relations, the associates submit formal application for membership and the European Council accordingly considers the eligibility of the application. As Nugent puts it "if the European Council decides that

¹⁰⁹ *Ibid*, p.9

¹¹⁰ Dimitry Kochenov (2005), *op cit*, pp.18 - 19

the application is acceptable [according to Article O of TEU then] it asks the Commission to prepare an Opinion”¹¹¹ [on the basis of the Copenhagen Criteria]. After that point the aspirant officially becomes an applicant.

- The Commission’s Opinion, which mainly evaluates applicants’ strengths and weakness on the basis of the political criterion – that is “stable institutions (guarantee of democracy, rule of law, human rights, and minority rights)”- , recommends either accession negotiations to be launched immediately or a tailored pre-accession strategy to be prepared so as to assist applicants in fulfilling Copenhagen political criterion.
- The European Council reacts to the Commission’s assessment. Whatever recommendation is agreed on, “it asks for annual reports and summary papers from the Commission”¹¹² as regards the applicants’ progress. At this stage, the Commission prepares its first Accession Partnership for each applicant, which is formally issued by the General Affairs and External Relations Council (hereafter GAERC), and expects NPAA in response to the partnership documents.
- The applicants progress is monitored on the basis of these two instruments and on regular (usually annual) basis it is reported to the European Council. Once the Commission is convinced that the applicant is ready to start negotiations, it proposes this again to the European Council.
- The European Council acting unanimously fixes a date for the accession negotiations and affirms the applicants’ candidate status. The negotiations with candidates are

¹¹¹ Neill Nugent (2004), *op cit*, p.60

¹¹² Dimitry Kochenov (2005), *op cit*, p.19

launched with a European Conference hosted by the Presidency of GAERC. In the same European Conference the Commission proposes a Negotiating Framework, which is adopted by GAERC and represents the guiding principles for the negotiations. In line with the Negotiating Framework, an updated AP is also adopted.

- The monitoring of negotiations is carried out by the GAERC assisted intensively by the Commission. The Commission in parallel to assisting the GAERC prepares annual Regular Reports for the European Council.

- Negotiations are carried on sectoral categories, officially named as *acquis* chapters essentially built on the definition embraced in the Lisbon European Council in 1992. Before the opening of each Chapter the GAERC upon the Commission's proposal endorses a "common position".¹¹³ If candidates depart from early undertaken political reforms in line with the Copenhagen criteria, it is possible for GAERC to suspend negotiations.

- During negotiations not only the *principle of conditionality*, but also the *principle of differentiation* prevails, which means that every candidate is assessed on "its own merits". Therefore, once a candidate country undertakes fully the obligation deriving from *acquis*, establishes adequate administrative capacity and ensures a functioning market economy, the Commission that is also taking into account budgetary burdens of the accession and its impact on the EU policies as well as institutional composition in general, proposes a date of entry to the European Council.

¹¹³ Neill Nugent, *op cit*, p.61

- The European Council acting again unanimously decides on the Commission's proposal. The Accession Treaty, to quote from Nugent, "must be ratified by the EP and by all existing and applicant states according to their own preferred procedures"¹¹⁴.

To sum up very briefly, the above-defined framework of enlargement provides the basis to conclude that during the fifth enlargement round of negotiations, the EU Heads of States and governments have recognised the need not only for defining enlargement itself as a broad policy domain – that in fact translates to the goal-driven conclusions of the Copenhagen European Council -, but also the crucial role that the Commission must assume to ensure the efficient delivery of policy by using and inventing necessary instruments such as, accession partnerships, NPAs and regular reports...etc. It is possible to argue respectively that the creation of all these instruments has made the enlargement process more transparent and more accountable to the European public both in the existing member states and candidate countries. Furthermore, through the information they are channelling, the enlargement process has opened up wider participation of various stakeholders, such as sectoral interests groups, NGOs ...etc rather than keeping it "elite-driven" as was the case for previous enlargement rounds.

¹¹⁴ *Ibid*, p.61

1.2. Conceptualization of EU Enlargement as “Composite Policy”

The examination of past enlargements with particular emphasis on the fifth enlargement round in the previous section has led to the conclusion that the EU has eventually realised the enlargement process within a broad policy framework with attributed tasks and responsibilities to the related bodies. Nevertheless, this represents only one dimension of the equation. Regardless of the “asymmetrical bargaining power”¹¹⁵ between member states and an applicant country, enlargement takes place as a result of the interaction between two parties.

In other words, the second dimension of the equation, that is to say the candidate countries’ preferences or the accommodation of mutual preferences, bear importance also for the successful completion of the process. This perception inevitably leads to the conceptual explanation of the EU’s policy towards the CEECs by Ulrich Sedelmeier and Helen Wallace, which is phrased as “a composite policy consisting of macro policy and many sectoral meso policies”¹¹⁶. They have then taken a step forward to apply their explanation to a wider context of enlargement and equally, introduce an even clearer analytical distinction between the two dimensions of composite policy with a view to better describing the domain: for macro level – broader dynamics that underpin the EU’s enlargement policy that are mainly the decisions determining the overall objectives and parameters of policy; and for meso level – substantive policy outcomes in distinctive sectoral policy areas that are part of enlargements. To put it in another way, the decision about the specific detail and substance of policy that is generally dealt by the various policy-makers that have the relevant technical expertise and decision-

¹¹⁵ Frank Schimmelfennig and Ulrich Sedelmeier (2004), *op cit*, p.665

¹¹⁶ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.355

making competences.¹¹⁷ In addition to this analytical distinction, Sedelmeier, in his individual study, through making an induction from the CEECs experience, argues that the effective mediation and the accommodation of mutual preferences between these levels of composite policy depends largely on the policy-makers' ability to form "winning alliances".¹¹⁸

To this background, this section aims at bringing more concrete definition to the "composite policy," mainly, in respect to the policy framework for enlargement that is drawn in the previous section. When the conceptual explanation of "composite policy" is interpreted together with the above-explained framework for enlargement, the "macro policy", in the words of Wallace and Sedelmeier the "broader dynamics underpinning the enlargement policy", translates to the decisions taken at the highest level, the European Council, with a view to guiding the way and depth of relations with aspirant countries. Establishing an association relation with aspirants, accepting the eligibility of their formal application to membership, inventing a tailor-made pre-accession strategy to assist candidates in their preparation for negotiations, and opening as well as completing accession negotiations can all be considered as the evolutionary stages of "macro-level policy".

By the same token, the "meso policies" represent the *acquis* based legal and administrative reforms (which could be ranged from political, economic to specific sectoral areas) undertaken by the candidates. Particularly, the meso-level decisions concern, for example, the precise extent and pace to undertake these reforms, the establishment of necessary administrative structures or the liberalisation of economy to fasten integration to the EU's internal market.

¹¹⁷ Ulrich Sedelmeier and Helen Wallace (2000), *op cit*, pp.456 – 457 and see also Ulrich Sedelmeier (2002) "Sectoral Dynamics of EU Enlargement: Advocacy, Access and Alliances in a Composite Policy", *Journal of European Public Policy*, Vol:9, No:4, pp.627 – 628

¹¹⁸ Ulrich Sedelmeier (2002), *op cit*, pp.629 – 630

Having being attempted to demonstrate that “macro and meso policies” are mutual reinforcements and in fact, they have to progress in a synchronised manner for the realization of enlargement to take place, the second important aspect of “composite policy” that needs to be drawn attention is the principle of conditionality. As it may be recalled, the previous section defined principle of conditionality as an element brought in the new methodology of enlargement. Furthermore, the experiences during the fifth enlargement have showed us that the effectiveness of this principle very much depends on the existence of clear and persistent prospects for membership. In the article named “Governance by Conditionality: EU rule transfer to candidate countries of CEE”, Schimmelfennig and Sedelmeier also support this inducted conclusion by saying that

the dominant logic underpinning EU conditionality is a bargaining strategy of reinforcement by reward under which the EU provides external incentives for a target government to comply with its conditions....[The] rule transfer from the EU to the CEECs and the variation of its effectiveness are best explained according to the external incentives model and in particular with the credibility of EU conditionality and the domestic cost of rule adoption¹¹⁹.

Another supportive approach to the effective usage of conditionality comes from Balcerowicz’ famous trajectory of public support to reforms that show that “radical and painful reforms can be politically feasible only in a quite short period of time when expectations related to longer term future outweigh sacrifices in the short term”.¹²⁰

¹¹⁹ Frank Schimmelfennig and Ulrich Sedelmeier (2004), *op cit*, pp.662 -663

¹²⁰ L. Balcerowicz (1995), “Socialism, Capitalism, Transformation” quoted by Klaudijus Maniokas (2000), *op cit*, p.11

If it is to argue, in this respect, that the bigger the reward and credibility of the EU's external incentives at macro-level (which may also be defined as independent variables of process), bigger the courage on the side of the "target government" to undertake painful reforms at the meso-level (dependent variable).

There is then one last aspect needed to be addressed in order to complete the whole picture in the conceptual explanation of "composite policy", that is who would be responsible for mediating between macro and meso levels. As can be seen in Table 1.3, the best way of answering this question is probably to draw an outline of what has been explained so far as regards the nature of "composite policy".

The main objective of such an outline is to see clearly the "type of decisions" at the macro and meso levels, concrete "examples" according to the decision's type as well as the policy level it belongs to and the "principal policy-makers", who are taking part in the formulation of those decisions.

Table 1.3 Enlargement as a ‘composite policy’¹²¹

Policy Dimension	Type of decision	Example	Principal policy-maker
Macro policy	Overall objective, broad framework and parameters of policy including:	<ul style="list-style-type: none"> • direction for the evolving relationship <ul style="list-style-type: none"> - associate* - applicant* - candidate* - eventual member* • policy instruments* <ul style="list-style-type: none"> - TCAs / Financial Assistance* - EAs / Association agreement* - Negotiating Framework / Accession Partnerships* 	<p>In the Commission: Commissioners, their cabinets, and DG ENLARG</p> <p>In the MS: Heads of state or government, Foreign Ministers</p>
Meso policies	detailed decisions across range of EU policies	<ul style="list-style-type: none"> - NPAAAs - Specific regulatory measures* 	<p>Sectoral policy-makers within[both] the Commission and candidate Country*</p>

A glimpse at this Table could therefore help us figure out that the most convenient “principal policy-maker” to assume the role of mediator should be the one represented at both levels of the “composite policy” and henceforth, having direct information access as well as the tools to manipulate preferences of other policy-makers.

¹²¹ Though the main structure of the above table is quoted from Ulrich Sedelmeier and Helen Wallace (2000), *op cit*, p.457, its part indicated with a star are slightly modified so as to be compatible with the attempt to detail the conceptual explanation of the composite policy.

The key mediator in this structure should be the European Commission. This argument is also embraced by many scholars, who analysed the Commission's entrepreneurial activities during the fifth enlargement in detail, and put forth even more explicitly by Maniokas and Beach that it was the Commission but no other Community institution who played a key role in ensuring that an agreement was reached that was acceptable to both the EU governments and candidate countries.¹²²

1.3. Rational Choice Institutional and Constructivist Institutional Explanations of the Composite Enlargement Policy

The comparative framework for enlargement and its conceptual explanation as “composite policy comprising of macro and meso levels” provide us useful insights as regards understanding the main dynamics of the enlargement process. However, for more advanced evaluation of this relatively complex and multi-dimensional phenomenon, it is necessary to draw a theoretically informed methodological pathway that would help us in interpreting not only enlargement itself in a structured way, but also the essential driving motives and rationales that generate the process.

A few attempts have already taken place in the existing literature to theorise enlargement. Many of these are heavily concerned with explaining why does the EU enlarge, and due to their focus on the two competing IR theory, namely rational choice institutionalism and constructivists institutionalism, they limitedly explain the preferences and roles of institutions. In other words, as Sedelmeier argues, the existing theoretical literature covers the

¹²² See Derek Beach (2005), *op cit*, pp.242 – 244 and also Klaudijus Maniokas (2000), *op cit*, pp.8 – 11

issues confronting macro dimension of “composite policy” and by contrast, meso dimension has been neglected despite the fact that it is no less central to EU enlargement.¹²³

Furthermore, as is provided in the previous section, the evolution of “macro policy” depends on the responsiveness of meso level “principal policy-makers” with substantive outcomes, it could be easily argued that a full and comprehensive understanding of enlargement is only possible with theorising the “composite policy” as a whole. In such an attempt, needless to say, it is also of particular importance to consider carefully the mediating factors, or as is made explicit during the conceptual explanation, the role of the European Commission.

The main objective during this section is therefore to reveal the two important aspects of rational choice institutionalism and constructivist institutionalism: One is their explanations in view of the macro dimension of the “composite policy”, or in other words, in view of the above-mentioned question why does the EU enlarge. Presuming that their answers will be two dimensional covering the member states’ and applicants’ motivations/ preferences for enlargement, the other aspect will be then their perceptions in relation to the preferences and roles of institutions. To put it in the known literature jargon *do* the institutions matter. Exploring these two aspects in detail will then likely provide us a good ground to be enriched with some empirical analyses of the preferences and roles of Community institutions during accession negotiations and will facilitate accordingly an evaluation about which theory is more competent in explaining the enlargement process and its dynamics.

¹²³ Ulrich Sedelmeier (2002), *op cit*, pp.627 – 628

1.3.1. Macro and Meso Dimensions of EU Enlargement Policy

From rationalist choice institutionalist perspective, the explanation of why the EU has been willing to enlarge is to be found in “hard-headed calculations” by the member states, which have been focused around two main considerations: “the promotion of security and the economic opportunities”.¹²⁴ To further solidify these calculations’ scope, Nugent adds that member states that have tended to be strong supporters of enlargement under the conditions that: they share common neighbourhood with aspirants that would enable them to benefit from new trade and “soft security” opportunities; they will not lose any financial support from the EU’s common budget due to the distribution of CAP and Regional Policy support schemes to a wider geography and population; and they will be able to preserve their political influence and weight in the policy development process.¹²⁵

Torreblanca, who phrases the rationalist choice institutionalists accounts in these words: “preferences would be stable, exogenous and transitive, and an actor’s behaviour would be of strategic and interest-maximization type”, also complements Nugent by saying that from rational choice institutionalist perspective, EU member states do what was beneficial for their interests and that’s why whilst negotiating enlargement issues they act as instrumentally-oriented governments only concerned with relative costs and benefits for their countries.¹²⁶

The two scholars that, in fact, aim at introducing us to the key findings of rational choice institutionalism through conducting a brief literature review in their studies, also provide good insights as regards constructivist institutionalism. To begin again with Nugent,

¹²⁴ Neil Nugent (2004), *op cit*, p.4

¹²⁵ Neill Nugent (2004), *op cit*, p.6

¹²⁶ Jose I. Torreblanca (2002), *op cit*, pp. 9 - 10

the points that he deemed important to highlight in revealing constructivist institutionalists' explanations can be summarised as follows: the actions of political actors could not be wholly explained in rational, egoistical and instrumental terms as is argued by the rationalist choice institutionalists'; the stances adopted by member states' in view of enlargement are similarly not being driven by objective national political and economic situations but rather they are socially constructed; and, the whole nature and outcome of international interactions are shaped largely by social identities, norms and values.¹²⁷

Taking this a stage further, Torreblanca, like he does for the rationalist choice institutionalists', phrases constructivists' accounts as follows: "preferences would be endogenous, i.e. they would emerge from the process of interaction between actors, and each actor's behaviour would be dominated by logic of appropriateness", and argues that from their perspective,

EU governments would rather be embarked in a collective endeavour to discover ... which enlargement policy would best fit their constitutive norms, general principles or shared identity in other words, faced with the possibility of enlargement they would follow a logic of appropriateness and do what they had to do.¹²⁸

Given the basic findings of rational choice institutionalist and constructivist institutionalist explanations, Ulrich Sedelmeier and Frank Schimmelfenning's theoretical analysis on enlargement will be focused more as their analysis is relatively more advanced and will likely pioneer forthcoming theoretical approaches to the phenomenon. Through inspiration from Sedelmeier and Wallace's conceptual explanation, Sedelmeier and

¹²⁷ Neill Nugent (2004), *op cit*, p.7

¹²⁸ Jose. I. Torreblanca (2002), *op cit*, pp.9 – 10

Schimmelfennig intend first to redefine enlargement as “a process of gradual and formal horizontal institutionalisation”¹²⁹ in their recent book “The Politics of Enlargement”.

They then attempt to shed light on three dimensions of enlargement in the existing literature through using the new definition that is in fact inherited its main essences from the conceptual explanation of “composite policy”. The three dimensions are cited as follows: “applicants’ preferences, member states’ preferences and EU enlargement politics”, that is also divided itself into two sub-dimensions: macro and meso (substantive) dimensions.¹³⁰

Yet, it is worth drawing attention particularly to one point. The modified conceptual explanation of “composite policy” that is provided in the previous section could now help to bring a more simplified approach to the intended attempt. To remind shortly, the existing conceptual explanation is modified in order to extend slightly its scope so as to reinforce the understanding and that is why rather than sticking to Sedelmeier’s and Wallace’s words on “macro-policy”, it is referred as decisions taken at the highest level with a view to guiding the way and depth of relations with aspirant countries that is actually meant to be “the existing member states’ preferences” according to Sedelmeier and Schimmelfennig. By the same token, “meso policies” are concretized as the *acquis* based legal and administrative reforms undertaken by the candidates. Since positive correlation may be assumed between the pace and extent of these reforms and the candidates’ willingness to join the EU, it can be said that the redefined “meso policies” also correspond to “applicants’ preferences”.

Last but not least, the preferences and role of Community institutions which is defined as intervening variable / mediating factors between the two levels can be considered as equal

¹²⁹ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, pp.4 – 5

¹³⁰ *Ibid*, pp.6 – 7

to the third dimension, “the EU enlargement politics”. The rationale in drawing attention to this is simply to demonstrate that the below quoted theoretical analysis of Sedelmeier and Schimmelfennig for three individual dimension of enlargement can be tailor-made with a view to being applicable to the conceptual explanation of “composite policy”.

To look at now how they explain member states and applicant politics – assumed as constituting respectively the “macro policy” and the “meso policies” - from rational choice institutionalist and constructivist institutionalist perspectives. The scholars reveal their rationalist hypothesis by acknowledging at the outset that in compliance with the basic assumption in all rationalist theory, “expected individual costs and benefits determine the applicants’ and member states’ enlargement preferences”.¹³¹ To specify this further, it is also argued that

states favour the kind and degree of horizontal institutionalization that maximizes their net benefit. More specifically, a member state favour the integration of an outsider – and, an outsider, seeks to expand its institutional ties with the organisation – under the conditions that it would reap positive net benefits from enlargement, and that these benefit exceed the benefits it would secure from an alternative form of horizontal institutionalisation.¹³²

As for their hypothesis as regards the latter, it is similarly built on constructivist institutionalists’ main assumption that enlargement is shaped by ideational and cultural factors. In other words, considering that “applicants and members construct each other and their relationship on the basis of the ideas that define the community represented by the international organisation”, the scholars conclude key constructivist Institutional hypothesis for enlargement as follows:

¹³¹ *Ibid*, p.12

¹³² *Ibid*, p.12

the more an external state identifies with the international community that the organisation represents and the more it shares the values and norms that define the purpose and the policies of the organisation, the stronger the institutional ties it seeks with this organisation and the more the member states are willing to pursue horizontal institutionalisation with this states.¹³³

When the nature and scope of the above hypotheses are interpreted from a wider window in the existing literature, it is, however, possible to observe that both constructivist institutionalists and rational choice institutionalist point to each other's weaknesses in order to create their own strengths. To give a concrete example, Schimmelfennig, who, in essence, has been heavily drawn to constructivist Institutional perspective, attempts to criticise rationalist choice institutionalists in having failure to justify why, given that most existing member states had reservations about allowing CEECs to become members due to its predicted cost, enlargement still went ahead; and he accordingly argues that the explanation of why admittance was granted is found in "rhetorical action" that describes how actors come "to focus on their collective identity and honour their obligations as community members".¹³⁴

It is with the same motivation that Nugent contends that just as constructivist institutionalists criticise rational choice institutionalists for not convincingly explaining "how enlargement drivers manage to persuade enlargement brakemen", so can constructivist institutionalist be criticised and accused them for taking too narrow a perspective as well as interpreting evidence in a manner that suits their case.¹³⁵ Taking this a stage further, he criticises constructivist institutionalist for attaching too much emphasis on community values and ironically asks if sharing the same values was sufficient in itself "why has the EU not

¹³³ *Ibid*, p.15

¹³⁴ Frank Schimmelfennig (2001) "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union", International Organisations, Vol:55, No:1, p.63

¹³⁵ Neill Nugent (2004), *op cit*, p.8

amended the Common Fisheries Policy so as to enable Iceland to become a member state?”¹³⁶

In respect to this debate, questioning the roles of the Community institutions from the same theoretical perspectives, mainly with an aim of figuring out is their role perceived from the launch until the end of whole process and what are the interactions between these institutions and member states or the applicant countries, will open up a new avenue and provide further insights in reaching an understanding. The next sub-section therefore focuses on this aspect of the theoretical discussions in the existing literature.

1.3.2. Preferences and Roles of EC Institutions

Sedelmeier and Schimmelfennig’s hypotheses on the preferences and the role of EC institutions, or in their jargon “EU enlargement politics”, have been again similarly built on rational choice Institutionalism and constructivist institutionalists’ general perceptions on the institutions - whether and to what extent the institutions matter. To be more precise:

the constructivist institutionalism sees institutions as providing a political environment or cultural context which alters the individual’s sense of what is in her best interests – in other words, actors are conditioned by the accumulation of procedures, rules, and norms over time; identities, priorities, interpretations of reality are all created by this context; in contrast to rationalist, to whom institutions represent a strategic operating environment, actors have less ability to set priorities independent of the institutional context; in this view, human action is more context-driven than goal-driven.¹³⁷

On the other hand,

rational choice institutionalism sees [them] as providing a context within which individual decisions are set, but places emphasis on individual rather than context;

¹³⁶ *Ibid*, p.8

¹³⁷ Mark D. Aspinwall and Gerald Schneider (2000) “Same Menu, Separate Tables: The Institutional Turn in Political Science and the Study of European Integration”, European Journal of Political Research, Vol:38, No:1, pp.6 – 7

[more importantly] it does not assume that institutions precede over human action; ... rationalists perceive institutions as an intervening variable rather than an independent variable.¹³⁸

Turning back to the constructivists and rational choice institutionalist approaches to “EU enlargement politics” in the light of the above-given information, it is argued as regards the first one that “organisation expands to outside states to the extent that these states share its collective identity” and the organizational actors (such as, the European Commission) are expected “to hold preferences that are strongly influenced by the organisational norms”, which then enable them to urge member states subject to competing influences from national and organisational levels to comply with the organisational context or goals.¹³⁹

For the latter, on the other hand, Sedelmeier and Schimmelfennig phrase their hypothesis as follows: “the organisation expands its institutions and membership if, for both the member states and the applicant states, the marginal benefits of enlargement exceed the marginal costs”¹⁴⁰. They also emphasise that “outcomes of organisational enlargement politics depends on (1) constellation of bargaining power and (2) formal decision-making rules;

it is not necessary that enlargement as such is beneficial to each member; enlargement can also result from unequal bargaining power among the incumbents; member states that expect net losses from enlargement will agree to enlargement if their bargaining power is sufficient to obtain full compensation through side payments by winners; otherwise, the losers will consent to enlargement if the winners are able to threaten them credibly with exclusion.¹⁴¹

The scholars’ hypothesis from rationalist approach covers the preferences of institutions, yet, it lacks the role that they need to assume regarding intervening variables in the actualisation of these preferences. Therefore, Mark Pollack’s “principal – agent model”

¹³⁸ *Ibid*, pp.11 – 12

¹³⁹ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, pp.15 – 16

¹⁴⁰ *Ibid*, p.13

¹⁴¹ *Ibid*, p.14

would take further the Sedelmeier and Schimmelfennig' hypothesis. The "principal-agent" model aims at demonstrating "why and under what conditions a group of (member state) principals might delegate powers to (supranational) agents (such as the Community Institutions)" and in developing on this, it seeks also to explore "to what extent supranational institutions are able to carry out their functions independent of the influence of member states".¹⁴²

With regard to the former,

the principal – agent accounts of delegation hypothesize that member state principals, as rational actors, delegate powers to supranational organizations primarily to lower the transaction costs of policymaking, in particular, by allowing member states to commit themselves credibly to international agreements and to benefit from policy-relevant expertise provided by supranational actors.¹⁴³

With regard to the latter,

its answer lies "primarily in the administrative procedures that the principals may establish to define ex ante the scope of agency activities, as well as the oversight procedures that allow for ex post oversight [monitoring] and sanctioning of ... agents".¹⁴⁴

Pollack, however, argues that "both monitoring and sanctioning are costly to member state principals as well as to their supranational agents, and that the supranational agents can and do therefore exploit conflicting preferences among the member states to avoid the imposition of sanctions".¹⁴⁵ To illustrate this, he focuses on the European Commission as well as the member states' capacity to control it and accordingly, contends that "though the Commission tends to operate within the boundaries set by member states' preferences", its

¹⁴² See both Mark A. Pollack (1997) "Delegation, Agency, and Agenda Setting in the European Community", International Organisation, Vol:51, No:1, p.101 and Mark A. Pollack (2000) "International Relations Theory and European Integration", EUI Working Papers, No:2000/55, p.8

¹⁴³ Mark A. Pollack (2006) "Rational Choice and EU Politics", Arena Working Paper Series, No:12/06, p.16

¹⁴⁴ *Ibid*, p.16

¹⁴⁵ Mark A. Pollack (1997), *op cit*, p.101

role as not a formal agenda-setter but an informal one providing opportunity for “entrepreneurial supranational activity”.¹⁴⁶

Since, the Commission’s Treaty granted power for formal agenda-setting emanating from its “exclusive right to propose” received a great stroke with the Luxembourg Compromise of 1966, “which committed member states to search for a unanimous consensus where vital national interests were at stake”.¹⁴⁷ On the other hand, it is still in the position of “[informally] setting the agenda by constructing focal points for bargaining in the absence of unique equilibrium or by constructing policy proposals and matching these to pressing policy problems in an environment of uncertainty and imperfect information”.¹⁴⁸

To sum up, if it is to apply Pollack’s “principal – agent model” to “EU enlargement politics”, it could fairly be argued that the supranational agent is in a powerful position to act as an intervening variable and exert more influence particularly when member state principals’ have contradictory views on whether to enlarge. Equally, to place the European Commission’s influence grounded from its informal agenda-setting role to the above-quoted rational choice institutionalist hypothesis of Sedelmeier and Schimmelfennig, it could be argued that the policy expertise and the information network enable the Commission to “set up the agenda” by determining the “focal points” that would, in turn, likely facilitate a bargaining among the incumbents. Moreover, if the Commission effectively utilise the same assets that are at its disposal, necessary ground for the exclusion of enlargement’s opponents during the formal decision-making process could even be established at the highest level.

¹⁴⁶ See *Ibid*, pp. 101, 121, 124

¹⁴⁷ *Ibid*, p.122

¹⁴⁸ *Ibid*, pp.124 – 125

In respect of the rational choice institutionalist and constructivist institutionalist cited hypotheses for both enlargement policy's macro and meso dimensions and EU enlargement politics itself, in the next sub-section, negotiations conducted during the fifth enlargement process will be focused on with a view to testifying which one of the hypotheses may better explain the driving motives behind the adopted stances of incumbents, new comers and the Community institutions.

1.3.3. Empirical Analysis of the Rational Choice Institutional and Constructivist Institutional Explanations

In the first section of this Chapter, it is clearly acknowledged that the “decision to enlarge” was not an easy task for the EU in the case of the fifth enlargement, nor were the decisions taken afterwards as regards the number of candidates, the date of launching formal accession negotiations, the EU's common position in the acquis key chapters, such as CAP, Regional Policy, Budget, Institutions ...etc, and the date of accession.

In other words, at almost every stage of accession process, it took some time to reach a consensus among the existing member states, who are mainly concerned that any careless step while dealing with the CEECs may dilute the EU's past achievements; risk the full implementation of acquis throughout all member states; reduce their main shares from the EU budget that is gotten through the channels of structural funds and direct agricultural payments.¹⁴⁹ All these marked the process despite the fact that applicants were normatively and identically compliant with the only legally cited membership criteria under Article 237 of Rome Treaty or Article O of TEU.

¹⁴⁹ See Christopher Preston (1997), *op cit*, pp. 170 – 194 and Neill Nugent (2004), *op cit*, pp.10 – 21

As Torreblanca also argues, this situation demonstrates at the outset that

[had] the logic of appropriateness prevail in the enlargement process, the promise of membership would have had to be clearly on the table by 1990, when the first free elections were held in Poland, Hungary and Czechoslovakia, or even before, when Mazowiecki took office in Poland in August 1989, not in 1993 three year later, [yet], as we know, throughout the whole of 1990, 1991 and 1992, EC leaders refused to endorse, even in a non-binding way, the membership aspirations of these countries.¹⁵⁰

Having provided that the initial launch of the accession process itself indicates the rightness of rationalist accounts in explaining the enlargement process, the below analysis will be two dimensional. In order to be compatible with the above theoretical review, the fifth enlargement negotiations will be examined first according Torreblanca's invented model that briefly summarizes rational choice institutionalist and constructivist institutionalist hypotheses at three main stages of enlargement as well as the above-examined "*decision to enlarge*" (See Table 1.4), with a view to testing Sedelmeier and Schimmelfennig's general hypotheses for macro dimension of enlargement.¹⁵¹

The adopted roles of two Community institutions, (namely, European Commission and European Parliament) will then briefly be touched upon and there will be an attempt to draw some conclusions, as to whether they deserve to be considered as independent or intervening variables as argued by rationalists.

¹⁵⁰ Jose I. Torreblanca (2002), *op cit*, p.15

¹⁵¹ *Ibid*, p.10

Table 1.4 Torreblanca’s Drawn Hypotheses about the Key Stages of Enlargement

Independent Variable	Rationalist Choice Institutional	Constructivist Institutional
Decision to enlarge	Size and distribution of enlargement costs	Social interaction, shared identity, constitutive norms
Accession Criteria	Controversial, reluctant and delayed	Consensual, eager and speedy
Timing	Distribution of costs precedes enlargement, enlargement proceeds slowly or in stages	Deliberation on principles precedes enlargement, enlargement proceeds fast
Allocation of costs	Costs are exchanged and imposed on candidates	Member states accept the costs

1.3.3.1. Fifth Enlargement Negotiations: “Logic of Consequentiality” or “Logic of Appropriateness”?

The Luxembourg European Council in December 1997, besides confirming the opening of accession negotiations with 5 + 1 candidates, also defined enlargement as “a comprehensive, inclusive and ongoing process” taking place in stages in which each of the applicant countries proceeds at its own rate, depending on its degree of preparedness to become a member of the EU¹⁵² – *principle of differentiation*. By the same token, the idea of “enhanced pre-accession strategy” bearing as its main components APs, Progress Reports and increased pre-accession aid was formally introduced with the same Presidency Conclusions¹⁵³ in order to make the rest of the candidates not to feel excluded and more importantly, send

¹⁵² Marc Maresceau (2003) “Pre-Accession” in Marise Cremona (ed), *op cit*, p.26

¹⁵³ European Council (1997), *op cit*, pts.16 – 36

them a strong signal that unless they do not speed pace of political reforms in line with the Copenhagen Criteria, EU membership would be a distant objective.

The accession negotiations with the front-runners, namely Hungary, Poland, the Czech Republic, Estonia, Slovenia and Cyprus, was formally launched at a meeting of the foreign ministers of the member states and all the candidate countries on 30 March 1998 held in Brussels. Yet, though the negotiations formally opened, the start of real substantive negotiations with the candidates would have to wait until the EU had put its own house in order by reforming key internal policies that were being negotiated in the Agenda 2000 package.¹⁵⁴ This is why the first stage of negotiations only focused on a detailed analytical examination (screening) of the 31 chapters of *acquis communautaire*, which involved a chapter-by-chapter examination of *acquis* in the first multilateral stage between the Commission and all applicants together, in order to agree on a common understanding of legislation and policies in each chapter whilst in the second bilateral stage, each applicant separately examined with the Commission the transposition and implementation status of each directive in the chapter.¹⁵⁵

At the Berlin European Council in March 1999, agreement was eventually reached on the Commission's Agenda 2000 proposals for a reform of the structural funds, cohesion policy and the CAP; and accordingly the accession date for the six negotiating countries was determined as 1 January 2002.¹⁵⁶ To give some background information about the internal policy issues confronting the EU, the fifth round of enlargement, mainly the challenge of bringing in less prosperous states with high agricultural populations, brought the size and use

¹⁵⁴ Derek Beach (2005), *op cit*, p.217

¹⁵⁵ Christopher Preston (1999) "EU Enlargement: Developments in 1998", Journal of Common Market Studies, Vol:37, Annual Review, p.110

¹⁵⁶ European Council (1999a) "Presidency Conclusions", Berlin, 24 – 25 March

of the EU's cohesion policies and of the funds that together account nearly 1/3 of the EU's total budget, more importantly it made clear from the outset that the existing beneficiaries of the funds – mainly Greece, Ireland, Portugal and Spain – would be anxious that the consequence of their supporting CEECs would not be a significant reduction in the assistance they themselves were receiving from the funds.¹⁵⁷

Similarly, the CAP, which occupying an even higher share in the EU's budget accounts (nearly 45%), has been a major problem with most CEECs that have relatively large but inefficient agricultural sectors. The existing member states, therefore, in taking into account the Commission's proposal in the Agenda 2000 package both for structural funds and CAP, agreed as regards the former to give less favourable treatment to acceding countries than the EU-15 states; and as regards the latter, to allow direct income support under CAP to be gradually phased-in up to 2013.¹⁵⁸

The Berlin Presidency Conclusions, besides formally conforming the member-states' positions on the two major policy areas, also adopted the 2000 – 2006 Financial Perspective that only allocated 10% of the long-term budget for enlargement and pre-accession aid assuming that six candidates would join the EU by 2002.¹⁵⁹ Unsurprisingly, the candidates saw the Berlin decisions “as an unacceptable discrimination from both a political and economic point of view”, yet, the Commission, to erase the deep feeling of frustration on the candidates sides recommended a number of ways to adapt the rural development policy to new member states during a transitional period rather than before accession; increasing the

¹⁵⁷ Neil Nugent (2004), *op cit*, pp.13 – 14

¹⁵⁸ *Ibid*, p.14

¹⁵⁹ Poul Skytte Christoffersen (2007) “From Helsinki to Seville, July 1999 – June 2002” in George Vassiliou (ed) The Accession Story: The EU from 15 to 25 Countries, Oxford University Press, p.70

EU's co-financing rate to 80%; and adding some specific measures to encourage the restructuring of semi subsistence farms.¹⁶⁰

While the debate on internal policy reforms and the first stage of negotiation with the “first wave” countries were ongoing, the Commission also launched in April 1998 acquis’ analytical examination process with the “second wave” countries plus Malta within the context of “enhanced pre-accession strategy and inclusive nature of enlargement process”. The inclusion of the second wave into the accession process provided them with a strong incentive to speed up their political restructuring process.

Eventually, the Commission acknowledged in its 1999 Progress Report prepared to the Helsinki European Council that Lithuania, Latvia and particularly following Meciar’s loss of power, Slovakia was doing well and could be allowed to begin accession negotiations.¹⁶¹ As Smith notes, Bulgaria and Romania also made progress but might have delayed more had it not been for the war in Kosovo.¹⁶² In the light of the Commission’s positive remarks, the Helsinki European Council decided to launch formally the accession negotiations with the “second wave” 5 + 1 candidates,¹⁶³ but at the same time adopted a “regatta approach”, which means that each candidate would be assessed on its own merits and accession will depend on how quickly they would be able to complete the negotiations.¹⁶⁴

The Copenhagen European Council, held in December 2002, marked the EU’s history with an imperative decision: the candidate countries, Cyprus, the Czech Republic, Estonia,

¹⁶⁰ *Ibid*, p.70

¹⁶¹ Julie Smith (2000) “Enlarging Europe”, *Journal of Common Market Studies*, Vol:38, Annual Review, p.122

¹⁶² *Ibid*, p.122

¹⁶³ European Council (1999b), “Presidency Conclusions”, Helsinki, 10 – 11 December

¹⁶⁴ Karen Smith (2003), *op cit*, p.128

Hungary, Poland, Slovenia which started accession negotiations in 1998, along with Latvia, Lithuania, Malta and Slovakia, which had begun their negotiations in 2000, were deemed ready to accede on 1 May 2004.¹⁶⁵ Romania and Bulgaria had already stated before the Summit that they aimed for 2007 to join the EU¹⁶⁶ and the Council also supported their stated objective.

To sum up, Torreblanca, in addition to the “decision to enlarge” that is evaluated at the beginning of this sub-section, identified three more independent variables for the accession process, “accession criteria, timing and allocation of costs”. When the rational choice institutionalist and constructivist institutionalist hypotheses on these independent variables were testified on the basis of the fifth enlargement negotiations, the following conclusions were attained: for “accession criteria”, the Luxembourg Council’s decision to launch the negotiations only with 5 + 1 candidates rather than all and its statement implying the principle of differentiation is to a great extent confirming the rational choice institutionalist hypothesis arguing “discriminatory and cost-oriented” criteria. Similarly, for “timing”, the EU’s reluctance to get involved in substantive negotiations even with the frontrunners until it tidied up in-house well-demonstrates that enlargement proceeds in stages rather than at once and distribution of costs precedes. Finally, for “allocation of cost”, the deal on CAP and Structural Funds is itself enough to conclude that “costs are exchanged or imposed on the candidates”.

It would not be wrong to argue that the series of these small hypotheses proving rational choice institutionalist explanation right lead us to Sedelmeier and Schimmelfennig grand hypothesis derived from the rational choice institutionalism for macro dimension of

¹⁶⁵ European Council (2002) “Presidency Conclusions”, Copenhagen, 12 – 13 December

¹⁶⁶ Julie Smith (2003) “Enlarging the European Union”, Journal of Common Market Studies, Vol:41, Annual Review, p.115

enlargement policy: “the member states favour the integration of an outsider state – [and vice versa] – under the conditions that they will reap positive net benefits from enlargement ... and that these benefits exceed the benefits they would secure from alternative form of relationship”.¹⁶⁷

1.3.3.2. Role of the Community Institutions: “Intervening” or “Independent” Variables?

As stated also above, the main objective in examining the roles of Community institutions during fifth enlargement negotiations is to draw some insights as regards reaching an understanding on to what extent institutions matter in the EU’s enlargement. In other words, are they independent or intervening variable within the “composite policy”? In this sense, it would more instrumental to evaluate the roles assumed by the two main Community institutions, which have Treaty-given power in the enlargement process under Article O of TEU, namely, the European Commission and European Parliament.

To begin with the *European Commission*, its role in the enlargement process is formally limited to formulating a “non-binding opinion” on the applications for membership according to Article 49 of TEU. However, defining the role of the Commission just with the preparation of an opinion is “in stark contrast to the Commission’s real role in the enlargement process”.¹⁶⁸ In reality, particularly, in the case of the fifth enlargement process, the Commission was deeply involved in enlargement long before and after the formal opinion. As clearly explained by many scholars, the Commission’s key activities during this period can be summed up as follows¹⁶⁹:

¹⁶⁷ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.12

¹⁶⁸ Poul Skytte Christoffersen (2007) “Organisation of the Process and Beginning of the Negotiations” in George Vassiliou (ed), *op cit*, p.34

¹⁶⁹ See *Ibid*, pp.35 – 37, Derek Beach (2005), *op cit*, pp.214 – 242 and Graham Avery (1995), “The Commission’s Perspective on the Enlargement Negotiations”, SEI Working Paper, No:12, pp.2 – 6

- Managing bilateral relations with candidate countries, ranging from resolving commercial disputes to delivering large assistance programmes
 - Assisting candidate countries with its expertise on the *acquis*
 - Monitoring the progress and performance of the candidate countries against the requirements of membership, most importantly the Copenhagen criteria, and against the commitments made during the negotiations; publishing accordingly “in-depth reports” – Regular reports – every autumn, which offer member state an authoritative judgement on the commitment of each country to the accession process
 - Preparing and proposing the EU’s common positions to the GAERC during the accession negotiations
 - Assessing the requests of candidates for transitional periods. Yet, it is also worth noting that the Commission as the “guardian of treaties” was obliged to ensure that enlargement did not endanger the *acquis* and that is why it was hesitant to be too generous in offering transitional periods; moreover contrary to previous enlargements, during the fifth enlargement process it even wanted candidates to verify that the *acquis* was in fact implemented prior to accession
 - Facilitating internal negotiations conducted on the basis of the Agenda 2000 package through using both its formal and informal agenda-setting powers

In this respect, it could be argued that throughout the whole accession process the Commission “act as a neutral arbitrator in accommodating the specific interests of existing and prospective member states”, of course, within the limits of its duty to uphold the basic principles of the EU, such as the protection of *acquis communautaire*. Similarly, its role assumed during the fifth enlargement negotiations proved its ability “to play a key role as an honest, and therefore trusted broker”.¹⁷⁰ However, as Derek Beach points out, despite playing the key role, “it is surprisingly difficult to find the fingerprints of the Commission on the final outcomes”, which in a way demonstrates that the “only true mark of the Commission on the

¹⁷⁰ Poul Skytte Christoffersen (2007), *op cit*, p.36

process is its role in sustaining the process, facilitating the compromise, and ensuring that the enlargement negotiations would not reach an impasse”.¹⁷¹

The *European Parliament*, on the other hand, has a much weaker role than the Commission in negotiations with the candidates; its actual involvement into the process was primarily through the meetings of the Joint Parliamentary Committees, and the meetings between the President of the European Parliament and the presidents of the candidate states’ legislatures.¹⁷² Perhaps, it would not be wrong to say that the limited involvement of the European Parliament in the negotiations process is due to the limited informational assets at its disposal. To be more precise, although in 1997 there was an attempt to create a task force to gather information relating to enlargement both at existing and prospective members level and mainly through mirroring the Commission’s ongoing tasks, it never succeed in possessing “comparative informational advantage” in view of national governments.¹⁷³

However, there must be an acknowledgment of the role of the Joint Parliamentary Committees with the candidate countries, which proved to be useful in the establishment of political dialogue between the two sides and particularly, in enabling the European Parliament to assume the role of candidates’ advocate or in the words of Beach, to act as the “conscience” of the EU by attempting to entrap member states into an enlargement “rhetoric”, which, in fact, only morally served strengthening the resolve of governments to enlarge the EU¹⁷⁴ and rather more importantly, played into the hands of candidate countries’ governments in promoting the accession process shadowed by the rather fragmented voices coming from sectoral interests groups in members states.

¹⁷¹ Derek Beach (2005), *op cit*, p.234

¹⁷² *Ibid*, p.232

¹⁷³ Geoffrey Haris (2000) “A European Parliament Perspective” quoted by *Ibid*, p.230

¹⁷⁴ *Ibid*, p.241

Lastly, it is deemed imperative to emphasize that, according to Article O of TEU, the only Treaty –given power of the European Parliament throughout the whole enlargement process is to give assent to enlargement by an absolute majority of its component members, which in the case of the fifth enlargement process was exercised on 9 April 2003.

The above-explored roles of the two major Community institutions shows us that institutions act as intervening variables mainly with a rationale to ensure continuity and sustainability of the process. They do support enlargement only if “it would reap net benefits both for incumbents and new comers”¹⁷⁵. The European Commission’s particular role as an “honest and trusted broker” between two levels is a living proof of this hypothesis devised by Sedelmeier and Schimmelfennig. In other words, with respect to the attempt to demonstrate above, it may be concluded that the European Commission, as the most active and influential Community institution due to its main asset to access policy-makers at both levels of the “composite policy” as well as the information, has a crucial role in formulating and devising the most appropriate strategies that would ensure positive net benefits out of enlargement for all parties.

Concluding Remarks

This Chapter represents an attempt to draw a comparative framework for enlargement with a view to shedding light on the forth coming analysis on Turkey – EU relations. In other words, in order to better explain the research question driving the whole dissertation, that is to say “has the EU provided the same incentives for Turkey to conclude accession negotiations as it has done for former candidate countries”, there is a need to figure out what were the incentives on the basis of the similarities and discrepancies of the past enlargement rounds.

¹⁷⁵Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.15

Having this rationale in mind, in Section 1.1, the key stages of the EU's previous enlargement experiences are therefore revealed with particular emphasis on the fifth enlargement round. The emphasis on the fifth enlargement process stems from the fact that not only was it the most recent and most advanced, but also the issues confronting the EU and causing delay in the process through dividing it into stages rather than enlargement at once, seems to be quite similar to the ongoing discussions as regards Turkey's case, which will be explored in detail in the successive Chapters.

On the basis of the revealed stages and characteristics of enlargement rounds, it is then intended to draw a framework that is possibly applicable to forthcoming enlargements. In doing that through the existing literature, mainly Neill Nugent's findings have been reflected to a great extent, a different conclusion as regards the "management of applications", which Nugent categorises among the "recurring features of enlargement rounds"¹⁷⁶, has been reached. To put it more explicitly, instead of the categorisation of recurring features, it is argued that the fifth enlargement round paved the way to the realisation and management of enlargement within the context of a structured policy domain due to the bigger ever challenges confronting the Union. Furthermore, it is attempted to demonstrate the crucial role played by the European Commission in the delivery of this structured policy.

In Section 1.2, an attention is drawn to the need to provide a conceptual explanation of enlargement covering both member states' and applicants' preferences that encourage them to stay committed to the process. Taking Selmeier and Wallace's definition of enlargement as a "composite policy comprising of a macro policy and meso policies"¹⁷⁷ a stage further, it is tried to rephrase in line with the findings of the first section. Accordingly, whilst "macro

¹⁷⁶ Neill Nugent (2004), *op cit*, pp.60 – 61

¹⁷⁷ Ulrich Sedelmeier and Helen Wallace (2000), *op cit*, p.456

policy” is described as representing various independent and intervening variables that launch the enlargement process, “meso policies” definition rephrased as representing various dependent variables, namely acquis based sectoral reforms assumed by candidates at the expense of certain costs. Supplementary to this, an answer is sought to the questions of how can the mutual reinforcement between two levels be ensured and particularly, what are the mediating factors that sustain the gradual delivery of “composite policy”. The answers of both lay in the clear and persistent perspective at macro-level as well as the role assumed by the European Commission.

In other words, interpreting the nature of “composite policy” together with the role attributed to the Commission in the previously defined policy framework enable one to conclude that the persistency and clarity at the macro-level is sine qua non for smooth and effective progress at meso-level. Furthermore, the Commission, as an actor represented at both levels, should be responsible for mediating effectively with a view to ensuring not only the accommodation of mutual preferences but also the continuity and sustainability of the policy.

With a view to further exploring these findings, in Section 1.3, the mounting theoretical debate in the existing literature are dwelled upon, namely *rational choice institutionalism vs. constructivist institutionalism*. After revealing their main findings, it is necessary to highlight Sedelmeier and Schimmelenig’s respective hypotheses that aim at providing useful insights as regards these theories’ competence in justifying the prevailing dynamics of “composite policy”.

These hypotheses are then subject to a two-dimensional empirical test on the basis of the key stages of fifth enlargement negotiations and the roles assumed by the Community institutions exercising Treaty-given power in the enlargement process; the European Commission and the European Parliament. In other words, in conducting this empirical test, which theoretical account would better justify the nature of “composite policy” is demonstrated, in particular to help better understand the incentives behind the decisions of both member states’ and applicants, as well as the Commission’s influence throughout the whole process.

The eventual conclusion therefore comes as follows: a detailed analysis of fifth enlargement round negotiations support rational choice institutionalist arguments rather than constructivist institutionalists. As is clearly hypothesized by Sedelmeier and Schimmelfennig, “the member states favour the integration of an outsider state – [and vice versa] - under the conditions that they will reap positive net benefits from enlargement, and that these benefits exceed the benefits they would secure from alternative forms of relationship”¹⁷⁸. The Commission has also a crucial role in formulating and devising the most appropriate strategies that would ensure positive net benefits out of enlargement both for incumbents and new comers.

To this background the forthcoming Chapters on Turkey – EU relations mainly aim at seeking an answer to the question of to what extent the above-mentioned induction, which, in fact, is supposed to represent the evaluation criteria in assessing the EU’s contemporary enlargement politics, is applicable to the Turkish case.

¹⁷⁸ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.12

CHAPTER II: HISTORICAL ANALYSIS OF THE IMPLICATIONS OF EU ENLARGEMENT POLICY ON TURKEY – EU RELATIONS

Turkey – EU relations has captured significant attention among the international relations scholars for many years and particularly, dominated the studies on the EU's enlargement. With the establishment of the structured management approach to the enlargement process towards the late 1990s, which is explored in detail in the previous Chapter, the EU has also considerably advanced Turkey's membership prospects, even though it has generated controversial and fragmented voices among various political circles within the member states.¹⁷⁹

According to Grigoriadis, Turkey's geographic size, large population, level of economic development as well as its location at the crossroads of Europe, Middle East and Central Asia has been partly considered among the factors creating the so-called doubts and controversial views in the European public.¹⁸⁰ However, it should be admitted that hidden European fears and prejudices also come to surface when time comes to take concrete steps in proceeding with Turkey's membership bid that has described by many as “a country as being so different from the European “mainstream” as endanger the very nature of the EU”.¹⁸¹

Though the EU entrapped by the debate on the appropriateness showed a hesitant stance in view of Turkey's membership in launching the ever widest enlargement process at December 1997 Luxembourg Summit, “[its] line has then been revised in two years time at

¹⁷⁹ Neill Nugent (2007) “The EU's Response to Turkey's Membership Application: Not Just a Weighing of Costs and Benefits”, European Integration, Vol:29, No:4, p.481

¹⁸⁰ Ioannis N. Grigoriadis (2006), “Turkey's Accession to the European Union: Debating the Most Difficult Enlargement Ever”, SAIS Review, Vol: XXVI, Winter - Spring 2006, p.147

¹⁸¹ Neill Nugent (2007), *op cit*, p.482

the December 1999 Helsinki Summit with Turkey being accorded the status of a candidate country”.¹⁸² This accord was, in fact, symbolic and implicitly demonstrated that the EU get to understand that the costs of Turkey’s exclusion far exceeds the costs of her inclusion. In particular, the reinforcement of the language concerning Turkey’s eventual membership and the insertion of a specific provision for a pre-accession strategy embracing an AP¹⁸³ are the clear indicators of this new understanding.

After Helsinki, on the side of Turkey, the subsequent governments constructively and progressively has continued to undertake more substantial political reforms with a view this time to acquiring a date from the EU to start the accession negotiations.¹⁸⁴ Eventually, the negotiations have been launched on the 3 October 2005. However, as Turkey leads towards the final stage, on the EU side, the debate of appropriateness has been mounted once again and even in a more intensified manner. Among few, the most striking demonstration of this came from Valerie Giscard D’estaing, former President of France and the European Convention, whom argued that “Turkey would erode and distort the shape of the EU”.¹⁸⁵

These controversial developments have also provoked the polarization of views on the future prospects of Turkey’s membership bid. On the one hand, a group of scholars argue that like the previous enlargement rounds, the rational choice institutionalist account would be influential in shaping the main dynamics in Turkey – EU relations and accordingly, the existing obstacles arising from Turkey’s demography and economy would be sorted out within a spirit of compromise for the mutual benefits of the two sides.¹⁸⁶ On the other hand,

¹⁸² *Ibid*, p.482

¹⁸³ European Council (1999), “Presidency Conclusions”, Helsinki, 10-11 December

¹⁸⁴ Zeki Kütük (2006) “Turkey and the European Union: The Simple Complexity”, Turkish Studies, Vol: 7, No: 2, pp.278-9

¹⁸⁵ Valerie Giscard D’estaing, *The Times*, 23 September 2004: p.34

¹⁸⁶ See Ioannis N. Grigoriadis (2006), *op cit*, p.147

another group of scholars contend that constructivists' rhetoric would prevail this time and contrary to previous rounds of enlargements, Turkey's membership bid not only would be driven by the mutual cost-benefit analyses, but also factors such as identity, culture, and democratic tradition would mark the member states' and the EU's assessments / preferences ahead of making any historical decision.¹⁸⁷

However, as is the case in the previous Chapter, the best thing to do before agreeing with either of the above-mentioned judgements would be to make an evaluation on the basis of Torreblanca's drawn hypotheses about the key stages of enlargement (See Table 1.4 p.70). As it may be recalled, the last section of Chapter I has seen an attempt on the basis of the Torreblanca's model, which summarizes rational choice institutionalist and constructivist institutionalist assumptions under four main stages of the EU's enlargement, namely, "the decision to enlarge", "accession criteria", "timing" and "allocation of costs"¹⁸⁸, to demonstrate which theory is more competent in explaining the prevailing dynamics throughout the whole enlargement process.

What is worth to recall equally is the role to be assumed by the European Commission in ensuring the effective delivery of enlargement policy. To be more precise, it is also demonstrated as regards to the management procedures of the fifth enlargement that the Commission as a "principal actor"¹⁸⁹ accumulating information from all sources, must be able to assume a critical role to facilitate the successful completion of negotiations through acting as a mediator not only among the Member States (macro-level) but also between the Council and a candidate country (meso-level).

¹⁸⁷ See Neill Nugent (2007), *op cit*, p.487

¹⁸⁸ Jose I. Torreblanca (2002), *op cit*, p.15

¹⁸⁹ Klaudijus Maniokas (2000), *op cit*, p.8

To this background, in order to be able to both adopt a comparative perspective and reach a conclusion, there should be an attempt during this dissertation to evaluate same model as well as the Commission's role as an intervening variable within the context of Turkey – EU relations. However, amongst all it is deemed imperative to have first a discourse in a more historical context and particularly, examine the developments, the key turning points over a period of four decades that eventually paved the way to the EU's "decision to enlarge".

Put it in this way, during this Chapter it is aimed at covering the period that was initiated back in 1959 with Turkey's application for full membership of the Community and lead up to the critical Helsinki Summit of December 1999¹⁹⁰, where the EU officially make the historic decision to enlarge towards Turkey (Section 2.1). No doubt, such a discourse will also shed light on the more substantial analyses to be carried out as regards the other aspects of accession process mainly, the "accession criteria", "timing" and "allocation of costs" as well as the Commission's role in the post-Helsinki period in the next Chapter III. Besides, with a view to preparing the ground for Chapter IV, namely, "Impact of the Cyprus Problem on EU Enlargement Policy towards Turkey ", Cyprus linked developments will also be explored while providing an overview of key events.

It will then be intended to situate the insights drawn out in Section 2.1 and particularly, the ups and downs encountered in Turkey – EU relations during the late 1990s within the context of the rational choice institutionalist explanation. In other words, further to the key historical stages highlighted in the first section, the second section (Section 2.2.) will try to explain the rationale of the Helsinki 1999 Decision from rational choice institutionalist point of view that is, in fact, believed to offer us a new avenue in interpreting the

¹⁹⁰ For more detailed chronological review of Turkey – EU Relations please see Annex I: Chronology of Turkey – EU Relations within the context of the EU's Enlargement Policy)

contemporary Turkey – EU relations. During these analyses, importance will be also given to the Commission’s role assumed during the late 1990s and how it restored the relations came to a halt in December 1997 through ensuring back the synchronisation between the macro and meso level policies.

Generally speaking, the central claim driving the way of this Chapter is that neither the past nor the future of Turkey – EU relations can be adequately understood simply on a bilateral basis without taking into account Europe’s evolving policies and institutions in the course of enlargement. By the same token, there is an attempt to demonstrate that establishment of the Single Market, transformation from economic community to political union, end of Cold War and CEECs regaining of their independence have been the key developments that urged the EU to reshape its priorities and strategic interests expected to be gotten from enlargement and accordingly, put Turkey at the end of the enlargement queue during 1990s.

2.1. From 1963 – 1999: Road from Associate to Candidate Status of Turkey

The aim of this section is to provide a critical assessment of the key developments taken place within the period that has witnessed Turkey’s transformation from associate to candidate states. Whilst the first sub-section on Association Period between the EU and Turkey represents an attempt to introduce us to Turkey’s first encounter with the EEC and the legal basis still governing the EU – Turkey relations, the second sub-section briefly explores Turkey’s application for full membership and her ending up instead with the completion of Customs Union as scheduled as the final stage in Ankara Agreement. Similarly, during this section, it is aimed at giving a global overview of what customs union has brought for Turkey in economic, legal and administrative terms. Lastly, there will be a focus on the key period

between December 1997 and December 1999, which marked by Turkey's deep sense of frustration and exclusion emanating from the Luxembourg European Council decision. Giving goes ahead to the "first wave 5+1" countries with negotiations and declaring the rest of the CEECs as candidates whilst just proposing a "European strategy" for Turkey have unsurprisingly paved way to disappointment among Turkish political circles. In this sense, the main objective during this sub-section is to demonstrate how the EU makes a "U" turn in December 1999 and in particular, how the Commission has been granted more active involvement so as to restore relations.

2.1.1. From 1963 to 1995: Association Period

"...With the Association Agreement, Turkey has tied her destiny and future with the European Communities".¹⁹¹

Since the foundation of modern Republic of Turkey, almost all Turkish governments have shown a keen interest to the integration process in Europe. Moreover, Turkey's membership to the EU has always been regarded as a rational extension of her continuous westernisation process¹⁹² that has been initiated by ratifying the Treaty establishing the Organisation for European Economic Cooperation in 1948, joining the Council of Europe in 1949 and acceding to NATO in 1952.¹⁹³ This general motivation coupled with Greece's application to the EEC further encouraged Turkey to appeal with a view to creating an association partnership. In 31 July 1959, Turkey applied to establish association with the EEC, which can be regarded as the beginning of official relations between the EU and

¹⁹¹ Speech by Walter Hallstein on the Occasion of Signing the Ankara Agreement, 12 September 1963, available at www.whi-berlin.de/documents/whi-paper0406.pdf

¹⁹² Atila Eralp (1993) "Turkey and the European Community in the Changing Post-War International System" in Canan Balkır and Allen Williams (eds) *Turkey and Europe*, London Pinter Publisher, p. 7

¹⁹³ Edgar Lenski (2003), "Turkey and the EU: On the Road to Nowhere?", *Zeitschrift Für Ausländisches Öffentliches Recht und Völkerrecht*, Band 63 WHI – 10/03, p.78

Turkey. The Council of Ministers of the EEC accepted the application, however, negotiations with Turkey to conclude an association agreement was interrupted by the coup of 1960. This unexpected and unplanned development caused an automatic delay in the evolvement of relations. As result of lengthy process, the association agreement was concluded in Ankara on 12 September 1963 and entered into force on 1 December 1964 after having been adopted by the Council acting unanimously and notified by the EEC six Member States.¹⁹⁴ The Association Agreement, namely the Ankara Agreement, covered, in general, ranges of provision regulating trade, aid, as well as cultural and political cooperation.¹⁹⁵ More importantly, though no schedule attached, it contained a membership perspective¹⁹⁶ stated in Article 28 as follows:

As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey if the obligations arising out of the Treaty Establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community.¹⁹⁷

According to Article 2 (3) of the same agreement, which, in fact, complements the above-mentioned Article 28, the association would be composed of a “tripartite structure” which translates to the relationship shall be proceeded into three stages: preparatory, transitional and final.¹⁹⁸ Envisagement of a relatively time-extended prospect for membership was at that time justified by the risk that the early exposure of the Turkish economy to full competition in the context a European free market would jeopardise the development of its industrial sector. In the meantime the EEC would offer financial assistance under the Financial Protocol signed between parties.

¹⁹⁴ Edgar Lenski (2003), *op cit*, p.78

¹⁹⁵ Neill Nugent (2005), *op cit*, p.1

¹⁹⁶ *Ibid*, p.2

¹⁹⁷ Ankara Agreement, establishing an Association between the European Economic Community and Turkey, signed in Ankara 12 September 1963

¹⁹⁸ Edgar Lenski (2003), *op cit*, p.79

In the preparatory stage, it was aimed at enhancing Turkish economy through the Community's financial assistance foreseen for five years so as to facilitate smooth transformation to the successive stages. As was scheduled, the negotiations for second stage – transitional stage- was launched in 1968 and successfully completed in 1973, which represents a critical turning point in the economic relations. At that time, it was rather Turkey that urged the EEC to put things in a relatively fast track, since it was seen as the only way of abolishing planned economy and fostering rapid economic growth.¹⁹⁹ The Additional Protocol representing the transition period of the customs union took effect in that particular year. It provided that the EEC would abolish tariff and quantitative barriers to imports from Turkey (with the exception of textile) upon entry into force of the Protocol and Turkey would do the same for EEC's industrial exports in accordance with a timetable containing two calendars set for 12 and 22 years.²⁰⁰ Furthermore, according to the Protocol, Turkish legislation would be harmonised with the relevant EC legislation in regard to Common Agricultural Policy, the free movement of people and services, transportation and economy for future establishment of customs union.²⁰¹

The Additional Protocol brought significant advantages for Turkey's some agricultural exports to the EEC. Despite other agricultural producers such as Greece, Portugal Spain later becoming member states, and the EEC's conclusion of preferential trade agreements with certain Mediterranean countries, Turkey preserves even today its position as one of the EU's most privileged trading partner with well integrated economies as far as a large part of the trade in goods concerned.²⁰²

¹⁹⁹ *Ibid*, p.79

²⁰⁰ Ziya Öniş (2001) 'An Awkward Partnership: Turkey's Relations with the European Union in Comparative-Historical Perspective', Journal of European Integration History, Vol: 7, No:1, p.114

²⁰¹ Edgar Lenski (2003), *op cit*, p.79

²⁰² F. Nowak-Lehmann et. all. (2007) "The Impact of a Customs Union between Turkey and the EU on Turkey's Exports to the EU", Journal of Common Market Studies, Vol: 45 No: 3, p.720

However, enthusiasm for the agreement on the EC's side was tempered by a growing realisation of what Turkey's full membership might involve, particularly regarding the free movement of labour in the post-1973 recession, which was a particular concern for Germany, the EC member state with the greatest number of Turkish immigrant workers.²⁰³ Turkey's peace operation to Cyprus in counter response to the Greek Coup's attempt to unite the island with Greece, also created new obstacle, particularly when it became clear that Greece was likely to join the EC. By 1976 the Association Agreement was in trouble, and in 1978, Turkish government led by Bülent Ecevit formally requested a five-year freeze in their commitments.²⁰⁴

Put it in this way, the political repercussions of this military intervention coupled with the political and economic instability on the domestic front drag Turkey away from the EEC. The agreement, however, was effectively finished off by the 1980 military coup and even after the restoration of democracy in 1983, it proved difficult to reactivate. Turkey, in other words, though the regime was put back in place, it was not given an opportunity to fulfil its responsibilities during the transition process and tariff removal was halted until 1988. According to Redmond, the Cyprus issue in the Council of Ministers and human rights issues in the European Parliament, which adopted various critical resolutions for Turkey, can be cited as the major obstacles, particularly once Greece became a full EC member in 1981.²⁰⁵

Based on these developments, it is generally argued that if the Additional Protocol had been implemented in full on Turkey's part, the free circulation of goods and services and the

²⁰³ Christopher Preston (1997), *op cit*, p.214

²⁰⁴ *Ibid*, p.215

²⁰⁵ John Redmond (1993) The Next Mediterranean Enlargement of the European Community, Aldershot, Dartmouth, p.21

harmonisation of Turkish legislation with that of the EEC in various of areas *acquis* would have been achieved at the end of the 22 years timetable which would certainly serves Turkey's wider interests.²⁰⁶

2.1.2. From 1995 to 1997: Completion of the Customs Union in Response to Turkey's Full Membership Application

In the first general elections took place after the military coup in 1983, Turgut Özal's Motherland Party won 211 seats in the 400-seat assembly with a popular support of %45 by promising liberalisation which resulted with the EU related matters regaining attention. In the aftermath, new Özal government decided the opening of economy to the operation of market forces as result shifting economic policy from an import-substitution model which meant an important development for the future of EU – Turkey relations.²⁰⁷ As a natural consequence, this also represented a concrete step in the direction of restoring the relations in 1986 through revitalisation of the Association Agreement at a meeting of the Association Council on 16 September of same year.²⁰⁸

From the beginnings of 1980's Turkey's observation that members of the European Union are increasing with Greece and afterwards with Spain and Portugal and also the realisation that the Association Agreement could not prepare the basis to upgrade relations into a desired level, have been important factors paving the way for Turkey to consider applying for full membership.²⁰⁹ Additionally, as the liberalisation and democratisation efforts of Özal's government received positive reactions from European circles, Turkey – EU

²⁰⁶ Interview with Nilgün Arısan Eralp, Director of National Programme Department, EU General Secretariat, Ankara, 21 March 2008.

²⁰⁷ Ahmet Evin (2005) "From Özal to the Present Day" in Michael Lake (ed), The EU and Turkey: A Glittering Prize or a Milestone, Federal Trust for Education and Research Publications, p.30

²⁰⁸ Edgar Lenski, *op cit*, p.79

²⁰⁹ Ziya Öniş (2001), *op cit*, p.116

relations has gained new acceleration that urged the Turkish government to submit formal application for full membership in 1987, on the basis of Article 237 of Treaty of Rome. In the so-called appeal, the then Prime Minister Turgut Özal explicitly claimed that “Turkey has shared for 40 years the burden of defence of Europe against communism; it should share in the benefits of European economic growth”.²¹⁰ The Council forwarded Turkey’s application to the Commission for the preparation of an Opinion. This has reconfirmed Turkey’s eligibility, given that asking the Commission’s opinion is considered as the first initial step in launching the accession process or put it this way in the operationalisation of the enlargement policy.

The Commission’s Opinion was completed on 18 December 1989, which was in fact the longest duration for the Commission in assessing an application and demonstrated the sensitivity of the case which then endorsed by the Council in February 1990. Whilst reaffirming the principle that no enlargement could take place before 1993, following completion of Single Market, the Opinion, listed a number of formidable economic obstacles to Turkish membership, all of which posed fundamental changes to the “classical enlargement method”, namely, the full implementation of *acquis*.²¹¹ As is also noted by Preston:

Beyond general concerns about the capacity of the Turkish economy to adapt to the *acquis*, the Opinion noted major structural disparities leading to a GNP per capita one-third of the EC average, with 50 per cent of the labour force still employed in the agriculture, high-levels of inflation, unemployment and industrial protection, and low levels of social protection; besides, in terms of political dimension, the Opinion conceded that there had been progress towards parliamentary democracy but considered that human rights provisions were still inadequate and that conflicts with one member state of the Community still impeded relations.²¹²

²¹⁰ Zeki Kütük (2006), *op cit*, p.276

²¹¹ Christopher Preston (1997), *op cit*, p.215

²¹² *Ibid*, p.215

In respect to these analyses, the Commission instead proposed to the Council the intensification of political, economic and cultural links between Turkey and the Community and explicitly confirmed that Turkey's destiny lies in the European Integration through the below paragraphs;

To contribute to the success of Turkey's modernization efforts, the Commission recommends that the Community propose to Turkey a series of substantial measures which, without casting doubt on its eligibility for membership of the Community, would enable both parties to enter now on the road towards increased interdependence and integration, in accordance with the political will shown at the time of signing of the Ankara Treaty.

These measures will focus on the following four aspects corresponding Turkey's aspirations and needs: completion of the customs union, the resumption and intensification of financial cooperation, the promotion of industrial and technological cooperation and the strengthening of political and cultural links. These measures should be situated in the framework of the Association Agreement which currently governs the relations between Turkey and the Community²¹³

Although the Council's decision phrased in line with the Commission's suggestions did not satisfy Turkey's expectation, it contributed to the re-establishment of the confidence between the two sides and particularly, to analyze Turkey – EC relations: efforts to develop intensified cooperation on both sides through the Association Agreement's political and technical instruments and measures to complete the Customs Union in 1995.²¹⁴ Meanwhile, the Commission's promised package, widely known as the "Matutes Package", was prepared in 1990.

The realisation of these measures was, however, impeded by the constant Greek resistance against the release of any financial aid to Turkey.

²¹³European Commission (1989), "Opinion on Turkey's Request for Accession to the Community", Brussels, 20 December

²¹⁴ Zeki Kütük (2006), *op cit*, p.276

Furthermore, Greece could pressure its partners to accept a common political position stating the effects of Cyprus problem on EU – Turkey relations ... [which] then became standard language in official EU declarations. Ankara strongly condemned this formula, which it regarded as a clear violation of an EC commitment that bilateral Turkish – Greek conflicts should have no impact on the European – Turkish relations that had been undertaken by the European Commission in the late 1970s within the context of Greece’s entry into the European Community.²¹⁵

Despite Turkey’s righteous condemnations, it could still be concluded that the Greece’s veto represents the living proof of the argument that not only the absence of any strong supporter but, in fact, the existence of even one strong enemy within the Council could by itself drastically hinder a candidate country’s progress in the enlargement process.

It is undeniable that the early accession of Greece to the Community and particularly, the unanimity requirement for the Community’s history – making decisions has created *sui generis* obstacles for Turkey.²¹⁶ Yet, as Öniş also draws attention, “what is puzzling within Turkey – Greece – EC triangle for a long time has been why Turkey self-excluded itself” through failing to apply for full membership of the EC at the time as Greece, considering that one of the motives for Turkey’s application for associate membership of the EC was precisely counteract the initial strategic move on the part of Greece. A number of possible factors might be identified to explain the puzzle.

To start with one of the most striking factors is that the Turkish political elite appear to have underestimated the difficulties that Greece’s inclusion in the Community would pose for the subsequent course of Turkey – EC relations that essentially stems from the anticipation that Greece would be incorporated as a peripheral weak member and the Community itself

²¹⁵ Heinz Kramer (2000) A Changing Turkey: the challenge to Europe and United States Brookings Institution Publications, p.186

²¹⁶ Ioannis N. Grigoriadis (2006), *op cit*, p.148

would refrain from taking decisions against an important NATO power.²¹⁷ Put it somewhat differently, the inclusion of Greece would not fundamentally alter the Community's basic stance towards Turkey.²¹⁸

According to the generally accepted interpretation, the prospect for full membership provided in the Ankara Agreement also likely served this anticipation since it was at that time taken for granted that the obligations coming out of the Agreement mutually fulfilled Turkey would become an eventual member of the Community. Hence, the stance adopted by Turkey, in the long-run, just represented a miscalculation of Turkish political circles to realize not only the decision-making dynamics of the Community, but also the evolving nature of the Community system of governance and the deepening of economic integration model in the direction of political union.²¹⁹

Regardless of all frustrations and difficulties that the Greece's inclusion to the Community created on Turkey's full membership aspirations, the Commission's opinion and the Council's decision taken in that respect created a new avenue in Turkey – EC relations. The proposal for an enhanced Association Agreement leading to a customs union was pushed actively “in order to avoid the risk of Turkey turning away from Europe completely”.²²⁰ In June 1990, the Commission proposed the completion of the customs union by 1995, which was welcomed by Turkey with cautious optimism. However, by 1992, there was an emerging consensus that relations with Turkey needed to be further upgraded, particularly, since Malta and Cyprus applied for EC membership in 1991.²²¹ It mainly stemmed from this motivation

²¹⁷ Ziya Öniş (2000) “Luxembourg, Helsinki and Beyond: Towards an Interpretation of Recent Turkey – EU Relations”, Government and Opposition, Vol:35, No:4, p.469

²¹⁸ Karen Smith (2003), *op cit*, p.110

²¹⁹ *Ibid*, pp.13-14

²²⁰ Christopher Preston (1997), *op cit*, p. 217

²²¹ *Ibid*, p.217

that the Commission, in its famous Lisbon Report to the Council in June 1992, had explicitly noted that:

Events have highlighted Turkey's geopolitical importance and the role which it can play as an ally and as a pole of stability in the region; the Community should take all appropriate steps to anchor it firmly within the future architecture of Europe²²²

Yet, achieving what the Commission recommended required a breakthrough over Greco – Turkish relations and the Cyprus impasse, which did not arrive until the French Presidency of the Council in 1995.²²³ France, who traditionally enjoyed close relations with Greece, put together a package deal linking a promise to open accession negotiations with Cyprus six months after the conclusion of the 1996 IGC, with Greek agreement to lift its veto on the EC financial protocol with Turkey and the completion of the customs union scheduled for the end of 1995.²²⁴ Talks launched in 1994 were then accordingly finalized on 6 March 1995 at the Turkey – EU Association Council. On the same day, the Association Council adopted its decision 1/95 on the completion of the Customs Union in the industrial and processed agricultural goods by 31 December 1995,²²⁵ together with a resolution on accompanying measures, which, in fact, translate to the improved market access to the EC since EC have long time ago liberalized its internal market in view of Turkey. Besides, another declaration on financial cooperation was issued in return with Turkey lifting its high import barriers to EC goods and, on the institutional front, it set up a consultation body called the “The Customs [Union] Cooperation Committee”.²²⁶

²²² European Commission (1992), *op cit*, p.17

²²³ Christopher Preston (1997), *op cit*, p.218

²²⁴ *Ibid*, p.218

²²⁵ The EC – Turkey Association Council (1995) Decision No. 1/95 on implementing the final phase of the Customs Union, (96/142/EC), Brussels

²²⁶ Edgar Lenski (2003), *op cit*, p.82

Actually, Turkey's genuine interest in establishing customs union became evident towards the end of 1995, when the EP showed reluctance to endorse the so-called decision. According to TEU, the completion of customs union required also the consent of the EP however, given the Parliament's position on Turkey's human rights record, the endorsement of the decision could not be taken for granted.²²⁷ Ankara, in this respect, mobilised all resources to overcome the resistance. Domestically, it put considerable pressure on the Assembly to pass legislation for a reform of the 1982 Constitution that was lead to wider political participation and had been pending for month due to the parties' failure to reach a compromise; besides, the government also managed to soften Article 8 of the Anti-Terror Law that had previously led to the prosecution and imprisonment of many journalists.²²⁸

On the other hand, externally, great efforts to garner all the support of political circles were undertaken: the then Prime Minister Tansu Çiller and Foreign Minister Deniz Baykal approached every EU government and important politicians in the EU member states to ask for their support in convincing the EP; more importantly, Baykal's efforts in addressing his fellow German and British social democrats proved to be very influential in creating a breakthrough for the Socialist Group's reluctance in the EP and equally in ensuring the decision's endorsement.²²⁹

Many interpreted completion of the customs union as an important step for Turkey in terms of moving towards a more competitive economy.²³⁰ With this step Turkey entered a new phase in its economic development policy: after an import substitution policy that

²²⁷ Christopher Preston (1997), *op cit*, p.218

²²⁸ Heinz Kramer (2000), *op cit*, p.191

²²⁹ *Ibid*, p.191

²³⁰ Bernard M. Hoekman and Sübidey Togan (2005) Turkey: Economic Reform & Accession to the European Union, The International Bank for Reconstruction and Development / World Bank Publication, p.xviii

dominated Turkey's development during the 1960s and 1970s, and the export orientation that characterised the 1980s and early 1990s, Ankara has now started to apply a framework for its future economic development that would be mostly influenced by global market forces.²³¹

According to Kramer:

this change [has] necessitate[d] a new economic strategy: whereas import substitution industrialization aimed at creating an internal market and export-oriented industrialization led to a diversification of markets, the new framework requires a strategy that has been called productivity oriented institution building.²³²

The implementation of the customs union meant that trade in manufactured goods between Turkey and the European Union was no longer hampered by customs duties of any kind nor by quantitative restrictions or measures having an equivalent effect. It is worth underlining that the opening of Turkish economy with the entry into force of the 1/95 Decision; mainly the abolishment of all duties and equivalent charges on imports of industrial goods from the EU, the adoption of the EU's Common External Tariff and the gradual harmonisation with the EU's Common Commercial Policy were the steps difficult to be undertaken in the absence of strong EU incentives. Moreover, the pressure for restructuring the Turkish economy has been even further intensified by the legal measures that accompany the trade-related provisions of the customs union decision. Turkey had to institute legal reforms concerning economic matters according to EU rules. These included comprehensive legislative and administrative measures for the protection of intellectual, industrial and commercial property rights.²³³

²³¹ Heinz Kramer (2000), *op cit*, p.187

²³² *Ibid*, p.186

²³³ See *Ibid*, p.188 as well as Bernard M. Hoekman and Sübidey Togan (2005), *op cit*, p.xviii

Apart from these rather technical provisions related to the establishment and the proper functioning of the Customs Union, the resolution adopted together with the 1/95 Decision has foreseen the intensification of cooperation in areas such as Trans-European networks, energy, transport, telecommunications, agriculture, environment, science, statistics, as well as matters related to justice and home affairs, consumer protection, cultural cooperation, informationetc.²³⁴ These provisions also aimed at ensuring that the higher degree of cooperation achieved between Turkey and the EU through the Customs Union. It can be seen that the Customs Union has not been limited solely to trade of goods but also through modernising the relevant legislation with a view to preparing Turkish institutional structures to be compatible with the Single Market²³⁵, “it made Turkey the non-member country that institutionally is most strongly integrated with the EU”²³⁶.

2.1.3. From 1997 to 1999: EU’s U-Turn in view of Turkey’s Candidacy

In 1995, when the Customs Union was established with the EU, the pro-Western camp in Turkey very much welcomed the decision since at that time since it was widely perceived as the last step before full membership. The Turkish Political Elite’s interpretation was in fact rightly deriving from the Ankara Agreement (Article 28) which mentions that full membership is the mutual goal of the association.

Although the Customs Union indicated the deepening of Turkey – EU relations, the late 1990s represented again a serious troubles and a sense of great disappointment on Turkey’s part. To briefly explore, the EU, at the meeting of EC – Turkey Association Council

²³⁴ Edgar Lenski (2003), *op cit*, p.82

²³⁵ Muzaffer Dartan and Esra Hatipoğlu (2005) “Opportunity and Constraint: The Effects of the Customs Union” in Haluk Kabaalioglu et. all (eds) Europeanisation of South-Eastern Europe: Domestic Impacts of the Accession Process, Marmara University European Community Institute Publications, p.164

²³⁶ Heinz Kramer (2000), *op cit*, p.190

on 29 April 1997 reaffirmed Turkey's eligibility for membership and called on the Commission to put together a communication on the future development of relations in the context of Customs Union.²³⁷ The Association Council also reiterated that the Turkey's application would be judged on the same criteria as the other applicant countries²³⁸.

However, quite contrary to the above-mentioned points, the Commission excluded Turkey from the enlargement process in the Agenda 2000, which was drafted as result of the assessments lasted nearly two years upon the mandate received in Madrid European Council in 1995.²³⁹ As regards Turkey's full membership aspirations, Agenda 2000 just stated that Turkey should give "a firm commitment to resolve a number of problems in the region and contribute actively to just and lasting settlement of the Cypriot question" and added that "the EU should continue to support Turkey's efforts to resolve its problems and to forge closer links with the EU". It then refers on this point to the communication on the further development of relations with Turkey adopted simultaneous to Agenda 2000 report on 15 July 1997.²⁴⁰

The communication proposed a series of measures designed to consolidate the customs union through extending it to new fields (services and agriculture) and to step up cooperation in several sectors (environment, energy, telecommunications...etc).²⁴¹ The Commission also proposed assisting Turkey in its efforts to improve the human rights situation and to this end, the Commission prepared a preliminary draft programme foreseeing

²³⁷ EC – Turkey Association Council (1997) EU Bulletin Supplement ,No:1/4, Brussels

²³⁸ *Ibid.* point 1.4.74.

²³⁹ European Council (1995), "Presidency Conclusions", Madrid, 15-16 December

²⁴⁰ European Commission (1997a), *op cit.*

²⁴¹ European Commission (1997b) "Communication on the further development of relations with Turkey", Commission Communication to the Council , Brussels.

cooperation both with the Turkish authorities and NGOs to support their efforts to increase respect for human rights and the rule of law.²⁴²

The full adoption of recommendations in the Commission's communication by the Luxembourg European Council of December 1997 mounted Turkey's dissatisfaction, while the Council decided to announce a number of CEECs and the Mediterranean countries as candidates for membership, only confirmed at the highest level Turkey's eligibility for accession to the EU.²⁴³ It also decided to draw up a strategy:

to prepare Turkey for accession by bringing it closer to the EU in every field. It was suggested that this strategy should consist in development of possibilities afforded by the Ankara Agreement, intensification of the Customs Union, implementation of financial cooperation, approximation of laws and adoption of the Union acquis; participation, to be decided by case by case, in certain Community programmes and certain agencies²⁴⁴

The Council also noted a number of points such as the establishment of satisfactory and stable conditions between Greece and Turkey; the settlement of disputes in particular by legal process, including International Court of Justice; and support for negotiations under the aegis of the UN on a political settlement in Cyprus, and linked all these conditions with the invitation of Turkey to participate in the European Conference²⁴⁵. In brief, Turkey was invited to the European Conference, but on different footing compared to other applicant countries and with a number of conditions.

To open a bracket, what is needed to consider before reaching any judgement about Luxembourg Presidency Conclusions is that the Kardak – Imia crisis taken place almost a month after the start of the customs union in 1996 and the deterioration of the situation on

²⁴² *Ibid*

²⁴³ Zeki Kütük (2006), *op cit*, p. 277.

²⁴⁴ European Commission (1997b), *op cit*, p.7

²⁴⁵ European Council (1997) "Presidency Conclusions", Luxembourg, 12-13 December

Cyprus later in the same year had led the tense in Greco-Turkish relations reach its thaw.²⁴⁶ As a result of this, the Greek government adopted even tougher stance vis-à-vis not only the conclusion of financial protocol prepared to share the burden of market liberalisation in Turkey, but also the determination of conditions for Turkey's participation to the European Conference.

It was well-anticipated that Turkey would react negatively to the results of the European Council. In a way, this expectation on the EU had brought a fine tuning in itself which has in fact contradicting with its nature. Say it differently, the EU tried to balance the reaction of Turkey by confirming Turkey's eligibility for membership and offering European strategy to bring Turkey closer but at the same time excluding it from the fifth enlargement wave. Equally, the Commission immediately opted to fill underneath of the Council Conclusions though proposing some concrete measures.²⁴⁷

Although the EU claimed that the all candidates would be judged according to same objective criteria and that there would be no prejudice in their evaluation, Turkey found the Commission's approach unjust.²⁴⁸ In the press statement on 14 December 1997, Ecevit – Yılmaz coalition government declared the Luxembourg Council Conclusions as unacceptable for the following reasons:

Turkey had not been evaluated within the same framework, the same well-intentioned approach, and objective criteria as the other candidate countries;

most of the points that have been put forward as new and positive steps for Turkey were in fact the commitments undertaken and not implemented for many years by the EU;

²⁴⁶ Heinz Kramer (2000), *op cit*, p.192

²⁴⁷ Zeki Kütük (2006), *op cit*, p.277

²⁴⁸ *Ibid*, p. 277.

partial, prejudiced and exaggerated assessments were made about Turkey's internal structure and its foreign policy regarding Cyprus;

with these erroneous approaches, attempts had been made to impose unacceptable political conditions that had concealed intentions²⁴⁹

Ankara equally made clear that she would not participate in the European Conference under those conditions and that the political dialogue with the Union would be suspended until the reversal of the EU's position, which was interpreted among many as Turkey no longer wished to discuss with the Union the issues such as relations between Greece and Turkey, Cyprus Problem or human rights.²⁵⁰ According to Turkish policymakers, EU – Turkey relations would henceforth be only based on existing texts: the Ankara Agreement, Additional Protocol and 1/95 Association Council's Decision for the Customs Union, which was a clear indication that the EU's leverage on Turkey was minimised.²⁵¹ In a complementary nature, hints also began to emanate from Turkey that it might be forced to look elsewhere for friends".²⁵²

The Commission on 4 March 1998, on the other hand, adopted the initial operational proposals for the "European Strategy for Turkey" as requested by the Luxembourg European Council. As is rightly figured out by the then Turkish government, the contents of the Strategy were more-or-less similar to the previous packages which the EU promised but failed to deliver in the past mainly due to Greece's obstructionist policies. Moreover, the ambiguity over how this package would be financed prevented Turkey from being optimistic, since the

²⁴⁹ Statement of the Turkish Government Regarding the Conclusions of the Luxembourg Summit, Ankara, 14 December 1997

²⁵⁰ Karen Smith (2003), *op cit*, pp.124 - 132

²⁵¹ *Ibid*, p. 132

²⁵² Neill Nugent (2005), *op cit*, p.2

Commission itself conceded that the implementation of this package would require considerable financial resources.²⁵³

Following the Commission proposal, the Cardiff European Council held in June 1998 was important in the senses that welcoming the Commission's communication of 4 March 1998 and on taking forward the European Strategy to prepare Turkey for membership. It was agreed that, taken as a package, this provides a platform for developing relationship on a sound and evolutionary basis. The Council accordingly encouraged the Commission to carry forward this strategy, including the tabling of any proposals necessary for its effective implementation. It was also added that the strategy can be strengthened over time, taking into account Turkey's views.²⁵⁴

At the Cardiff European Council, the EU adopted a slightly different position in offering an opportunity to repair the difficult period which Turkey – EU relations entered in the aftermath of the Luxembourg Summit. Yet, although certain positive developments were achieved with regard to the language used for Turkey in the Presidency Conclusions of the Summit, they were not sufficient for Turkey to be included in the accession process and therefore modify its policy outlined in December 1997. The two very critical outcomes of the Cardiff Summit for Turkey – EU relations were respectively:

The Council's invitation to the Presidency, the Commission and the appropriate Turkish authorities to pursue the objective of harmonising Turkey's legislation with the *acquis* and the Commission's given mandate to prepare Regular Reports to inform the Association Council as regards Turkey's progress; and

²⁵³ European Commission (1998) 'European Strategy for Turkey', Commission Communication to the Council, COM 124/98, Brussels, 4 March

²⁵⁴ European Council (1998) "Presidency Conclusions", Cardiff, 15 – 16 June

the request made to the Commission to find solutions with a view to making available the financial resources needed for the implementation of the European Strategy.²⁵⁵

Subsequent to positive outcome and constructive discussions at the Cardiff European Council on the so-called European Strategy, on 22 July 1998 the Turkish authorities sent the Commission a document reflecting their reactions to the proposals presented in the strategy. In general, the broad outlines of this document matched with those of the “European Strategy”. In September 1998, the first technical discussions took place between the Commission and the Turkish authorities to decide on a work schedule and the arrangements for implementing the proposals. Although the suspension of political dialogue had been continued, Turkey demonstrated once again her willingness to continue with the membership bid by re-cooperating with the Commission on the basis of the European strategy.²⁵⁶

In response to the Cardiff European Council’s request on 21 October 1998 the Commission also adopted a communication on financial support for the European strategy. This communication included a regulation regarding the implementation of measures to intensify the EC – Turkey Customs Union (ECU 15 million for 1999 – 2001) as well as a regulation on measures to promote economic and social development in Turkey (ECU 135 million for 1999 – 2001). Yet, like previous financial packages, the two regulations had not been adopted by the EU budgetary authority due to Greece’s veto. Though the Commission attempted to propose some alternative ways of releasing the assistance without the necessity of Greek consent, Athens announced that it would appeal to the European Court of Justice if

²⁵⁵ In the statement issued by the Ministry of Foreign Affairs after the Summit Conclusions published, it is noted that the EU’s quest for finding the financial resources needed by the “European Strategy” was interpreted as an indication of the EU’s awareness of the need for fulfilling its obligations towards Turkey with due emphasis on the importance of the concrete steps in this area. The statement nevertheless underlined the contrast between the pre-accession strategy devised for the other candidates and the “European Strategy” for Turkey, which consisted simply of a set of ideas whose financing remained uncertain.

²⁵⁶ Heinz Kramer (2000), *op cit*, p.199

the EU Council of Ministers should approve the proposals.²⁵⁷ Eventually, the Strategy was proved to be insufficient in bringing Turkey – EU relations to a desired level and the Commission explicitly reiterated in its “1999 Regular Report on Turkey’s Progress towards Accession” that “without appropriate funding it is not feasible to implement all aspects of the European Strategy”²⁵⁸.

Noteworthy is the developments took place prior to the preparation of the Commission’s 1999 Regular Report in October, which in a way encouraged the supranational authority to make more positive remarks and concrete suggestions with a view to overcoming the deadlock in Turkey – EU relations. At the Cologne European Council held on 3 – 4 June 1999, the initiative was taken by the German Presidency in order to ensure the recognition of Turkey’s candidate status on an equal footing with the others. Compared to the previous Government in Germany, the new Coalition Government which came to power in October 1998 seemed to have taken a more positive line regarding Turkey’s quest for EU membership and started to support commencing of negotiations.²⁵⁹ However, the objections of some EU member states have prevented this initiative from being realized.²⁶⁰ As a natural consequence, the EU again was reluctant from taking a decision to include Turkey in the accession process.

In the statement made by the Deputy – Spokesman of the Ministry of Foreign Affairs on 4 June 1999, Turkey’s appreciation of the initiative taken by the German Presidency was expressed, but it was also declared that since the discriminatory approach towards Turkey

²⁵⁷ Nazlan Ertan (1998) “EU Move to Improve Ties Angers Greece”, quoted by Heinz Kramer (2000), *op cit*, p.199

²⁵⁸ European Commission (1999) “Regular Report on Turkey’s Progress Towards Accession”, Brussels, 13 October

²⁵⁹ Steve Wood and Wolfgang Quaisser (2005) “Turkey’s Road to the EU: Political Dynamics, Strategic Context and Implications for Europe”, European Foreign Affairs Review, Vol. 10, pp.152-153.

²⁶⁰ Heinz Kramer (2006) “Turkey and the EU: The EU’s Perspective”, Insight Turkey, Vol:8 No:4, p.27

remained unchanged at the Cologne Summit concerning the recognition of candidate status, the decision adopted by the Turkish Government in December 1997 following the Luxembourg Summit, pertaining to conduct of its relations with the EU would remain valid²⁶¹.

Only few months after the above-mentioned statement, the catastrophic earthquake taken place in the north western part of Turkey has influenced to a great extent relations between Turkey and the EU. The response of the international community to the disaster relief was immediate, involving provisions of rescue teams, medical assistance, fire-fighting equipment as well as financial aid. The Commission immediately released 4 millions € for emergency assistance and prepared a 30 million € support package in order to help Turkey in the rehabilitation phase. Further support measures to help in the reconstruction phase are being examined. The GAERC of 13 September 1999 adopted conclusions on Turkey, welcoming in particular the Commission's intention concerning further aid to Turkey. On the same day, Finnish Presidency invited Turkish Foreign Minister İsmail Cem to attend a working lunch after the Council meeting. This provided an opportunity to express the Turkish views concerning the need for reconstruction after the earthquake, as well as the current Turkish – EU relations.²⁶²

Following the earthquake, a new period between Turkey and Greece has began, which is then widely-defined as “rapprochement”.²⁶³ Ministers of Foreign Affairs from both countries agreed on exploring possibilities of promoting co-operation between the two

²⁶¹ Speech by Deputy Spokesperson of Turkish Ministry of Foreign Affairs, 4 June 1999, available at http://www.mfa.gov.tr/MFA_tr/BasinEnformasyon/BasinBilgiNotlari/

²⁶² General Affairs and External Relations Council (1999) “Presidency Conclusions”, Brussels, 13 – 14 October

²⁶³ Gülnur Aybet (2006) “Turkey and the EU After the First Year of Negotiations: Reconciling Internal and External Policy Challenges”, *Security Dialogue*, Vol:37, No:4, p.534

countries in fields such as tourism, culture, environment and combating organized crime (including illegal immigration, drug trafficking and terrorism).²⁶⁴ By many circles, this has defined as Greek national strategy has evolved in such way that today it accepts Turkey's further anchoring to the EU since, it seems the only way to settle territorial disputes in the name of further Europeanization; in other words, the old strategy of "conditional sanctions" has given way to a new strategy of "conditional rewards".²⁶⁵

As is mentioned above, the Commission encouraged by all the recent developments, honoured Turkey's decisiveness to go on with the embarked economic and political reforms in its second "Regular Report on the Turkey's Progress towards Accession".²⁶⁶ Besides, in the Composite Paper, which was also presented together with the Regular Report, the Commission took an important step by proposing Turkey to be considered as a candidate and backed this with concrete actions similar to those provided for the other candidates²⁶⁷. Turkey welcomed the Commission's proposals that would facilitate its full membership aspirations. Turkey, then, at the highest level acknowledged that the endorsement of the Commission's proposals at the Helsinki European Council Summit, in other words Turkey's recognition as an official candidate with all its inherent modalities, would initiate a new phase in Turkey – EU relations.²⁶⁸

The Helsinki European Council held on 10 – 11 December 1999 produced a breakthrough in Turkey – EU relations. At Helsinki, Turkey was officially recognised as a

²⁶⁴ Bahar Rumelili (2007) Transforming Conflicts on EU Borders: the Case of Greek – Turkish Relations, Journal of Common Market Studies, Vol:4, No:1, p.107

²⁶⁵ Tarik Oguzlu (2004) "The Latest Turkish – Greek Detente: Instrumentalist Play for EU Membership, or Long-term Institutionalist Cooperation?", Cambridge Review of International Affairs, Vol:17, No:2, p.342

²⁶⁶ See the European Commission's Regular Report on Turkey's Progress Towards Accession of October 1999

²⁶⁷ *Ibid.*

²⁶⁸ Statement by Prime Minister Bülent Ecevit, www.milliyet.com.tr/1999/10/14/dunya/dun00.html

candidate state on an equal footing with the other candidate states. While recognizing Turkey's candidate status, the Presidency Conclusions of the Helsinki European Council endorsed the proposals of the Commission made on 13 October 1999:

Building on the existing European Strategy, Turkey, like other candidate states, will benefit from a pre-accession strategy to stimulate and support its reforms. This will include enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession, with particular references to the issue of human rights, as well as the issues referred to in paragraphs 4 and 9 (a).²⁶⁹

Turkey will also have the opportunity to participate in Community programmes and agencies and in meetings between candidate states and the Union in the context of the accession process. An accession partnership will be drawn up on the basis of previous European Council conclusions while containing priorities on which accession preparations must concentrate in the light of political and economic criteria and obligations of a Member State, combined with a national programme for the adoption of the *acquis*. Appropriate monitoring mechanisms will be established with a view to intensifying the harmonisation of Turkey's legislation and practice with the *acquis*. The European Council asks the Commission to present a single framework for coordinating all sources of European Union financial assistance for pre-accession.²⁷⁰

So, the long-awaited candidature status was granted by leaving aside questions or interpretations whether Turkey is European or not. The decision was complemented when the Commission was mandated to mobilise *pre-accession instrument* that was already provided for the Eastern enlargement countries. In the next section, there will be an attempt to analyse main dynamics of this process in a rationalist approach.

²⁶⁹ The two paragraphs are respectively about peaceful settlement of disputes in accordance with the United Nations Charter and support for the UN Secretary – General's efforts to find a comprehensive settlement to the Cyprus Problem.

²⁷⁰ European Council (1999) "Presidency Conclusions", Helsinki, 10 - 11 December

2.2. Rational Choice Institutionalist Explanation of the Implications of EU Enlargement Policy on Turkey – EU Relations

During the late 1990s Turkey – EU relations had volatile and unpredictable times. This period which can be regarded with full of misunderstandings and misinterpretations on both sides clearly deserves serious analysis in its own right. Therefore, in this section, there will be an attempt to figure out the more justifiable reasons of what drove Turkey to consider itself excluded and then will be focused on dynamics that urged the EU to make a shift in its approach vis-à-vis Turkish membership.

To begin with Turkey, the Commission's covered mandate to exclude Turkey from Agenda 2000 and the accordingly formulated Conclusions of Luxembourg European Council in December 1997 was a great shock. The successful completion of the Customs Union as result of the strong political support in Turkey by the beginnings of 1990s and the self-demanding efforts of appropriate Turkish authorities during the intensive negotiations carried out for one year raised expectations among the Turkish authorities that Turkey would be granted full membership together with the CEECs.²⁷¹ However, as Europe evolved from the “Community” to the “Union”, the EU itself was also undergoing massive changes not only in the economic field but also in the political front.²⁷²

While significant steps were being taken towards deepening and involving a far greater coordination of economic policies in a wide variety of policy areas leading towards the introduction of single currency following the completion of the internal market, the

²⁷¹ Erhan İçener (2007) “Privileged partnership: An alternative final destination for Turkey's integration with the European Union?”, Perspectives on European Politics and Society: Journal of Intra-European Dialogue, Vol: 8, No: 4, p.418

²⁷² Ziya Öniş (2001), *op cit*, p.118

quality of democracy and human rights have been appeared to receive more emphasis than ever.²⁷³ The mere existence of representative democracy of Cold War era no longer sufficed as a qualification for full-membership.²⁷⁴ In other words, it can be argued that “deep integration” in Europe launched with Maastricht Treaty in the early 1990s had a fundamentally different meaning compared to Turkey’s first encounter with the Community in the 1960s.²⁷⁵

After the adoption of qualitative membership criteria with the Copenhagen European Council in June 1993, it became apparent that the Union, with a general reasoning to protect her character and founding principles, has been reorienting also its nature. Öniş rightly pointed out that this has been the first signal of a substantial change also in the expectations of the EU.²⁷⁶ Particularly, the introduction of requirements such as, guarantee of democracy, rule of law, human rights, minority rights, has tended the Europeans to place much more emphasis on the limitations of Turkish democracy, as opposed to earlier periods where the primary importance was always the removal of economic-social disparities and the relative underdevelopment of the Turkish economy.

By the time of Luxembourg Summit, there was no one arguing that Turkey met the political criteria so she has to start accession talks. However, Turkey’s exclusion from the enlargement process raised another striking question in mind: did the CEECs, the ex-communist bloc of Europe, have stable democratic institutions and respect to minority rights by the time that the Luxembourg European Council decided to launch accession process

²⁷³ *Ibid*, p.113

²⁷⁴ Karen Smith (2003), *op cit*, p.115

²⁷⁵ Ziya Öniş (2001), *op cit*, pp.123 - 124

²⁷⁶ *Ibid*, p.124

through activating the pre-accession strategy.²⁷⁷ Clearly, these set of countries appeared to have broadly similar or worse economic structures to Turkey and far more limited experience of democratic government. As it is generally accepted, in terms of democracy the situation was also similar with the case of Slovakia.²⁷⁸ The Commission's exclusion Turkey in the Agenda 2000 therefore has been interpreted by the Turkish decision makers as a perception if not an indication that the culture and identity may ultimately be of greater significance in determining the course of Turkey – EU relations.²⁷⁹ What they did miss to realize, however, is the need for prioritisation in Europe's enlargement due to the changing conjuncture in world politics in general and the growing debate on widening vs. deepening.

Put it somewhat differently, even a quick glimpse at the dynamics of European integration in its early period reveals that mainly security concerns have built today's remarkable achievement. EU leaders in their statements that have covered the rationale of enlargement have been equally littered with references to “peace”, “stability”, “security” and “prosperity”. As such, enlargement has been seen as extending EU foreign policy goals by bringing the continent together on a prosperous, stable and secure basis.²⁸⁰

The stability and security dimensions of enlargement has been not so much a “hard” security justification – the parallel enlargement of the North Atlantic Treaty Organisation (hereafter NATO) has been more responsible for the protection of Europe from military threats and for enabling European countries to deal with problems that might require a major military response. Rather, it has been concerned more with “soft” security – that is, with creating a framework in which countries can reduce uncertainties in their relationships by

²⁷⁷ Erhan İçener (2007), *op cit*, p.418

²⁷⁸ Zeki Kütük (2006), *op cit*, p.277

²⁷⁹ Ziya Öniş (2000), *op cit*, p.471

²⁸⁰ Heather Grabbe and Kirsty Hughes (1998), *op cit*, p.1

setting them on a more solid footing, by working more closely with one another, and thereby by building understanding and confidence.²⁸¹ This has been seen as being both desirable in itself and as helping to provide a measure of protectionisms from such possible security threats vis-à-vis re-fragmentation of Europe, the re-emergence of illiberal political forces, and the rise of nationalism.

In this sense, it is fair enough to argue that with the end of Cold War period, a significant matter of the security justification of enlargement has been focused on the CEECs. The EU 15 – and especially countries such as Finland, Germany and Austria, which shares border with CEECs – has been concerned to be protected against the domestic political instability in Central and Eastern Europe,²⁸² which could have considerable security implications for Western Europe. So, it has been assumed that the EU membership for CEECs would assist CEECs to consolidate their newly based democratic systems by bringing them inside “the democratic fold”²⁸³.

Furthermore, the volatility that has occurred in Central and Eastern Europe in the beginnings of 1990s has multiplied Europe’s problems with organized crime, illegal drugs, and the unauthorised movement of people across borders. As these problems do always contain cross-border essence in its nature and therefore require an organised and concerted approach amongst governments to tackle them, it is argued that it is better to have CEECs inside the EU helping to solve the problems on a common nature rather than outside, where they are likely to be aggrieved and not overly helpful.²⁸⁴

²⁸¹ Neill Nugent (2004), *op cit*, p. 4

²⁸² Heather Grabbe and Kirsty Hughes (1998), *op cit*, pp. 4-6.

²⁸³ Neill Nugent (2004), *op cit*, p.6

²⁸⁴ Heather Grabbe and Kirsty Hughes (1998), *op cit*, p. 294.

The general policy adopted by EU 15 vis-à-vis the enlargement preferences also proves rationalists theory right to a great extent. As is well-known, the rational choice institutionalists, who define enlargement as a process of gradual and formal horizontal institutionalisation, argue that expected costs and benefits determine the member states' enlargement preferences. In other words, "states favour the kind and degree of horizontal institutionalization that maximizes their net benefits"²⁸⁵. Nugent takes this to a further stage and defines in a more concrete sense the factors that maximizes the member states' net benefits and particularly, influence their decisions. To be more precise, the EU member states that have tended to be the strongest advocates and supporters of enlargement have been those which:

are geographically close to the acceding countries – for they are the most likely acquire trade and security benefits;

will not incur major budgetary losses – the accession of relatively poor member states, some of them with large agricultural sectors, has, from the very beginning of the accession process, concerned the major beneficiaries of the Common Agricultural Policy;

will not lose influence – as France in particular is likely to do – from the anticipated geo-political shift [eastwards].²⁸⁶

Turkey, as a state relatively distant to EU-15 in geographic terms with a large agricultural population and a potential to drastically change the established balance of power in the EU's decision-making process through getting equal voting weights to Germany, France and UK, was thereby not the most favourite candidate country to have priority in the fifth enlargement process. Still, it has to be admitted that if Turkish political circles were better aware of the changing dynamics in the EU's enlargement and took necessary precautions in advance, the Luxembourg European Council Conclusions could have been less disappointing for Turkey. The ignorance of Turkey in view of the EU – CEECs relations and

²⁸⁵ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.12

²⁸⁶ Neill Nugent (2004), *op cit*, p.7

over-confidence that she will easily be able to proceed with the next stage of integration following the completion of customs union unfortunately paved way to its exclusion from another enlargement wave.

Neither at the Copenhagen European Council in 1993, nor at the Madrid European Council in 1995, had the Turkish authorities recognized the changing dynamics in the EU's enlargement process could also affect Turkey – EU relations. As mentioned in Chapter I, these two critical summits respectively marked an important qualitative change in the formation of proper policy framework for enlargement; and the crucial role that the European Commission must assume to ensure the efficient delivery of policy by using or inventing necessary tools.

In particular, the Madrid European Council made it quite clear that the CEECs would have priority in the accession process through asking the Commission to bring proposals for the “financial perspective” from 2000 for the EU budget after evaluating the effects of enlargement on the EU's core policies and to determine an indicative date to open accession negotiations with the CEECs alongside Malta and Cyprus. Turkey's underestimation of the EU – CEECs relations brought together the failure to see the little nuance in the Madrid European Council Conclusions, which smoothly excluded it from accession negotiations aimed to be completed by the end of “financial perspective” from 2000.

It is indeed appropriate to ask whether Turkey would be qualified as a full member together with the CEECs if Turkish authorities would realised Turkey's exclusion in 1995. Probably the answer would again be “no”. However, the response given by Turkey following the Luxembourg European Council in 1997 might have come two years earlier and urged the

EU leaders to judge once again the tasks delegated to the Commission as regards the evaluation of enlargement. Since the U-turn in the Helsinki European Council in 1999 was the indication that it was technically possible to formulate “pre-accession strategy” in 1997 so as to also cover Turkey and likely to secure its prospective membership within the next financial perspective from 2007.

To turn now more directly to the second question of what urged the EU to make a change in its approach vis-à-vis Turkish membership, two main reasons can be identified. Firstly, the Cardiff European Council in March 1998 not only agreed on a “European Strategy” for Turkey but also empowered the Commission to prepare “Regular Reports”, as it would do for CEECs and southern applicants under pre-accession strategy, to inform the Council as regards Turkey’s progress, besides to find solutions with a view to making available the financial resources needed for the implementation of the European Strategy. Through such empowerment, the European Council, consciously or unconsciously, activated an important tool of the EU’s enlargement policy – more importantly to judge how they can sustain the continuation of relations with Turkey.

State it differently, similar to the case in the Madrid European Council in 1995 (discussed in detail in previous Chapter), the EU Heads of states and governments once again recognized the role that the Commission could assume to ensure the efficient delivery of EU’s policy for Turkey. Moreover, the Cardiff European Council represents a radical change regarding the Commission’s role in the context of the EU - Turkey relations and makes it a potential mediator between macro and meso levels of the policy.

The Commission has then taken the initiative to monitor the EU – Turkey relations and to develop new proposals with a view to restoring the political dialogue, which Turkey suspended following the Luxembourg European Council. The German Presidency’s stance in the Cologne European Council and the “earthquake diplomacy” launched afterwards between Greece and Turkey further encouraged the Commission’s bureaucrats to explicitly raise in 1999 Regular Report the problems faced during the implementation of European Strategy due to the lack of financial resources and particularly, to recommend Turkey’s recognition as an official candidate with all its inherent modalities in the “Composite Paper”, which has been considered to be in supplement to the Regular Reports.²⁸⁷

It would be however incomplete not to underline the second reason that encouraged the EU to reverse its decision on Turkey: the diversion in Greece’s stance vis-à-vis Turkish membership, which eventually paved the way to the full endorsement of the Commission’s recommendation in the Helsinki European Council.²⁸⁸ As is well-recalled, towards the end of 1999 a radical change of attitude could be discerned in the sense that Greece adopted a strategy of active support for Turkey’s candidacy and eventual membership.

There have been attempts to justify the changing Greek policy towards Turkey’s European bid. Scholars attributed importance to constructive behaviours of two Foreign Affairs Ministers, İsmail Cem and George Papandreou. Some circles also related the Greek change of policy with the humanitarian efforts started in the aftermath of devastating earthquake. No doubt, these are very crucial symbolic initiatives which had a multiplier effect on the rapprochement of Greek and Turkish people almost at all levels. Whatever the rationale

²⁸⁷ European Commission (1999) “Regular Report on Turkey’s Progress Towards Accession”, Brussels, 13 October

²⁸⁸ Ioannis N. Grigoriadis (2006), *op cit*, p.148

to this, as Öniş argued, this paradoxical development eventually paved way to a growing realization on Greece's part that its vital security interests would not be served and an appropriate solution to the Cyprus dispute could not be found if Turkey was left isolated and excluded from the Community.²⁸⁹ In other words, Greece increasingly visualised solution to its bilateral disputes with Turkey within the orbit of the Community and through EU incentives, pressures and discipline.

Concluding Remarks

This Chapter represents an attempt to explore Turkey – EU relations in its historical context and with particular respect to the rational choice institutionalist assumptions in view of enlargement. To this end, the first section has focused on the period that witnessed Turkey's gradual transformation from associate to candidate status, which was, in fact, the longest-lasting associate status in the Community's history. It critically highlights that delay in deepening the association relation had caused by the fluctuations of political preferences either in Turkey or the EEC. Besides, Greece's unexpected inclusion to the Community in 1981 whilst Turkey was struggling to restore its political stability and democratic governance has opened another source of conflict in Turkey – EU relations. Despite all the commitments given prior to full-membership, Greece had obstructed deepening of this relationship ever since it joined till 1999.

As is demonstrated during section 2.1, the Helsinki European Council decision has been considered as a breakthrough in Greece's national position vis-à-vis Turkey's EU bid. In other words, as Greek political elite realised usefulness and cost-effectiveness of soft power

²⁸⁹ Ziya Öniş (2000), *op cit*, p.475

domain, they have started to search for the resolution of their bilateral problems with Turkey through utilising from the EU's incentives.

The other important and historical event that affected Turkey – EU relations was the fall of Berlin Wall in the 1990s. Developments in the aftermath had also an impact on Turkey's EU bid, which examined carefully demonstrates how the EU member states reprioritise their preferences and eventually excluded Turkey from the fifth enlargement wave. The only encouraging development in mid-1990s has been the completion of customs union between the EU and Turkey that has been seen instrumental in preparing market to the competitive pressures that was achieved through legislative and administrative modernisation.

Although the customs union created high expectations among Turkish diplomatic circles and perceived as a final step prior to the full-membership, the stroke came with Turkey's exclusion in Luxembourg Summit distorted this positive atmosphere and brought the suspension of relations until the EU's U-turn in Helsinki in 1999. As regards this period, there was an attempt to reflect how the failure of macro-level incentives to reinforce meso-level reforms has also negatively affected the entire affair between Turkey and the EU. Inter-relevantly, the closer examination of this period in the Section 2.2 from rational choice institutionalists' perspective allowed us experience the critical role played by the European Commission in sustaining the relations after the 1997 Luxembourg crisis.

As a concluding remark, it is relevant to draw an analogy summarising the observations shaped with this Chapter: although Turkey – EU relations are not yet at the marriage phase, no party are ready to face the results of any early separation. The next Chapter therefore based on the established methodology of the first Chapter and the findings

of the second Chapter will closely look at the contemporary relations and try to figure out in comparative way with the fifth enlargement what sort of incentives and instruments are in place in order to facilitate Turkey's membership bid. A brief overview will also be given as regards the EU's, the member states' and Turkey's preferences in the new dimension that the relations has entered to. Against this background, the prospects contained in the NFD for Turkey adopted on 3 October 2005 and mainly their similarities and discrepancies with the General Negotiating Framework provided for the CEECs as well as NFD for Croatia will then be critically assessed.

CHAPTER III: ANALYSIS OF THE INCENTIVES OF EU ENLARGEMENT POLICY IN CONTEMPORARY TURKEY – EU RELATIONS

It is explored in Chapter II that Turkey – EU relations have a long history marked with various ups and downs. In 1963 Turkey and the EEC entered into an Association Agreement containing a membership perspective. In 1995, a customs union has been completed and in Helsinki in December 1999, the European Council decided that “Turkey is a candidate state destined to join the Union on the basis of other candidate states”.²⁹⁰

The decision of the European Council to accept Turkey as a candidate country at its Helsinki Summit represented a fundamental turning point in Turkey – EU relations and helped to reserve the deep sense of isolation which had prevailed over the course of past two years. Indeed, what appeared to be a drastic U-turn generated a new wave of optimism concerning the future course of democratization and economic reforms in Turkey.²⁹¹ Following the Helsinki Decision, the macro level incentives effectively applied by the Commission vis-à-vis a candidate country to push for necessary meso level reforms have also reinforced for Turkey. Particularly, the clear and non-discriminatory perspective put forth by the EU Heads of States and Governments for Turkey’s prospective membership has urged major dynamics for change at the Turkish context in both the economic and political realms. Ensuring conformity with the EU’s democratic and political norms constituting the Copenhagen political criteria, as well as to global norms specified by multilateral institutions such as the International Monetary Fund (IMF) has all of a sudden become major agenda

²⁹⁰ See Helsinki European Council Presidency Conclusions of December 1999

²⁹¹ Ziya Öniş (2000), *op cit*, pp. 476 – 477

topics for the Turkish government.²⁹² This has been the case in spite of historical legacy of a highly entrenched state tradition.

The reaffirmation of 1999 commitment by the Copenhagen European Council in 2002 that “if the European Council in December 2004, on the basis of a report and the recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria,²⁹³ the European Council will open accession negotiations with Turkey without delay” brought even further impetus to the reform process at meso-level.

Within the limits of the mandate received in Copenhagen, the Commission monitored even more strictly Turkey’s progress and comprehensively examined its track record in respect of political and economic criteria for accession. As is previously agreed, in October 2004, the Commission published its “Recommendation of the European Commission on Turkey’s Progress towards Accession”, which was prepared in the light of the Regular Report records and a comprehensive assessment of issues arising from Turkey’s membership perspective.²⁹⁴

On this basis, a strategy (which should have been supposedly named as “accession strategy”) consisting of three pillars have been presented. The first pillar concerned cooperation to reinforce and support the reform process in Turkey which is now based on the revised AP setting out priorities towards the fulfilment of Copenhagen Political Criteria; in the second pillar, the specific conditions for the conduct of accession negotiations for Turkey

²⁹² Ziya Öniş (2003) “Domestic Politics, International Norms, Challenges to the State: Turkey – EU Relations in the Post Helsinki Era”, Turkish Studies, Vol: 4, No: 1, p. 14

²⁹³ See the Copenhagen European Council Presidency Conclusions of December 2002

²⁹⁴ European Commission (2004) “Recommendation of the European Commission on Turkey’s Progress Towards Accession”, Commission Communication to the European Parliament and the Council, COM 656/04, Brussels, 6 October

were proposed, which now constitutes main aspect of Turkey's NFD setting out precise requirements, principles and conditions for accession; and the third pillar suggested the establishment of a communication strategy through substantially strengthened political and cultural dialogue that would bring people together from EU Member States and Turkey.²⁹⁵

In its recommendation, the Commission eventually concluded that

Turkey's accession would need to be thoroughly prepared in order to allow for a smooth integration which enhances the achievements of fifty years of European integration. This is an open-ended process whose outcome cannot be guaranteed beforehand. Regardless of the outcome of the negotiations or the subsequent ratification process, the relations between the EU and Turkey must ensure that Turkey remains fully anchored in European structures²⁹⁶.

On 17 December 2004, the European Council decided that,

in the light of the Commission report and recommendation, Turkey sufficiently fulfils the Copenhagen political criteria to open accession negotiations... It also invited the Commission to present to the Council a framework for negotiations with Turkey, on the basis set out in Paragraph 23. It requested the Council to agree on that framework with a view to opening negotiations on 3 October 2005²⁹⁷.

The NFD has been prepared in line with the Commission's preliminary indications in 2004 that has been endorsed fully by the European Council as part of 17 December Decision under Paragraph 23, and has adopted on the eve of formally launching accession negotiation with Turkey and Croatia. However, even a quick scan of the NFD reveals that the Council, upon the guidance and suggestions provided by the Commission, agreed on relatively tougher principles and conditions for negotiations. Particularly, the definition of negotiations as "an open-ended process", benchmarks, long-transition periods or permanent safeguard measures in the key policy areas and the clause related to the Union's absorption capacity - a condition that has been in place since the Copenhagen European Council in 1993 but never ever is

²⁹⁵ *Ibid.*

²⁹⁶ *Ibid.*

²⁹⁷ See the Brussels European Council Conclusions of December 2004

having been raised in such a way - can be given as the most striking aspects of the EU's renewed approach towards enlargement.²⁹⁸

In this context, despite the Helsinki European Council stated that Turkey's progress would be evaluated on an equal footing with other candidates, Turkey, due to its uniqueness, would face with hardened membership criteria, or let's say more strictly applied conditionality. Nevertheless, what lead to question marks about whether Turkey is provided with similar incentives to successfully complete negotiations is the overemphasised absorption capacity in both the European Council Conclusions of December 2004 and the NFD.

Bearing in mind that the effectiveness of conditionality in driving reforms at meso level depends on maintaining a credible perspective at macro-level for eventual membership to the Union, it is unsurprising that such an unclear commitment creates doubts and concerns among Turkish policy-makers about the EU's real intentions. This chapter therefore mainly seeks an answer to the question of whether the EU itself has or continues to do enough as regards of its enlargement policy in view of Turkey to create a virtuous cycle whereby both the macro-level incentives and the meso level dynamics to urge change reinforce one another.

Equally, first there is a focus on the post-Helsinki period which Turkey fully involved in the EU's pre-accession strategy created for CEECs. While comprehensively assessing the reform objectives materialized in this period, it is aimed at demonstrating how the process of change can be smoother and more successful if the Commission effectively accommodates

²⁹⁸ General Affairs and External Relations Council (2005) "Negotiation Framework Document", Luxembourg, 3 October

the candidate country's preferences to the macro level policies and ensure equal conditions and clear perspective for the future evolvement of relations (Section 3.1).

Then, the 17 December 2004 Decision and particularly, the NFD, which is constituted the EU's accession strategy for Turkey, is examined in a detailed and comparative way (Section 3.2). Through the comparative analysis, there is an attempt to figure out differentiations newly injected as regards principles, substance and procedures of negotiations and their expected repercussions in Turkey's overall progress. To this end, the most striking points in Turkey's NFD are on technical grounds matched with the General Negotiating Framework provided for all CEECs and the NFD for Croatia.

Finally, the forthcoming section looks for drawing some rational choice institutionalist explanation as regards the question of what urged the Commission to propose a hardened accession criteria and advanced derogations for Turkey (Section 3.3). Here it is deemed imperative to also make a global assessment of the preferences of the relevant parties involved in the process. The conclusion drawn, in this respect, reveals that the European Commission, as the agenda-setter of the EU decision-making process, well-anticipated the concerns of member states and effectively reflected them in the NFD for Turkey through suggesting alternative ways of achieving the goals, which in this case is the sustainability of the relations without undertaking any irreversible commitment for accession.

In other words, taking into consideration of the composite nature of the enlargement policy and particularly, the need to fulfil the expectations of the member states and the candidate country, the Commission mediated effectively and reached a compromise among the parties. While guaranteeing that the EU would not involve in another enlargement that it is

not able to absorb in all means, the Commission has sent an important message to Turkey that open-ended nature of enlargement will depend on the pace and content of the reforms to be undertaken in the coming years.

However, although Turkey has now acquired not a clear membership perspective but a relatively feasible ground to go on with its EU ambitions, the possible implications of Cyprus related Paragraph which is injected into the list of NFD technical requirements representing how the EU would apply its conditionality vis-à-vis Turkey (Paragraph 6), deserves a particular attention before making any final conclusion. Such an injection does not only contradict with the main nature of negotiations – literally defined as the process of establishing mutual agreement between parties on how to harmonise legal and administrative structures with the requirements of the *acquis communautaire* so as to assume obligations of membership, but also creates the perception that Turkey is being subject to the discriminatory stance of the EU. Put it in a different way, the unprecedented conditionality clause that also touches upon the candidate country's red lines is the major stumbling block in the contemporary Turkey – EU relations. More importantly, it hinders the mutual reinforcement between macro-level incentives and meso-level outcomes, which is necessary for smooth progress in the government's reform agenda.

3.1. From 1999 – 2004: Enhanced Pre-Accession Strategy as the Initial Incentive of EU Enlargement Policy

The expression of pre-accession formally appearing in the Essen European Council of December 1994²⁹⁹ has now been established as a key enlargement terminology. Since 1994, pre-accession strategies, pre-accession initiatives / instruments and enhanced pre-accession have been developed accordingly. The first initiatives to be drawn within the pre-accession strategy were the organization of the “structured dialogue”, which aimed at allowing the candidate countries to become familiar with the activities undertaken under the three pillars of the EU through organizing joint meetings at different levels, particularly at ministerial level.³⁰⁰

Another initiative which would assume an ever increasing importance in the pre-accession strategy was situated legal sphere and concerned the development of a comprehensive programme on approximation of laws. This objective already suggested as among the Copenhagen qualitative criteria in December 1993 was to become one of the cornerstones of not only the pre-accession strategy, but also the accession itself.

Finally, as part of the pre-accession initiatives, the Essen European Council further proposed that existing European Community programmes and agencies be opened to candidate countries mainly with a view to helping them in the familiarization with Community policies, working method and also demonstrating how these policies work in practice.

²⁹⁹ See the Essen European Council Presidency Conclusions of December 1994

³⁰⁰ Marc Maresceau (2003) “Pre-accession” in Marise Cremona (ed), *op cit*, p.20

The idea of an enhanced pre-accession strategy was formally launched at the 1997 Luxembourg European Council³⁰¹ and set in motion on 30 March 1998. The aim of this strategy was to enable all the CEEC applicants to become members of the EU mainly through urging them for the alignment with the *acquis communautaire*.³⁰² The three new components of the enhanced pre-accession strategy are APs, annual assessment of the progress achieved by the candidate country, and increased pre-accession aid.

The enhanced pre-accession strategy paved the way to an analytical examination of the *acquis* or in its more common usage the screening exercise with all the CEECs regardless of the distinction between first and second wave candidates, which the former was already negotiating the terms of accession. “This technique on a positive account helped to identify and also to anticipate some of the problems faced or to be faced during the accession negotiations”.³⁰³

Following the initial application of the enhanced pre-accession strategy in view of the CEEC applicants and in a relatively different context, in view of the southern applicants – Cyprus and Malta, it has been then extended to Turkey. Yet, Turkey represented a unique case in the enhanced strategy. As it could be recalled from the previous Chapter, before the end of 1999, she was found only eligible for membership and incorporated in neither the pre-accession strategy of the Essen European Council, nor the enhanced version of the Luxembourg Council. Indeed, at the 1997 Luxembourg Council, offering “European strategy for Turkey” made even more explicit that Turkey was excluded from the EU’s next round of enlargement, which, in turn, paved way to the suspension of political dialogue for two years.

³⁰¹ See the Luxembourg European Council Presidency Conclusions of December 1997

³⁰² Marc Maresceau (2003), *op cit*, p.30

³⁰³ *Ibid*, p.30

The 1999 Helsinki European Council brought a radical reorientation of the EU approach towards Turkey in which it qualified Turkey as a candidate state. As Maresceau contends, Turkey was the subject of a second and, perhaps in real terms, bigger qualitative upgrade than its candidate status implied: a close reading of Helsinki Presidency Conclusions, particularly the Paragraph stating that like other candidate states Turkey will benefit from a pre-accession strategy to stimulate and support its reforms³⁰⁴, reveal that “European Council meant to say that Turkey would be covered by the enhance pre-accession strategy in the same way as the other 12 candidates” demonstrating among other things “the adoption of an AP for Turkey, the adoption by Turkey of a NPAA, as well as enhanced political dialogue between Turkey and the EU”.³⁰⁵

3.1.1. Accession Partnership for Turkey

To the above background, the European Commission actively initiated the process of change through the preparation of an AP for Turkey, which was made public towards the end of 2000 but formally adopted by the GAERC on 8 March 2001. The first AP contained the principles, priorities, intermediate objectives and conditions necessitated by the Copenhagen Criteria.³⁰⁶ Consequently, it bridged an important gap and eliminated differentiations between Turkey and the other candidates. Of course, priorities are not standard and vary according to political, economic and administrative conditions in each candidate country.

For instance, in Turkey’s case in line with the highlighted sensitivities of the Helsinki Council, much more weighted emphasis were put into the conditions for the fulfillment of the political criteria. The AP as regards identified a rather comprehensive set of short-term

³⁰⁴ See the Helsinki European Council Presidency Conclusions of December 1999

³⁰⁵ Marc Maresceau (2003), *op cit*, p.38

³⁰⁶ General Affairs and External Relations Council (2001) “Decision on Accession Partnership for Turkey”, Brussels, 8 March

changes involving the extension of citizenship rights and the elimination of human rights violations. Besides, improving the functionality and efficiency of Turkish judiciary system, as well as liberalization on Kurdish issues were defined as one of the cornerstones of the political reforms. Last but not least, supporting the UN efforts to find a comprehensive settlement to the Cyprus problem was taken place as an indispensable condition for Turkey in moving to a further stage in its EU bid.

As regards the economic realm, the AP did not much differ from the expectations of IMF programme involving disinflation. The EU's attention as is the case in other national contexts focused explicitly on control of public expenditure, financial sector reforms to establish transparency and surveillance, reform of agricultural subsidies and privatization. Öniş concludes in respect to the content of the AP 2001 that whilst the expected political reforms with their highly liberal and pluralistic character presented a major challenge to the principles associated with "hard-core Republicanism", the expected economic reforms bears the entire objective of transforming the "soft state" characterized by populism, corruption and endemic fiscal stability to an effective regulatory state.³⁰⁷

In response to the AP, the Turkish authorities prepared the Turkish NPAA and submitted to the European Commission on 19 March 2001.³⁰⁸ The NPAA from the most general point of view "represented an attempt on Turkey's part to strike a balance between the need to meet the Copenhagen political criteria and the unwillingness to implement the reforms on the most sensitive issues in the short-run".³⁰⁹ The Gothenburg European Council of June

³⁰⁷ Ziya Öniş (2003), *op cit*, p.15

³⁰⁸ See the Turkish National Programme for Adoption of the Acquis (2001)

³⁰⁹ Ziya Öniş (2003), *op cit*, p.15

2001 accordingly regarded the NPAA as a “welcome development” and urged Turkey to concretize the measures with a view to fulfilling obligation arisen from the AP.³¹⁰

The very short period between June and December 2001 has seen a considerable progress in the materialization of the commitments given under the NPAA. Amongst all, political reforms were put into motion and in a rather historic way the package of thirty – four amendments to the 1982 Constitution, mainly introducing new provisions on issues such as freedom of expression and thought, prevention of torture, the strengthening of civilian authority, freedom of association and gender equality, were adopted in the Turkish National Assembly. These amendments were also brought together a comprehensive package of harmonization laws aimed at giving effect to the new changes. The beginning of 2000 onwards is fairly described “as a profound and momentous change in Turkish history ... [where] a change of magnitude would have been impossible in the absence of a powerful and highly institutionalized EU anchor in the direction of membership”.³¹¹

Turkey’s self-demanding efforts in the direction of reform have been also appraised by the Laeken European Council of December 2001. The Presidency Conclusions indeed recognize that “Turkey has made progress towards complying with the political criteria established for accession, in particular through the recent amendments of its Constitution”. This has brought forward “the prospect of opening accession negotiations with Turkey”. Turkey is encouraged to continue its progress “notably with regard to human rights” and finally the Council states that “the pre-accession strategy for Turkey should mark a new stage in analyzing its preparedness for alignment on the *acquis*”.³¹²

³¹⁰ European Council (2001) “Presidency Conclusions”, Gothenburg, 15 – 16 June

³¹¹ Ziya Öniş (2003), *op cit*, p.16

³¹² European Council (2001) “Presidency Conclusions”, Laeken, 14 – 15 December

As approaching to the Copenhagen European Council of December 2002, the process of change appeared to gather further momentum with the approval of many controversial harmonization laws over a short period of time, and particularly the most striking in this context was the August 2002 removal of the death penalty.³¹³ In addition to this, allowing broadcasting and education in minorities' mother tongue and liberalizing laws limiting freedom of speech constituted Turkey's remarkable steps in the direction of the Copenhagen political criteria.

However, despite all this good progress, the Commission raised two critical at the same time highly sensitive issues namely the Cyprus issue and the role of military in its 2002 Progress Report publicized in November. As regards the former, the Commission noted that though Turkey's declared support for comprehensive settlement was very much appreciated, it needed to be followed by concrete steps. Similarly, as regards the latter the expectation for further liberalization of the institution mainly with a view to reducing military's power on the State's governance was reiterated explicitly.³¹⁴

At wider-circles both within Turkey and the EU, it was perceived nearly impossible for Turkish political elite to meet the EU's strict expectation in the two outstanding issues. Yet, the reaffirmation of 1999 commitment by the Copenhagen European Council that "if the European Council in December 2004, on the basis of a report and recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European

³¹³ Ziya Öniş (2003), *op cit*, p.15

³¹⁴ European Commission (2002) "Regular Report on Turkey's Progress Towards Accession", Brussels 8 November

Council will open accession negotiations with Turkey without delay”³¹⁵ created new impetus in the reform process and urged certain internal dynamics to reach a compromise deal.

Within the limits of the mandate received in Copenhagen, the Commission monitored even more strictly Turkey’s progress and comprehensively examined its track record in respect of political and economic criteria for accession since the Helsinki Summit. In October 2004, the “Recommendation of the European Commission on Turkey’s Progress towards Accession” was published. Here, the Commission assessed in detail Turkey’s overall progress in regard to the Copenhagen political criteria and reached the conclusion that Turkey was eligible to start accession negotiations.³¹⁶ (For more see Annex II: European Commission’s Summary of Turkey’s Achievements over the Period of 1999 – 2004)

3.1.2. Other Instruments of the Pre-Accession Strategy

In parallel to the enhanced political dialogue established through AP Regulation so as to monitor Turkey’s progress as regards the fulfilment of the Copenhagen Political Criteria, the EU has also activated other instruments of pre-accession strategy for Turkey with a view to supporting overall reform initiatives.

Like it happened for other candidate countries, the Committees and Sub-Committees under Turkey – EU Association Council have been established to examine systematically the way in which AP priorities were implemented. Besides, the process of legislative scrutiny as regards the *acquis* has been initiated in the framework of the newly established Sub-Committees. This process focused on precise sector issues. Its purpose was to guide Turkey

³¹⁵ European Council (2002) “Presidency Conclusions”, Copenhagen, 12 – 13 December 2002

³¹⁶ See the Recommendation of the European Commission on Turkey’s Progress towards Accession (2004)

through the requirements for implementation of *acquis*, including administrative capacity and enforcement, which was then constituted the basis for the Turkish NPAA.

The Sub-Committees of Association Council began the process of the preparation of the analytical examination of *acquis* in two rounds, in the period June 2000 to July 2001. The Commission, in its 2001 Annual Progress Report, recommended starting a new phase (or a third round) in the pre-accession strategy by involving a detailed scrutiny of Turkey's legislation and its timetable for alignment with the *acquis*, rather than a formal screening exercise.³¹⁷

Almost simultaneous to the Commission's recommendation on the enhanced program of Sub-Committees, the Association Council gathered again on 26 June 2001 to evaluate progress achieved within the framework of Turkey's pre-accession strategy and took a number of constructive decisions, which would facilitate studies conducted regarding *acquis*, such as, Turkey's active participation in the wide-range of Community programs, its full access to the TAIEX offices and the establishment of joint consultation mechanisms that would convene regularly to discuss trade and economy related issues.

Last but not least, as substitute to the Community financial assistance granted CEECs through PHARE, a pre-accession instrument dedicated to assist Turkey has been created through the Council Regulation 390/2001 establishing pre-accession financial assistance programme for Turkey adopted on 26 February 2001. The procedures for planning and implementing the programme largely mirrored those of the PHARE.³¹⁸

³¹⁷ European Commission (2001) "Regular Report on Turkey's Progress Towards Accession", Brussels, 13 November

³¹⁸ Marc Maresceau (2003), *op cit*, p.39

In other words, similar to the PHARE programme, it provided support for institution building investments to strengthen the regulatory framework needed to ensure compliance with the *acquis* as well as infrastructural investments in the field of socio-economic cohesion. Equally, the support areas were determined in line with the principles and priorities taken place in the APs and structured on the basis of co-financed implementation method.³¹⁹ With the invention of Instrument for Pre-Accession (hereafter IPA) from 2007 onwards, the Council Regulation for financial assistance program for Turkey was however terminated and Turkey has become a beneficiary under the new instrument, which supersedes all previously existing pre-accession financial assistance programmes PHARE, ISPA, SAPARD, thus uniting under a single legal basis. The IPA has been also designed to better adapt to different objectives and progress of each beneficiary concerned, so as to provide a targeted and effective support according to their precise needs and evolution.

Activation of all elements under the pre-accession strategy has undoubtedly further reinforced internal dynamics for change. The Turkish political elite and key circles within society were more empowered as result of the EU's non-discriminatory treatment and more confidently stood behind controversial reforms dealt within the context of enhanced political dialogue. The pre-accession financial assistance also helped Turkey to build considerable capacity within its administrative structure to be able to handle negotiation process at the most effective way. Given that such a capacity was absent in the CEECs when the EU launched their accession negotiations in 1997 and in 1999, Turkey will definitely be in position of using its built capacity as an asset in the coming period of its relations with the EU.

³¹⁹ Council of Regulation (EC) 390/2001 of 26 February 2001 on assistance to Turkey in the framework of the pre-accession strategy

By way of summing up, Turkey's experiences in the post-Helsinki period demonstrates us how the promise of membership and equal treatment within the context of pre-accession strategy have increased the EU's leverage on an applicant country, in terms of pressure to proceed quickly with painful and controversial reforms required as part of the qualitative membership criteria. Put it somewhat differently, the political and democratic transformation process, which Turkey has been engaged into following the Helsinki European Council Conclusions, is the living proof of the central claim driving the way of analysis in this dissertation: Clear perspective and decisiveness at the macro-level of composite policy is sine qua non in order to facilitate transformation process at meso level.

Equally, the ability of supranational agent, the Commission, to successfully accommodate candidate country's preference at the macro-level decisions further empower itself to use the conditionality stick with an aim of urging reforms at the meso level. In the every Progress Report and relevant enlargement documents prepared over the period of 1999 – 2004, the Commission objectively honoured Turkey's achievements in its assessments and made necessary encouragement to all member states to take a step forward and to further develop the pre-accession strategy for Turkey with a view to ensuring sustainability of the in-depth reforms.

3.2. Post 2004 Era: Comparative Analysis of the Incentives of EU Enlargement Policy Provided in the Negotiating Framework Document

On 17 December 2004, Turkey – EU relations has entered a new phase, presumably the most crucial phase of its history. After waiting at the doorsteps of the Union for four decades, the post-Helsinki reforms and the Commission’s favourable recommendations have eventually opened the way of accession negotiations for Turkey over the course of 2005, which will probably lead to its full-membership. It is said probably since quite contradictory with the method and stated aim of the fifth enlargement, it is for the first time raised in the relevant Council Conclusions that “.... negotiations are an open-ended process the outcome cannot be guaranteed in beforehand”.

Although the Commission bureaucrats says that defining negotiations as an open-ended process is just an extra safeguard measure in order to ensure that accession criteria and respective conditionality will work out well in the materialisation of the enlargement policy, it definitely creates confusion not only for candidate country, but also for European public opinion. While jokes are wandering around that Turkey and the EU would negotiate until forever, opponents of the process on both sides try to already undermine it by pre-judging its outcome or precipitating its downfall.

All these speculations have been compounded with Turkey’s NFD prepared by the Commission with a view to determining the main principles and procedures of negotiations following the European Council’s green light in December and endorsed by the European

Conference held with the participation of Turkey and Croatia on 3 October 2005³²⁰. Again the most striking with the NFD is the emphasis put on the open-ended nature of negotiations and the linkage established with the “absorption capacity” of the Union.

Given that the effectiveness of conditionality in driving reforms depends on maintaining a credible perspective for eventual membership into the EU and given that the Commission’s most recent Progress Report highlights the slowing pace of reform, it is a worth effort to reflect on the EU’s adopted stance vis-à-vis Turkey after December 2004 and to figure out the reasons caused decrease in Turkey’s enthusiasm to continue with already engaged reform goals, particularly at the most crucial phase of its relations with the EU.

Trying to stick to the argument that “aspirant countries can best sustain public support for bold and often painful reforms only when the EU supports them, works with them and keeps it promises”, the NFD will be examined from a comparative standpoint and particularly, with a view to drawing some insights as regards the future prospects of Turkey – EU relations.

3.2.1. Comparative Review of the Negotiating Framework Document for Turkey

In Luxembourg, on 3 October 2005 the EU member states through adopting the NFD clearly set the framework in which the relations would prevail until the time of accession. The NFD comprises of three main parts. Whilst the first part reveals in detail the “principles governing the negotiations” (Paragraphs 1 to 9), two other parts cover respectively the “substance of negotiations” (Paragraphs 10 – 17) and the “procedures for negotiations” (Paragraphs 18 – 23). During below analysis, the emphasis will be rather put on the

³²⁰For the full text of the NFD for Turkey please see Annex IV: Negotiating Framework Document for Turkey

“principles governing the negotiations” since, mainly in that part it is possible to find useful insights as regards the nature and strengths of incentives provided for Turkey. Besides, it is the first part that differs from the Croatian’s and the CEECs Negotiating Frameworks in terms of content and the way of putting some expressions. Two other subsequent parts are, on the other hand, considered to be more technical and they bear similar aspects with all other NFDs except few striking points.

3.2.1.1. Issues Relating to the Principles of Negotiations

The issues as regards the principles of negotiations can be summarised under four headings, namely, principle of differentiations and open-ended accession process; absorption capacity of the EU; hardened accession conditions and Cyprus as “political criterion”; and enhanced dialogue between Turkey and EU. Below analysis, in this sense, covers mainly the relevant expressions for each heading in the NFD and their expected implications on Turkey – EU relations from a comparative point of view.

3.2.1.1.1. Principle of Differentiation and Open-ended Accession Process

To begin therefore with the 1st Paragraph of the NFD, it states that:

The negotiations will be based on Turkey's own merits and the pace will depend on Turkey's progress in meeting the requirements for membership. The Presidency or the Commission as appropriate will keep the Council fully informed so that the Council can keep the situation under regular review. The Union side, for its part, will decide in due course whether the conditions for the conclusion of negotiations have been met; this will be done on the basis of a report from the Commission confirming the fulfilment by Turkey of the requirements listed in (Paragraph 6”).

This Paragraph, particularly the sentence in italic clearly indicates that the “*principle of differentiation*” established by the EU before launching the accession negotiations with the frontrunner CEECs in 1997 will also be applicable for Turkey. Both in the opening

statement³²¹ at the first negotiating session in March 1998 and in the General NFD³²² (For the full text please see Annex III: The General Negotiating Framework), it was stated that:

Negotiations with the different applicant countries will be conducted on the basis of the same principles and criteria, but separately and according to the individual merits of each applicant country. Their progress and conclusion are not required to take place in parallel.³²³

The principle of differentiation, at that time, interpreted as an implication of the tendency to create a more complex accession process including more stages and newly developed set of conditions for the countries involved³²⁴. Yet, the more straight forward objective of introducing such a principle has been ensuring that the negotiations proceed in parallel with the candidates' progress in preparing for membership, since accession treaties negotiated insufficiently prepared countries is exposed to the risk of not being approved.

To give some background information as regards the principle of differentiation, it mainly stemmed out of the debate within the EU following the introduction of qualitative membership criteria in Copenhagen: should the EU go for a more easily manageable enlargement, and only let in a few (two or three) CEECs? Or should it go for the big-bang approach, and let in as many as feasible, thus prioritizing enlargement (and the vision of a peaceful and stable Europe) over the deepening of integration among only some of Europe's states?

One of the concerns lay behind these debates was the impact of leaving countries out of the first round of enlargement. The Commission had to decide the merits of each

³²¹ General Affairs and External Relations Council (1998) "Launching of the Accession Process" Brussels, 30 – 31 March

³²² The General Negotiating Framework 12338/97, ELARG 24

³²³ European Commission (1999) "Composite Paper on Enlargement" Brussels, 13 October

³²⁴ Klaudijus Maniokas (2000), *op cit*, p.11

application, judging each candidate separately, and the Council would then decide to open negotiations accordingly. Here, the application of membership conditionality could actually end up destabilizing applicant countries. If there were no membership conditions, enlargement would be wholly an inclusive process, but this was obviously not feasible. With membership conditions inevitably some applicants will meet them before others. Differentiating among applicant countries mean excluding some at least initially. In principle, this should spur progress with reforms, if applicants are confident of the objective application of membership conditionality³²⁵.

However, in the CEECs case, differentiation has potentially large implications for the development of overall relations in the region, and for those countries left out of the first round(s) of enlargement. Those countries first admitted would enjoy the economic and political advantages associated with EU membership, notably participation in the CAP and structural funds. Even though these policies would be reformed prior to the enlargement, and even though additional aid has been granted to the CEECs in the run-up to their accession to the EU, the new member states would receive more aid than the states left outside. Furthermore, political relations between the newly enlarged EU and those states left out could become more difficult. For example, controls at the borders between the new member states and non-member states would become more problematic and would require special measures.

Thus, applying membership conditionality could be destabilizing, as it isolates and excludes some states. This is especially risky because some applicants are located in dangerous areas of Europe (the Balkans). Alienation from the EU could consequently reduce the EU's leverage on these countries, in terms of pressure to proceed quickly with painful or

³²⁵ Karen E. Smith (2003), *op cit*, p.123

controversial reforms. The 1997 – 1999 period in Turkey – EU relations is the living proof of how difficult it is for the EU to exercise influence when membership perspective appears distant or, more worryingly, slight or non-existent.

The Commission has tried to lessen the negative implications of differentiation by designing an “inclusive accession process”. This was launched at the same time as the decision was made in 1997 to differentiate between two groups of applicant countries, and begin membership negotiations with only one of them. In fact, as Smith puts it, the new design to lessen the impact of differentiation was in practice just the way of postponing it, because they merely deal with the impact of exclusion from membership negotiations, not from membership itself³²⁶.

In July 1997, when Agenda 2000 was published, the Commission summarized in two Paragraphs how the principle of differentiation among candidates will be applied within the context of “all” inclusive enlargement process:

Enlargement ... is an inclusive process embracing all of the applicant countries. The overall process includes the opening of accession negotiations with individual countries, according to the stage which each has reached in satisfying the basic conditions of membership and in preparing for accession; and an accompanying framework which consists of the reinforcement of the pre-accession strategy for countries of Central and Eastern Europe, as well as the creation of a multilateral forum of cooperation in the form of a European Conference.

and

...a decision to open accession negotiations simultaneously with the countries mentioned does not imply that negotiations will be concluded simultaneously. The timing of the further efforts required from each applicant country in the respective opinions.³²⁷

³²⁶ *Ibid*, p.125

³²⁷ European Commission (1997a), *op cit*

In the run-up to the Luxembourg European Council in December 1997, a compromise had to be worked out to bridge the gap between two competing views on the best method of handling the enlargement process. While some EU member states favoured the Commission's proposal to start detailed negotiations with the five "frontrunners" among the CEECs (Czech Republic, Estonia, Hungary, Poland and Slovenia), plus Cyprus, other argued that it would be preferable to open talks with the all eleven applicants simultaneously. The compromise solution therefore entails opening accession negotiations with the six "first wave" candidates only, but with a clear signal to the other that they may join the negotiation process at any time in the future, if and when they make sufficient progress towards fulfilling the accession criteria.

With a view to ensuring regular reassessment of the ability of the second group to enter negotiations, and to advise them on concrete steps which would improve their standing, the European Council also approved the Commission's suggested "accession process" that involves all candidate countries, regardless of whether they were yet involved in negotiations or not³²⁸. As regards, in December 1997, the Luxembourg European Council expressly pointed out that "all these states are destined to join the European Union on the basis of the same criteria and they are participating in the accession process on the equal footing".³²⁹

The attempt to lessen the effects of differentiation worked even faster than the EU anticipated. The carrot of inclusion in the first round motivated the rest to make fast progress in fulfilling the terms of the Accession Partnership. In October 1999, the Commission recommended that negotiations be opened with all five CEECs in addition to Malta. The

³²⁸ Roland Freudenstein (1998) "Poland, Germany and the EU", International Affairs, Vol: 74, No:1, p.15

³²⁹ See the Luxembourg European Council Conclusions of December 1997

primary justification for the Commission's opinion was that these five countries by and large met the political criteria.³³⁰

In respect to this background, the conclusion can be fairly drawn that application of principle of differentiation vis-à-vis Turkey is not something new. However, what needs to be questioned here, or in the coming Paragraphs of the NFD, is whether Turkey has been given any assurance about the inclusive nature of enlargement, which was the major driving force for the CEECs in fulfilling the main obligation of membership. Besides, the requirements listed in the 6th Paragraph deserve a comparative assessment of its own. In other words, for better judging the EU's adopted stance vis-à-vis Turkish membership, it has to be questioned whether the EU's expectations (membership conditionality) from Turkey or its approach are in compliance with its expectations from the previous candidates.

The 2nd Paragraph of the NFD to a great extent reflects the Presidency Conclusions of the European Council in December 2004 by stating that:

2. The shared objective of the negotiations is accession. *These negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand.* While having full regard to all Copenhagen criteria, including the absorption capacity of the Union, if Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond.

Having being interpreted together with the above-explained "principle of differentiation", this Paragraph provides an answer to the question of "whether Turkey has been given any assurance about the inclusive nature of the enlargement / accession process". To be more precise, as is stated in the analysis of the previous Paragraph, the Commission proposed the concept of "inclusive accession process" with a view to lessening the negative

³³⁰ European Commission (1999) "Progress Reports the Candidate Countries towards Accession" Brussels, 13 October

implications of the principle of differentiations, particularly, to removing any possibility of alienation from the EU and its leverages. Thus, it merely aimed at dealing with the impact of exclusion from membership negotiations, not from membership itself.

However, here, the Commission and the Council obviously seek for stricter application of “principle of differentiation” through bringing the new definition of “open-ended accession negotiations which outcome cannot be guaranteed beforehand” both in Turkey’s and Croatia’s NFDs. It can easily be deduced from this recently injected definition that the coming enlargement rounds would probably be even exclusive rather than inclusive. Given that in the case of CEEC, the carrot was the assurance for membership to go on with the painful reforms and fulfil the EU’s requirements, such a possibility raises wonders and doubts as regards to the successful completion of accession negotiations.

What even worse in Turkey’s NFD is the linkage established with the open-ended process and the absorption capacity. Although “absorption capacity” is analyzed in more detail as part of cited in the 3rd Paragraph, it is worth to make the comment also here that the established linkage between the open-ended accession process, Turkey’s ability to assume membership obligations and the “absorption capacity” paved way to the perception that at the end of the day it would be again Turkey to be blamed or to pay for if the EU can not absorb its membership. However, in the fifth enlargement process, “absorption capacity” was clearly presented as a task for the Union that was to be dealt with prior to the candidates’ accession³³¹.

³³¹ Senem Aydin Düzgit (2006) “Seeking Kant in the EU’s Relations with Turkey”, TESEV Publications, İstanbul, pp. 14-15.

3.2.1.1.2. Absorption Capacity of the EU

The NFD's 3rd Paragraph notes that:

3. Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. *Every effort should be made to protect the cohesion and effectiveness of the Union. In accordance with the conclusions of the Copenhagen European Council in 1993, the Union's capacity to absorb Turkey, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and Turkey.* The Commission shall monitor this capacity during the negotiations, encompassing the whole range of issues set out in its October 2004 paper on issues arising from Turkey's membership perspective, in order to inform an assessment by the Council as to whether this condition of membership has been met.

As mentioned in the introduction of this Chapter, the EU's "absorption capacity" has been a key element of the debate on Turkey's accession negotiations. Like the "principle of differentiation", the concept of "absorption capacity" is again nothing new. It has, in fact, been on the table since the 1993 Copenhagen Summit, which stated in its conclusions that "the Union's capacity to absorb new members, while maintaining the momentum of European Integration, is an important consideration in the general interest of both the Union and the candidate countries"³³².

By the same token, in the General Negotiating Framework prepared for the CEECs, it was stated that:

in accordance with the conclusions of the Copenhagen European Council, the Union should be capable of absorbing new member states, while maintaining the momentum of European Integration. Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to ensure that the institutional structures of the Union are not weakened or diluted, or its powers action reduced.

The expression used in the General Negotiating Framework and the above Paragraph 3 may sound more or less similar. However, considering that the "absorption capacity" is a vague and ill-defined concept and it highly occupies the centre of political debate in Europe in

³³² European Council (1993) "Presidency Conclusions", Copenhagen, 21-22 June

regard to Turkey's membership while in the fifth enlargement the debate was kept quite low profile and purely on technical grounds, it would be naïve to think that the implications of this concept would be as same in Turkey's negotiation process as was in the fifth enlargement.

To have a glimpse over the evolution of developments that politicized the concept and situated it at the core of enlargement debate, the member state that has played a key role in the recent triggering of the "absorption capacity" in Europe has undoubtedly been France. While the absorption capacity problem for France seems to apply both to Turkey and the other (potential) candidates waiting at the queue, the emphasis especially in the aftermath of France's failed referendum has been on Turkey. In fact, President Jacques Chirac backed the modification of France's Constitution, which made it compulsory to hold a referendum on the future EU Enlargement. What was striking about this decision was the way in which the wording of the Article indirectly left Croatia unaffected when both Croatia and Turkey were starting the EU talks at the same time.³³³

The EU's "absorption capacity" is also a salient topic in the enlargement debate in Germany. The Coalition Agreement's section on enlargement opens with the claim that "a circumspect enlargement policy, which does not overtax the European Union's capacity to absorb new members, constitutes an important contribution to peace and stability on our continent." After welcoming the opening of accession negotiations with Croatia and confirming the "European perspective" for the Western Balkans, the document re-emphasizes the importance of "absorption capacity" with respect to the EU's relations with Turkey, a country deemed to pose "a particular economic, demographic and cultural challenge" for the

³³³ Senem Aydın Düzgit (2006), *op cit*, p. 18

EU, hinting once again at the need to develop a policy of “privileged partnership”, should the EU not have the capacity to absorb the country³³⁴.

The debate reached a peak with the June 2006 European Council Summit where “absorption capacity” became one of the most controversial issues of the meeting. With Austria holding the Presidency, Germany, the Netherlands and again most particularly, France were the key countries that pushed for debate in the Council meeting and that backed labelling the concept in the conclusions as an additional criteria for the candidate countries to enter into the Union. Draft conclusions referred to the concept as an “additional criteria” for entry, but they were however watered-down in the final text by opposition primarily from the UK, Spain, Italy and the new member states³³⁵. Eventually, the Council Conclusions framed as follows:

The European Union reaffirmed that it will honour its existing commitments and emphasized that every effort should be made to protect the cohesion and effectiveness of the Union. It will be important to ensure in future that the Union is able to function politically, financially and institutionally as it enlarges, and to further deepen the Europe’s common project. Therefore, the European Council will at its meeting in December 2006 have a debate on all aspects of future enlargements, including the Union’s capacity to absorb new members and further ways of improving the quality of the enlargement process on the basis of the positive experiences so far. It recalls, in this connection, that the pace of enlargement must take the Union’s absorption capacity into account. The Commission is invited to provide a special report on all relevant aspects pertaining to the Union’s absorption capacity, at the same time as it presents its annual progress reports on enlargement and the pre-accession process. This specific analysis should also cover the issue of present and future perception of enlargement by citizens and should take into account the need to explain the enlargement process adequately to the public within the Union.³³⁶

³³⁴ Coalition Agreement between the CDU, CSU and SPD, Section IX, Germany As a Responsible Partner in Europe and the World, 11 November 2005, available at <http://www.bundestag.de/aktuell/archiv/2005/koalition/vertag.en.pdf>

³³⁵ Kirsty Hughes, “Constitution Cast Shadow over EU”, quoted by Michael Emerson et. al. (2006), “What is this Absorptive Capacity of the European Union?”, Centre for European Policy Studies (CEPS), Brussels, p.13

³³⁶ European Council (2006) “Presidency Conclusions” Brussels, 15 – 16 June

In response to the European Council Conclusion, the Commission welcomed the another important mandate delegated to it as regards the further developing the EU's enlargement policy and the Enlargement Commissioner Olli Rehn, in its speech just a few days after the Council Summit, invited all EU member states and the European public "to build a new consensus on EU enlargement" which would respect Europe's strategic interests and ensure the Union's functioning capacity. In this respect, he defined the "absorption capacity" as "whether the EU can take in new members while continuing to function effectively" and added that "by revisiting the institutional settlement and budgetary arrangements and by suggesting a new policy agenda, altogether a sort of 'Agenda 2009' or 'Agenda 2014', we shall on the side, or as a significant spill over, prepare the Union for next enlargement"³³⁷. The issue of public support is also fully acknowledged by the Commission and its importance is highlighted not just for the enlargement but for any of the Union's policies, where the responsibility for communicating enlargement to the citizens on "facts" is attributed member states³³⁸.

Against this background, it could be said that mainly the absence of Agenda 2000 sort of document prior to launching accession negotiations with Turkey paves way to controversial statements as regards the concept of "absorption capacity". In the CEECs case, the Commission upon the mandate received in Madrid European Council Summit, made comprehensive assessment of the issues arising out of the fifth enlargement on the basis of empiric research and came up with budgetary, institutional and political reform suggestions, which then endorsed by the European Council and materialized within stages upon the completion of accession negotiations.

³³⁷ Speech delivered by Olli Rehn on "Europe Needs a New Consensus on Enlargement", Brussels, 20 July 2006

³³⁸ European Commission (2006) "Enlargement Strategy and Main Challenges 2006 – 2007", Commission Communication to the European Parliament and the Council, COM 649/06

At that time, the EU, particularly the Commission confidently guided and supported the pace of accession process since it was well-known to all parties what would be the outcome of negotiations and there was no ground for groundless speculations. However, in the case of Turkey's accession process, the opponents of its full-membership use the concept of "absorption capacity" to erect seemingly "objective" barriers instead of honestly confronting the political problems that including Turkey in the enlargement process raises among domestic electorates. In other words, as Düzgit argues, instead of paving the way for an informed, rational debate by providing facts and rational arguments on Turkey's accession, most EU leaders have so far played into the misinformed public fears of Turkey's membership³³⁹.

Nevertheless, what requires drawing a particular attention both in the content of Paragraph 3 and the Conclusions of the European Council in June 2006 is the role attributed to the Commission in regard to assessing the absorption capacity in parallel to the ongoing negotiations.³⁴⁰ Given that the Commission fully acknowledges the positive outcomes and strategic importance of enlargement and particularly, of the continuity of Turkey's European aspirations, it will make its assessments on the basis of factual information and will likely manage to deconstruct the concept into objective elements rather than reflecting it as a political instrument playing into the hands of populist rhetoric. Still, it has to be recognized that until the conduction of a comprehensive study evaluating institutional, budgetary and political aspects of Turkey's membership to the EU and bringing concrete suggestions in regard to the evolution of the Union so as to be able absorb Turkey, it will be tougher for the Commission to rigorously assess Turkey's progress in the negotiations process and to measure the capacity to integrate it into the EU.

³³⁹ Senem Aydın Düzgit (2006), *op cit*, p.13

³⁴⁰ European Council (2006) "Presidency Conclusions", Brussels, 15 – 16 June

One last observation as regards the Paragraph 3 is that the wording of the last sentence when read together with the European Council Conclusions in June 2006 and the Commission's Communication on "Enlargement Strategy and Main Challenges 2006 – 2007"³⁴¹ stating that "the EU integration capacity will be reviewed at all key stages of the accession process. ... [and] the Commission will [accordingly] provide impact assessment of accession on key policy areas", makes the absorption capacity as an unnamed membership condition. Put it somewhat differently, the mandate given to the Commission to monitor this capacity during negotiations and to inform the Council through preparing impact assessment reports as to whether this condition of membership has been met is the major indicator that the concept of "absorption capacity" has become *from de facto means* another vague conditionality for the accession process.

3.2.1.1.3. Hardened Accession Conditions and Cyprus as "Political Criterion"

When read together, 4th and 5th Paragraphs show us that the Union expects negotiating countries to further comply with the political criteria and to work towards higher standards throughout the negotiations:

4. Negotiations are opened on the basis that Turkey sufficiently meets the political criteria set by the Copenhagen European Council in 1993 for the most part later enshrined in Article 6(1) of the Treaty on European Union and proclaimed in the Charter of Fundamental Rights. *The Union expects Turkey to sustain the process of reform and to work towards further improvement in the respect of the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms, including relevant European case law; to consolidate and broaden legislation and implementation measures specifically in relation to the zero tolerance policy in the fight against torture and ill-treatment and the implementation of provisions relating to freedom of expression, freedom of religion, women's rights, ILO standards including trade union rights, and minority rights. The Union and Turkey will continue their intensive political dialogue. To ensure the irreversibility of progress in these areas and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council, addressing all points of concern identified in the Commission's 2004 report and recommendation as well as its annual regular report,*

³⁴¹ European Commission (2006), *op cit*

5. In the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, *the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption.* The Council will decide by qualified majority on such a recommendation, after having heard Turkey, whether to suspend the negotiations and on the conditions for their resumption. The Member States will act in the Intergovernmental Conference in accordance with the Council decision, without prejudice to the general requirement for unanimity in the Intergovernmental Conference. The European Parliament will be informed.

Undoubtedly, these Paragraphs establish a closer link between progress in political reforms and the overall pace of negotiations. Therefore, the results of enhanced political dialogue with the countries on their success in addressing issues under the political criteria are fed into the negotiation process. In other words, the issues usually dealt under Accession Partnerships parallel to the conduct of negotiations under NFD is getting an integral part of the overall negotiations process through the EU's newly adopted approach.

In addition, the NFD provides a chapter on Judiciary and Fundamental rights, under which the political issues are to be addressed. This permits progress in crucial areas to be kept under close scrutiny. Accession negotiations may be suspended, in case of serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, which the Union is founded.

Henceforth, the results of dialogue with the countries on their economic reform are also fed into the negotiation process. The Commission prepares the dialogue with member states and report back to them in the relevant Council bodies. This dialogue focuses on the fulfilment of economic criteria and on convergence with the EU economies.

6. The advancement of the negotiations will be guided by Turkey's progress in preparing for accession, within a framework of economic and social convergence and with reference to the Commission's reports in Paragraph 4. This progress will be measured in particular against the following requirements:

– the Copenhagen criteria, which set down the following requirements for membership:

* the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

* the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;

* the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union and the administrative capacity to effectively apply and implement the *acquis*;

– Turkey's *unequivocal commitment to good neighbourly relations and its undertaking to resolve any outstanding border disputes in conformity with the principle of peaceful settlement of disputes* in accordance with the United Nations Charter, including if necessary jurisdiction of the International Court of Justice;

– Turkey's *continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded*, including steps to contribute to a favourable climate for a comprehensive settlement, and progress in the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus.

– *the fulfilment of Turkey's obligations under the Association Agreement and its Additional Protocol extending the Association Agreement to all new EU Member States*, in particular those pertaining to the EU-Turkey customs union, as well as the implementation of the Accession Partnership, as regularly revised.

As is recalled, Paragraph 1 refers to the conditions for the conclusion of negotiations in Paragraph 6, which in fact constitutes the enlargement's conditionality principle. Whilst the conditionality principle is a core element of the Union's external relations and foreign policy in general³⁴², it provides ground for the Commission to effectively apply the principle of differentiation. In other words, the principal aim of these conditions is not only to guide the reform efforts of negotiating countries, but also to build up an additional barrier or filtering enabling the Union to remove the claims of those countries for early membership from the agenda³⁴³.

³⁴² Klaudijus Maniakas (2000), *op cit*, p.3

³⁴³ *Ibid*, p.4

To give two immediate observations leading to this analysis on the principal aim of conditionality, first is the vague and flexible nature of the Copenhagen Qualitative Criteria for membership, which reinforced and made explicit the use of conditionality principle and second is its inconsistent application during the fifth enlargement due to the first observation. Take, for example, the case of Cyprus as good neighbourliness has been totally ignored during its accession process. The EU hoped that the carrot would be enough to spark a solution. It declined to use its leverage openly and explicitly, never threatening to use the stick with respect to the so-called Cypriot government. The Greek position in the Council by and large prevented the Union from doing so, although the other member states also appear to be reluctant. Instead, the Union has and continues to put pressure on Turkey: the Helsinki Council Declaration on to place pressure on Turkey to contribute to a resolution of the issue. The post-Helsinki developments, yet, showed us that the success of this approach has been highly depended on the state of the EU's relations with Turkey.

There are also reasons to doubt that the other membership conditions were being applied consistently in the case of Cyprus. As Jolanda van Westering has argued, the division of Cyprus is the source of numerous violations of fundamental freedoms, relating to the lack of freedom of movement across two sides, foreign travel and serious breaches of the Constitution: "there are no stable institutions guaranteeing respect of democratic order and fundamental freedoms in Cyprus"³⁴⁴.

In this respect, although it is discussed in detail in Chapter IV, it can also be fairly argued here that the injection of Cyprus issues, in a way of touching upon Turkey's sensitivities, raises doubts about whether the EU is trying to politicize Turkey's negotiating

³⁴⁴ Van Westering (2000) "Conditionality and EU Membership: The Cases of Turkey and Cyprus", European Foreign Affairs Review, Vol:5, p.113

process and mainly, to differentiate between Turkey and the other countries either negotiating or waiting on the queue to negotiate.

3.2.1.1.4. Enhanced Dialogue between Turkey and EU

Finally, Part I of NFD on the “principles of negotiations” states in the 7th and 8th Paragraphs states that:

7. “In the period up to accession, Turkey will be required to progressively align its policies towards third countries and its positions within international organisations (including in relation to the membership by all EU Member States of those organisations and arrangements) with the policies and positions adopted by the Union and its Member States”.

8. “Parallel to accession negotiations, *the Union will engage with Turkey in an intensive political and civil society dialogue. The aim of the inclusive civil society dialogue will be to enhance mutual understanding by bringing people together in particular with a view to ensuring the support of European citizens for the accession process*”.

Having acknowledged that the public support is essential for the sustainability of the European project as regards the enlargement, the Commission has launched a new process that urges the member states to listen to the expectations of its citizens and address their concerns through adequate policies.

To this end, the Commission also encourages leaders and key officials at any level of public administrations in both the member states and the candidate countries to intensify their efforts to foster mutual knowledge and understanding and develop ownership of the European policies. It sees the strengthening of the “Civil Society Dialogue” established with Turkey in 2004 as an important mean in achieving the states goal.

Besides, with a view to reinforcing the democratic basis for enlargement, the Commission supports greater transparency and already publishes all key documents related to the accession negotiations. Considering that the EU has been criticized for not making any substantial effort to keep public support high particularly in the candidate countries, the Commission's initiatives in this direction deserves appreciation.

3.2.1.2. Issues Relating to the Substance of Negotiations

Moving now more directly to the second part of the NFD on the “substance of negotiations”, it mainly defines what the *acquis communautaire* is made up of and what sort of transitional measures could be tolerated mutually in the initial years of accessions. Yet, though this part is highly technical and bears main resemblances with other NFDs provided for Croatia and CEECs, the most striking aspect is where it states under 12th Paragraph that:

12. Long transitional periods, derogations, specific arrangements or permanent safeguard clauses, i.e. clauses which are permanently available as a basis for safeguard measures, may be considered. The Commission will include these, as appropriate, in its proposals in areas such as freedom of movement of persons, structural policies or agriculture. Furthermore, the decision-taking process regarding the eventual establishment of freedom of movement of persons should allow for a maximum role of individual Member States. Transitional arrangements or safeguards should be reviewed regarding their impact on competition or the functioning of the internal market.

As it could be recalled, in the Report prepared by the Commission in 2004 and named as “The Issues Arising from Turkey's Membership Perspective”, the Commission concludes that:

“With over three million, Turks constitute by far the largest group of third-country nationals legally residing in today's EU. Available studies give varying estimates of expected additional migration following Turkey's accession. Long transition periods and a permanent safeguard clause can be considered to avoid serious disturbances on the EU labor Market. However, the population dynamics of Turkey could make a contribution to offsetting the ageing of EU societies.

and

The budgetary impact of Turkish membership to the EU can only be fully assessed once the parameters for the financial negotiations with Turkey have been defined in the context of the financial perspective from 2014 onwards. The nature and amount of transfers to Turkey would depend on a number of changing factors, such as the EU policies and any special arrangements agreed with Turkey in the negotiations as well as budgetary provisions in place at that time, in particular the overall budgetary ceiling. However, it is clear that the budgetary on the basis present policies would be substantial”.

In this regard, although such kind of permanent safeguard measures had not been discussed at all during the fifth enlargement, but only some transitional measures were taken on the issues likely to affect the effective functioning of the internal market, it is almost inevitable for Turkey not to face up with differentiation at least to some extent. This is in fact also in line with the rational choice institutionalist assumptions that the costs likely being faced in the materialisation of enlargement policy are usually allocated on the side of the new comer rather than the incumbents.

What controversial, however, is that in case Turkey would be accepted to the Union within the frame of permanent safeguard measures on the fundamental aspects that build today’s Union, why there is still the debate on “privileged partnership”. Put it differently, if a member country would not have an opportunity to benefit from the EU’s most successful common policies and if restrictions would be imposed in regard to the four basic freedoms of the internal market, does not it correspond to “a membership on a different or status” or let’s say “privileged partnership”.

3.2.1.3. Issues Relating to the Procedures of Negotiations

Lastly, in the third part on “negotiating procedures”, the NFD tells about the way the negotiations would be conducted. Turkey’s and Croatia’s NFDs in this regard mirrors exactly each other. However, what worth noting is the hardened negotiation procedures for both

countries compared to the CEECs and other candidate countries. To be more precise, 21st Paragraph of the NFD for Turkey states that:

21. Building on the Commission's Regular Reports on Turkey's progress towards accession and in particular on information obtained by the Commission during screening, the Council, acting by unanimity on a proposal by the Commission, will lay down benchmarks for the provisional closure and, where appropriate, for the opening of each chapter. The Union will communicate such benchmarks to Turkey. Depending on the chapter, precise benchmarks will refer in particular to the existence of a functioning market economy, to legislative alignment with the acquis and to a satisfactory track record in implementation of key elements of the acquis demonstrating the existence of an adequate administrative and judicial capacity. Where relevant, benchmarks will also include the fulfilment of commitments under the Association Agreement, in particular those pertaining to the EU-Turkey customs union and those that mirror requirements under the acquis. Where negotiations cover a considerable period of time, or where a chapter is revisited at a later date to incorporate new elements such as new acquis, the existing benchmarks may be updated.

Benchmarks are a new tool introduced as a result of lessons learnt from the fifth enlargement. Their purpose is to improve the quality of the negotiations by providing incentives for the candidate countries to undertake necessary reforms at an early stage. Benchmarks are measurable and linked to key elements of the acquis chapter. In general, opening benchmark concern key preparatory steps for future alignment (such as, strategies of action plans), and the fulfilment of contractual obligations that mirror aquis requirements. Closing benchmarks primarily concern legislative measures, administrative or judicial bodies, and a track record of implementation of acquis.

If a candidate country no longer fulfils the opening benchmarks in a chapter that is under negotiation, the Commission may propose that negotiations be suspended on that chapter. If a candidate country no longer fulfils the closing benchmarks in a chapter that has been provisionally closed, the Commission may again propose to the member states that the accession negotiations on that chapter be re-opened. What requires particular attention here is the expression that benchmarks will also include the fulfilment of commitments under

Association Agreement, which directly leads us again to the Cyprus issue and particular, the stalemate caused in December 2006 with the suspension of negotiations in a considerable number of acquis chapters.

3.3. Rational Choice Institutional Explanation of the Incentives of EU Enlargement in Contemporary Turkey – EU Relations

As is mentioned at the very beginning of this chapter, a detailed analysis of the Negotiating Framework clearly puts forth that the EU Governments upon the proposal of the Commission adopted toughest ever conditions and principles for Turkish Accession, which in turn would have negative repercussion over the speed of meso level reforms as well as hindering the mutual reinforcement between the macro and meso policies. However, although the legitimacy and rightness of what the Commission has done can be questioned, the other way around it would be more likely to end up with an unachievable impasse in Turkey – EU relations.

In respect to this, the following section aims at drawing some rational choice institutionalist insights as regards justifying what urged the Commission to propose relatively hardened macro incentives that is also bearing advanced derogations. To this end, it is deemed imperative to decompose the analysis into four sub-sections that review respectively Turkey's, member states' and the EU's preferences in view of the materialisation of the enlargement policy for Turkey and at the end, analyse the light of their preferences how the Commission utilised its role as an informal agenda-setter and pushed for a common ground among all relevant actors in proceeding with the negotiations.

As it is gone through the below analysis, the first sub-section 3.3.1 therefore attempts to explore why Turkey still prefers decisively to become a member of the EU or what kind of benefits she seeks in joining the EU. Then, the second sub-section 3.3.2 explores how the member states view the Turkish membership. The third sub-section 3.3.3 reveals briefly the EU-wide interests to be gotten out of Turkey's accession. Finally, the fourth sub-section 3.3.4 analyses the European Commission's rational calculations while drafting the NFD for Turkey and to what extent it managed to take on board the concerns of all relevant parties that is required for the sustainability of the policy.

3.3.1 Turkey's Preferences in view of EU Enlargement Policy

Joining the European Union is seen by most Turkish political and business elites in a context that goes far beyond foreign policy considerations.³⁴⁵ They perceive the identity of the modern Turkish state as directly affected by this and in fact, it is a matter of Turkey's being recognised as a member of the Western world. As is reflected clearly in the below-quoted words of then Foreign Minister İsmail Cem, EU membership is synonymous with the acknowledgement of the standards of Western civilization and the ultimate success of the Kemalist revolution:

“The EU accession process and membership is a valuable exogenous motivation – a dynamic means – for Turkey to achieve future objectives. EU membership is a logical and rational step in economic, political, social and even in inter-personal relationships. Being part of this logic as a candidate and eventually a member country will provide Turkey with the possibility of achieving its objectives easier and more quickly. The EU is essential for economic relations and may be in obtaining funds but more importantly it has a significant function for Turkey in achieving the great ideal of reaching contemporary civilisation as advanced by Atatürk”.³⁴⁶

³⁴⁵ Heinz Kramer (2000), *op cit*, p.184

³⁴⁶ İsmail Cem (2002) “Turkey – EU Relations after the Helsinki Summit”, Marmara Journal of European Studies, Vol:10, No:1, p, viii

Next to the identity factor and the considerations of EU membership as logical consequence of Turkey's Westernization efforts, there are also "other political motivations behind the country's drive to Europe", such as, security interests and rivalry with Greece.³⁴⁷ As regards Turkey's security interests, it could be easily argued that they have already constituted the main motive that made Turkey incorporate itself into both the Western security system NATO and economic integration model EEC almost right after the end of Second World War.³⁴⁸ Turkey sees itself more clearly as an element of the European part of NATO and her national security remains partly dependent on its inclusion in the overall security policy and defence framework prevailing throughout the Europe. As regards the rivalry with Greece, taking particular care of enjoying equal status in their relations with the third parties represents a historical legacy between two countries. Thus, the Greek application for association with the EEC in 1959 was immediately followed by the Turkish application, which was also considered as Turkey's first initial encounter with the European economic integration model at that time.

In addition to the above political motives, economic interests are indispensable factor shaping Turkey's preferences in moving towards Europe. Primarily, it is a question of safeguarding intense trade relations that are structured with the completion of the Customs Union in 1995. Though the Customs Union impact on Turkish exports came with a long delay rather with a subtle way, essentially with the deep depreciation of the Lira and the contraction in domestic demand that followed the economic crisis of February 2001, which forced domestic producers to search for export markets, the EU 27 together with EFTA countries today holds the biggest share, nearly 60%, in Turkey's total exports.³⁴⁹ Therefore, retaining or

³⁴⁷ Heinz Kramer (2000), *op cit*, p.185

³⁴⁸ *Ibid*, p.185

³⁴⁹ Nihat Bülent Gültekin and Kamil Yılmaz (2005) "The Turkish Economy before the EU Accession Talks" in Michael Lake (ed), *op cit*, p.69

even gradually extending the current size of the export market is essential from the Turkish point of view. Besides, the continuing supply of capital goods from Europe and guaranteeing a constant and large flow of foreign direct investment for west European firms with a view to obtaining know-how and technology that Turkey needs for further economic modernisation are other imperatives constituting the economic interests.

Yet, though it can be extracted from political and economic interests of Turkey that there is no other visible political orientation as favourable for Turkey as its full participation in the EU, the requirements or accession conditions for membership have met with the suspicion and opposition of a substantial part of the Kemalist military and political elite.³⁵⁰ In this group's view:

The price of liberal reform and restriction of national sovereignty would be the disintegration of the Turkish national ideology and, possibly, Turkey itself. The whole nation-building project, as conceived by Turkish nationalist leaders in the last years of the Ottoman Empire and implemented by Atatürk in the early Republican years, would be endangered. Existing national minorities might then claim self-determination and independence, while latent ethnic divisions with the Turkish people could re-emerge and threaten Turkish national unity.³⁵¹

Besides, as is reflected in the words of Volkan Bozkır – the then Deputy-Secretary for EU Affairs and the current Turkish Permanent Representative in Brussels -, the similar concerns have also existed as regards the expected support initiatives from Turkey in view of the efforts to find a comprehensive settlement to the Cyprus problem:

Cyprus issue is an important factor regarding Turkey's relations with the European Union..... Yet, it would be wrong to expect the Greek Cypriot side to incline towards any solution if no pressure is exerted upon the Greek Cypriot Administration on this issue. If the Greek Cypriot Administration is not eager to find an acceptable and sustainable solution with the Turkish Republic of Northern Cyprus within the guarantee of full-membership to the European Union, then the European Union would be responsible for such failure. However, we expect the Greek Cypriot Administration

³⁵⁰ Ioannis N. Grigoriadis (2006), *op cit*, pp.150 – 151

³⁵¹ *Ibid*, p.150

to provide the necessary contribution to the positive resolution of the negotiations without making the mistake of considering the long-standing stalemate as a preferable solution for their side.³⁵²

Against this background, it is possible to draw the conclusion that Turkey would expect the EU to show respect to these delicate and sensitive view points among Turkish political elites while formulating macro incentives for Turkey. The EU should be well-aware that unless it fails to figure out key domestic factors shaping Turkey's stance in view of the enlargement policy, the effective usage of macro incentives, particularly the sustainability of the relations would be risked.

3.3.2 Member States' Preferences in view of EU Enlargement Policy for Turkey

On balance, the views within individual EU member states seem to be coming together and hardening into an essentially hesitant position in view of Turkish membership. These hesitations have been articulated mainly by centre-right governments, and firmly pro-integration governments: for the former, the main concern has been that allowing Turkey to join will further undermine Europe's identity; for the latter, it has been the perceived potential harmful implications for the smooth functioning of EU decision-making processes, for the further development of the EU policy agenda and for the nature of European consciousness and identity.³⁵³

Even it has a questionable value, only Britain has supported consistently Turkey's membership bid. For many observers in the EU, the British backing for Turkey has been seen compatible with conventional British international interests, where "it maintains political and

³⁵² Volkan Bozkır (2002) "Copenhagen Political Criteria and Turkey's National Programme for the Adoption of the EU Acquis", *Marmara Journal of European Studies*, Vol:10, No:1, p.xvi

³⁵³ Neill Nugent (2007), *op cit*, p.489

strategic alignment with the USA and sustains the view that the United Kingdom prefers to extend rather than deepen the EU".³⁵⁴

Two other member states, namely, Germany and Greece, have also had traditionally strong views on Turkey, but unlike Britain, they appear to change sides.³⁵⁵ The Turkish accession has and might have most impact in Germany that hosts the largest community of Turkish migrants of any member state. "The SPD – Green Government led by Schröder and Fischer and their appointee to the Commission, SPD politician Verheugen support[ed] [officially] commencing negotiations".³⁵⁶ However, an April 2004 poll showed that 12 per cent of Germans supported Turkey joining the EU while 66 per cent were against it; and the Germans' attitude have been interpreted by many commentators against the background of the short-term success and long-term failure of "guest workers" enterprise taken place during the 1960s.³⁵⁷ The poll results had also motivated the Christian Democratic Union – Christian Social Union opposition group to play into the "people's democrats card" by bringing referendums into the debate, which has then eventually led to change in government. The change in government has brought equally a change in policy towards Turkey at the highest level, or as Redmond puts it is "perhaps better expressed as the adoption of a policy by the incoming ruling party that is more in keeping with the views of the general public".³⁵⁸

To illustrate briefly the reasons for particular public reservations in Germany in view of Turkish membership, they have included: the high levels of domestic unemployment reinforced by the fears that Germany will represent the main destination for Turks wishing to

³⁵⁴ Steve Wood and Wolfgang Quaisser (2005) "Turkey's Road to the EU: Political Dynamics, Strategic Context and Implications for Europe", European Foreign Affairs Review, Vol:10, p. 154

³⁵⁵ John Redmond (2007) "Turkey and the European Union: Troubled European or European Trouble", International Affairs, Vol:83, No:2, p.309

³⁵⁶ Steve Wood and Wolfgang Quaisser (2005), *op cit*, p.152

³⁵⁷ *Ibid*, p.152

³⁵⁸ John Redmond (2007), *op cit*, p.309

take advantage of free movement of labour (a fear based largely on the fact that around 50% of 3.8 million Turkish migrants are currently been resident in Germany); the extra burden to be created on the EU budget once Turkey is granted full membership status (Germany is still by far the largest net contributor to the EU budget); and the worry that Turkey would undermine European identity.³⁵⁹

On the other hand, on Greece's front, things have been evolved in a relatively positive direction. Whilst Greece used to seek to block Turkish accession with a view to resolving the local disputes in its own favour, in recent years there has been a shift to a much more pragmatic stance and Greece has become relatively supportive for Turkey's membership. As Oğuzlu contends, "the Greek politicians have become aware that the road to peace in the region passes through the further Europeanization of Turkey and the resolution of Turkey – Greek disputes".³⁶⁰

France's and Austria's positions, as two critical member states in terms of shaping the EU's policies, have been always less straightforward compared to the UK, Germany and Greece. Whilst France's willingness to assume a critical role in Middle-East politics and Erdoğan's offer to Chirac led government that Turkey would purchase Boeings worth billions of Euros from France if France supported the Turkish membership has effect in lifting to some extent the concern as regards the EU's capacity to absorb a country like Turkey, Austria's stance has been rather marked with reluctance against Turkey.³⁶¹ Austrian Chancellor Wolfgang Schüssel, as the "staunchest advocate of privileged partnership", has

³⁵⁹ Neill Nugent (2007), *op cit*, p.489

³⁶⁰ Tarık Oğuzlu (2004), *op cit*, p.342

³⁶¹ Steeve Wood and Wolfgang Quaisser (2005), *op cit*, pp.155-157

suggested repeatedly the continuation of Turkey – EU relation within a less path-dependant framework.³⁶²

Griogoriadis also points out that “an additional reason for Austria’s opposition to Turkey’s full membership may have been its special interest in achieving membership for Croatia”.³⁶³ The start of Croatia’s accession negotiations was postponed due to the country’s lack of cooperation with the International Criminal Tribunal for the Former Yugoslavia. Perhaps, on 3 October 2005, the Austrian government strategically aimed at reaching a compromise and to this end hardened its position on Turkey, which have then resulted in allowing both countries to start accession talks simultaneously.

The views of the other 20 or so members states spread across the whole range of opinion: many of other states like Czech, Slovakia, Hungary and Baltics are cautiously supportive at the level of government yet, at the level of public there is in fact great ignorance for the Turkish membership; the two largest of the entrants of fifth enlargement, namely Poland and Romania, have publicly declared that they are in favour of Turkey yet, both are concerned about their share in EU subsidies will fall down following the Turkish entry; Italy, Spain, and Portugal see Turkey’s membership as restoring balance within the EU between the Mediterranean and northern Europe and that is why they are also tend to be supportive.³⁶⁴

To sum up, as is argued by the rational choice institutionalists’, the above-revealed positions of member states indicate that before giving any consent to Turkey’s full-membership, member states’ preferences would be to see net benefits out of Turkish

³⁶² Ioannis N. Griogoriadis (2006), *op cit*, p.154

³⁶³ *Ibid*, p.154

³⁶⁴ John Redmond (2007), *op cit*, p.309

accession. In other words, given that “a member state favour the integration of an outsider under the conditions that it would reap positive net benefits from enlargement, and that these benefit exceed the benefits it would secure from an alternative form of horizontal institutionalisation”³⁶⁵, the clear justification of the costs to be arisen from the EU’s enlargement towards Turkey would bear of particular importance in building a consensus among the member states. Especially, the concerns of three countries, Germany, France and Austria would need to be addressed as regards the free movement of Turkish people after accession and non-hindrance of existing member states’ positions in view of the EU’s decision-making processes and policies.

3.3.3. EU’s Preferences in view of Turkey

Considering the rational choice institutionalist assumptions for the EU’s enlargement politics that an organisation prefers to enlarge towards outsider only when this enlargement would bring net benefits respectively for the organisation itself, its member states and the applicant state, the below cost-benefit analyses of prospective Turkish membership from the EU’s own view point represent an attempt to figure out the EU’s preferences in view of the enlargement policy in complementary to Turkey’s and member states’ preferences.

To begin with perceived benefits of Turkish accession, Nugent counts five key Turkish characteristics that would likely have positive reflections on the EU integration process that are: the size of Turkey’s market with a population of 72 million, which is rapidly increasing and is projected to reach one hundred million by about 2020; the nature of its labour market with a much younger workforce than the EU – 27; Turkey’s being an Islamic country with an almost aggressive secular state structure looking westwards; Turkey’s key

³⁶⁵ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.12

strategic geo-political position with considerable influence in the Balkans, the Middle East, the Caucasus and Central Asia; and Turkey considerable military capacity with a considerable potential to make a valuable contribution the EU's European Security and Defence Policy.³⁶⁶

The Commissioner for Enlargement Mr. Olli Rehn also confirms the rightness of the above-mentioned benefits by saying that:

As the EU thinks about its own future and considers new policies to meet new challenges – such as energy, security, climate change, ageing population, and cross-border crime – Turkey will figure again and again not as a problem but rather a vital part of the solution to European problems.

Turkey has many valuable assets for the EU, such as dynamic young workforce, and its strategic position on energy supply routes. We not only want to work with Turkey, but we need to do so, if we are able to tackle effectively major common problems like people trafficking and the stability of the wider Middle East. The EU needs to integrate a stable, prosperous, and democratic Turkey to further our interests in stabilising Iraq, supporting Middle East Peace Process, rebuilding confidence-based relations with Iran and developing common links with the Black Sea region.³⁶⁷

In fact, Turkey has been herself aware for a long time now that the European Union “did not proclaim Turkey's candidacy out of its love for Turks and neither will it accept Turkey on the basis of such affection”³⁶⁸. Then Turkish Foreign Minister İsmail Cem clearly touched upon the EU's expected interests in his speech delivered on “Turkey – EU Relations after the Helsinki Summit”. Though Mr. Cem's below-quoted words were stated six years ago, they are still vital and complement the points emphasized by Mr. Rehn in 2007 as regards the advantages to be brought to the EU by the Turkish accession:

The EU has interests in being integrated with Turkey. A secular European Union is only possible with the accession of Turkey. Otherwise the EU will be a Christianity Club. Having a few million Muslims living within its boundaries does not entitle the EU to view itself as a secular entity. The EU's secular nature shall only be guaranteed

³⁶⁶ Neill Nugent (2007), *op cit*, pp.484 - 485

³⁶⁷ Speech delivered by Olli Rehn on “Time to Move Ahead with Reforms”, the Bosphorus Conference, İstanbul, 5 October 2007.

³⁶⁸ İsmail Cem (2002), *op cit*, p.viii

if a country like Turkey accedes to the Union. For the EU, an exchange with other civilisations rather than being merely enslaved in Western Europe and the Mediterranean region is only possible via Turkey. The EU can turn out to be a political-strategic actor not only in the European continent but also worldwide thanks to the accelerating motivation provided by a possible participation of Turkey.³⁶⁹

The perceived costs of Turkish accession, on the other hand, are seen as arising mainly from two areas of concern³⁷⁰: Turkey's ability to adapt herself to meet the EU's membership obligations; and the frequently forgotten Copenhagen criteria, namely, "the Union's capacity to absorb new members while maintaining the momentum of European integration"³⁷¹. As regards Turkey's ability to meet membership obligations, concerns tend to be focused on three sets of Copenhagen Criteria, particularly the one relates to the adoption and application of Union laws and policies. As regards the Union's ability to absorb Turkey, there are two key aspects that are often voiced out: one is the Turkish accession's impact on EU institutions and the decision-making processes "in way that will both weaken the positions of exiting member states and undermine EU efficiency"; and the other is major budgetary problems likely to be created due to Turkey's being major beneficiary of EU funding programmes.³⁷²

In this sense, the EU's main preference in view of the enlargement policy for Turkey would be to assure the transformation of Turkey into a worthy members state ready to assume fully the obligations arisen from *acquis* through well-established conditionality. Besides, as is again also the case in previous enlargement rounds, the Union's policies, mainly, Common Agricultural Policy and Regional Policy, and institutions will be developed in a dynamic way so as to as integrate Turkey smoothly to the EU structures.

³⁶⁹ *Ibid*, p.viii

³⁷⁰ Neill Nugent (2007), *op cit*, pp.486 – 487

³⁷¹ See the Copenhagen Presidency Council Conclusions of December 1993

³⁷² Neill Nugent (2007), *op cit*, p.487

3.3.4. Role of the European Commission

Recalling the rational choice institutionalist assumption from Chapter I that the member states do not take decisions in the EU wide-interests but rather in their own materialist interests and each government would have followed the Commission's recommendation to open accession negotiations only if it perceived it to be in its state's interest,³⁷³ the Commission assumes the role of an intervening variable and work for the sustainability of the process in the materialization of enlargement policy.³⁷⁴

Further to this, as part of the rational choice institutionalist analysis, Chapter I also touches upon the "principal-agent" model by Mark Pollack that mainly argues that the Commission as an supranational agent is in position of "setting the agenda by constructing focal points for bargaining in the absence of unique equilibrium or by constructing policy proposals and matching these to pressing policy problems in an environment of uncertainty and imperfect information".³⁷⁵ It is then concluded accordingly that the Commission's ability to set up the agenda through utilising the policy expertise and the information networks at its disposal helps determining the focal points that would in turn likely facilitate a bargaining among the incumbents leading towards a common consent to continue with the enlargement policy.

In this respect, it is fair enough to conclude that the European Commission, "as the important agenda-setter and the driver of the Turkish accession process"³⁷⁶, well-anticipated Turkey's, the member states' and the EU's concerns and effectively reflected them in the draft NFD for Turkey as focal points of bargaining. In other words, making "principle of

³⁷³ Neill Nugent (2007) "The EU's Response to Turkey's Membership Application: Not Just a Weighing of Costs and Benefits", Journal of European Integration, Vol:29, No:4, p.488

³⁷⁴ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, pp.15 – 16

³⁷⁵ Mark Pollack (1997), *op cit*, pp.124 – 125

³⁷⁶ *Ibid*, p.488

differentiation” even more explicit, defining enlargement as “an open-ended process”, putting prospect for the reformation of the EU’s key policies such as CAP and Regional Policy, and foreseeing advanced restrictions for the free movement of persons are only a few examples for the NFD that demonstrates how the Commission has assured the member states that the EU would not be involved in another enlargement that it is not able to absorb in all means; that does not take into account particular concerns of member states; and that risks the functionality and the efficiency of the Union.

Besides, having been well-aware of the importance of reflecting the candidate country’s preferences to the macro-level incentives, the Commission has equally sent a clear message to Turkey that open-ended nature of enlargement will depend on the pace and content of the reforms to be undertaken in the coming years, which has then reiterated by Olli Rehn in below-quoted words:

“In the preparation for the accession negotiations with Turkey, the Commission conducted an assessment of the effects of Turkey’s possible accession on the Union and its policies. The issues examined were most relevant to the consideration on the capacity of the EU to absorb new members. The Commission monitors this capacity during the negotiations and takes the EU’s absorption capacity into account when presenting draft common positions on the negotiation chapters”.³⁷⁷

However, it is crucial to note that the political clause on Cyprus, which is injected into the list of Negotiating Framework’s technical requirements indicating how the EU would apply its conditionality vis-à-vis Turkey, is today the major cause of impasse in Turkey – EU relations. It in fact represents how an impediment could be created in the enlargement policy’s

³⁷⁷ Speech delivered by Olli Rehn on “Building a New Consensus on Enlargement: How to Match the Strategic Interest and Functioning Capacity of the EU”, Brussels, 19 May 2006

materialisation unless a balanced approach in accommodating both the member states' and the candidate country's preferences could not be established. Put it in a more concretised way, regardless of the asymmetrical power between the incumbents and new comer, the sustainability and the continuity of the enlargement policy depends clearly the EU's, mainly the European Commission's ability as the informal agenda-setter of the Union in accommodating the preferences of all relevant parties including even itself.

Concluding Remarks

This Chapter has attempted to analyze enlargement policy's macro incentives in contemporary Turkey – EU relations from a comparative perspective. To this end, it is composed into three main sections that are then decomposed into sub-sections in themselves. Section 3.1 focusing on the developments from 1999 to 2004 has first demonstrated how change can be smoother if the EU provided clear, equal and persistent macro incentives to a candidate country. In other words, the courageous reform steps taken following Turkey has been granted candidate status and has joined the enhanced pre-accession strategy like other candidate / negotiating countries put forth that the EU's equal and balanced approach is crucial in driving change at meso level policies. Throughout this period, activation of all instruments of enhanced pre-accession strategy, mainly the APs, the Community Programmes and the financial assistance has also proved to be influential for Turkish government in proceeding with its rigorous reform agenda.

In respect to the conclusions of Section 3.1, the subsequent section has aimed at making a comparative review of the macro incentives provided for Turkey in the post-2004 era in order to see whether the EU is doing enough in view of Turkey's accession negotiations so as to create similar leverages as it has done in other national contexts. The analyses have

therefore concentrated upon two key EU documents where useful insights could be found in seeking an answer to this question, namely the European Council Conclusions of December 2004 and the NFD for Turkey that is adopted on 3 October 2005. In fact, since much of December 2004 Council Conclusions are mirrored in the NFD, the sub-section 3.1.1 has assessed comparatively the content and expressions of the NFD through referring to the December 2004 Council Conclusions only at the points of relevance.

The results of comparative assessment of the NFD for Turkey with the Croatia's NFD and the CEECs' General Negotiating Framework can be summarized under two categories: the aspects that distinguishes Turkey's and Croatia's NFDs from the General Negotiating Framework for the CEECs; and the aspects that distinguishes Turkey's NFD from the Croatia's NFD. As for the former, it is argued that upon the proposal of the Commission, the member states governments have adopted even tougher principles and procedures compared to the fifth enlargement process. To give few striking illustrations of this, "principle of differentiation" has been first introduced in Luxembourg European Council of December 1997 in complementary nature to the "principle of conditionality", but at that time applicant countries were also given the assurance that enlargement would be an inclusive process. However, in the NFD provided for both Turkey and Croatia, though the EU preserved the same principles, it has refrained from giving any assurance that this would be an inclusive enlargement. Contrary to this, it rather inserted the expression that enlargement is an "open-ended process which outcome cannot be guaranteed in beforehand".

Besides, as regards the procedures for negotiations, benchmarks have been invented as new tools of enlargement policy. As it could be recalled from Chapter I, the EU different from

previous enlargement rounds taken place on the basis of “classical method”³⁷⁸, has hardened the procedures for negotiations during the fifth enlargement and required not just the transposition but also the implementation of the *acquis* prior to the accession. Now, in Turkey’s and Croatia’s cases, the Commission proposed to take this a step further through using “benchmark” tools both in opening and closing each *acquis* chapter, that would in turn better ensure the *acquis* effective implementation in the candidate countries.

As for the differences between Croatia’s and Turkey’ NFDs, they can be summarized as follows: linkage established between the absorption capacity and “open-ended process” so as to reinforce the meaning of the latter; political injections as regards Greece and Cyprus into the Paragraph where the accession conditions are defined in respect of the Copenhagen criteria and where the Commission assesses the candidates’ progress towards accession; and the long transitional measures for policies like CAP and structural funds as well as the permanent derogations foreseen for free movement of Turkish people.

Having identified these differentiations and variations among three NFDs, Section 3.3 has sought for the rational choice institutionalist explanation of why Turkey has not been provided with exactly the same incentives as for Croatia and equally, why the EU has hardened the accession criteria both for Turkey and Croatia compared to the CEECs. To this end, a brief evaluation of respective enlargement preferences of Turkey, member states and the EU has done.

Recalling from Chapter I that enlargement has a composite nature where preferences / cost – benefit calculations of various actors matters in shaping macro incentives and where

³⁷⁸ See Christopher Preston (1997), *op cit*, pp.18 – 20

the Commission acts as an intervening variable in the sustainability of the process until the time that all reforms necessitated from enlargement are realized at meso level, such an evaluation of the preferences of key actors sheds light on the rationale of the Commission in drafting the debated aspects of the NFD for Turkey.

In other words, the European Commission, as an intervening variable responsible for driving the accession process, well-analysed the member states' and the EU's concerns and effectively reflected them in the draft NFD for Turkey as focal points of bargaining that in turn facilitated reaching a consensus on launching Turkey's negotiations. In other words, by making "principle of differentiation" even more explicit; defining enlargement as "an open-ended process"; and introducing benchmarks as new safeguards to ensure effective implementation of *acquis* prior to accession in the NFDs both for Turkey and Croatia, the Commission has assured the member states that the EU would not be involved in another enlargement that it is not able to absorb in all means; that does not take into account particular concerns of member states; and that risks the functionality and the efficiency of the Union. Besides, by foreseeing long transitional measures and possible permanent derogations as regards the Union's policies and free movement of Turkish citizens following Turkey's accession, the Commission has further relieved the member states concerns specifically in view of Turkey's accession.

However, though all these have helped keeping Turkey's commitment vital in undertaking required reforms and represented not a clear membership perspective but a relatively feasible ground to go on with its EU ambitions, the possible implications of inserting Cyprus as political criterion requires a particular attention before making any final conclusion for the prospective developments in Turkey – EU relations. Unfortunately, such an

insertion does not only contradict with the main nature of negotiations – literally defined as the process of establishing mutual agreement between parties on how to harmonise legal and administrative structures with the requirements of the *acquis communautaire* so as to assume obligations of membership, but also creates the perception that Turkey is being subject to the discriminatory stance of the EU.

In this sense, it is deemed imperative in the subsequent Chapter of this dissertation to have a closer focus on the Cyprus issue and its current impact on Turkey – EU relations with a view to drawing some rational choice institutionalist insight both for the EU and Turkey in handling it.

CHAPTER IV: IMPACT OF THE CYPRUS PROBLEM ON EU ENLARGEMENT POLICY TOWARDS TURKEY

A historical analysis of the implications on Turkey – EU relations demonstrated that the Cyprus problem has represented an important aspect shaping this rather wavy relationship since mid of 1990s. This situation has been even furthered in May 2004 when the Greek Cypriot controlled “Republic of Cyprus” was admitted to the EU as a full member. Unfortunately, the Greek Cypriots’ unilateral accession has not only brought a new dimension to the prospects for the resolution of conflict, but also politicised Turkey – EU talks which under normal circumstances expected to be conducted on technical basis, mainly on the basis of the requirements necessitated from *acquis communautaire*.

The long-awaited problem was in fact thought to be over as two peoples of Cyprus has been given a chance to vote for the United Nations (hereafter UN) Secretary-General’s proposal for a comprehensive settlement, namely the Annan Plan. If the Annan Plan was approved in the referenda held simultaneously on 24 April 2004, it would create a bizonal federation consisting of politically equal Turkish Cypriot Constituent State and Greek Cypriot Constituent State. Yet, it was rejected overwhelmingly by 76% of Greek Cypriots whereas accepted by 65% “yes” vote of Turkish Cypriots. Thus, the Plan that was built on the UN parameters of almost four decades of talks became null and void.

Though the failure to reach a solution in Cyprus has generated great disappointment amongst the international community, there has been no attempt to date neither by the UN nor by the EU to punish the Greek Cypriots for letting this historic chance fly off.

“The reason why an overwhelming majority of Greek Cypriots voted ‘no’ was possibly because of their anticipation of a better deal once they become EU members” argue Kınacıoğlu and Oktay, and further explain that “[t]he EU membership, [the Greek Cypriots] reckoned, would give them the power to blackmail Turkey by creating obstacles for Turkey’s EU bid and blocking Turkish membership”.³⁷⁹

The latter argument has become even more prominent when Greek Cypriots elected an intransigent candidate, Tassos Papadopoulos, as their leader. Policies pursued by Papadopoulos between the years of 2003 – 2008 are the key indicators of how he perceived tactically the idea of linking the Cyprus Problem to Turkey’s accession negotiations so as to force Turkey to come to terms with Greek Cypriots’ demand instead of engaging in another settlement process with Turkish Cypriots.

Indeed, the concrete outcome of Papadopoulos’ adopted approach came with Turkey’s NFD that has been analysed in detail in the previous Chapter III. As part of the accession conditions, the NFD expects Turkey “to support the efforts to find a comprehensive settlement within the UN framework; to implement fully the Additional Protocol extending customs union to new member states; and to normalise bilateral relations with all member states including [“Republic of Cyprus”]”.³⁸⁰ Moreover, all these expectations have been reinforced by the GAERC’s declaration issued on 21 September 2005. There, member states reiterated once again that Turkey must remove all obstacles to the free movement of goods as well as the restrictions on means of transport.³⁸¹

³⁷⁹ Müge Kınacıoğlu and Emel Oktay (2006), “The Domestic Dynamics of Turkey’s Cyprus Policy: Implications for Turkey’s Accession to the European Union”, Turkish Studies, Vol. 7, No.2, p. 269.

³⁸⁰ General Affairs and External Relations Council (2005a), *op cit*

³⁸¹ General Affairs and External Relations Council (2005b) “Declaration By the European Community and its Members States”, Brussels, 21 September

Having acknowledged that the full implementation of Additional Protocol by Turkey would distort the existing UN parameters on the island and would expand the gap between two sides of the island through deepening the Turkish Cypriots' isolation, it is very unlikely for Ankara to take a unilateral step and free traffic to Greek Cypriot vessels, without ensuring that Turkish Cypriots would get anything in return. Particularly, such an option gets even more distant when it is interpreted from rational choice institutionalist point of view. Considering that "states – both the member states and candidates – favour the kind and degree of horizontal institutionalization that maximizes their net benefits"³⁸², it is difficult to say that Ankara's any concession regarding Cyprus will be justified by the marginal benefits that to be offered in the absence of clear membership perspective for Turkey.

Within the aforementioned context, the aim of this chapter is to question what could be the rationalist calculations both for the EU and Turkey in achieving the current stalemate caused in negotiations due to the Cyprus problem. To this end, it is deemed imperative to proceed with three sections which the first two shed light on the last one. State more openly, in order to better understand and interpret new state of affairs, there will be initially an attempt to explain Cyprus Conflict and the EU's involvement from a historical perspective and through focusing on key events in the recent past (Section 4.1). This dissertation does not intend to get into the deep roots of the Cyprus problem that requires an individual research itself. However, recognition of mistakes done by parties – Greek Cypriots, Turkish Cypriots, Turkey, Greece and the EU, in the past is seen vital while developing strategies for achieving today's stalemate. Then, the EU attempts to put an end to Turkish Cypriots' isolation will explored in a critical way, mainly with an aim of figuring out whether the benefit to be brought by their materialisation would be enough to justify the cost to be caused by the full

³⁸² Frank Schimmelfennig and Ulrich Sedelmeier (2002), *op cit*, p. 510

implementation of additional protocol (Section 4.2). Finally, in respect of the analysis carried out, the rational choice institutionalist explanation of impact caused by the Cyprus problem on EU enlargement policy towards Turkey will be provided (Section 4.3).

4.1. Historical Analysis of the Developments Linking Cyprus Problem to EU Enlargement Policy towards Turkey

4.1.1 Roots of the Cyprus Problem

1955 was the year when tensions in Cyprus had escalated with the start of the Greek Cypriot guerrilla warfare against the British colonial power. The Greek Cypriots perpetuated their struggle with the notorious militant group EOKA with the sole aim to banish the British off the island and materialize the historical goal of unification with Greece, which is referred as the Greek word *Enosis*. Nevertheless, the Turkish Cypriots denounced EOKA's fight for *Enosis*, and deemed it necessary to take action against it, first by being recruited in the auxiliary force by the British, and then by forming TMT – "*Türk Mukavemet Teşkilatı*" as a counter organisation to EOKA with a view to crashing the *Enosis* and protecting the Turkish Cypriot existence on the island.

In 1960, the leaders of both Greek Cypriots and Turkish Cypriots as well as the governments of Britain, Greece and Turkey, agreed on a Constitution, which was the instrument for ending the conflicts between the two sides of the island and establishing a bi-communal independent state. The constitution was drafted in such a way that it granted equal rights both to the Turkish Cypriots and the Greek Cypriots and recognised them as cofounders of the new regime. This was perceived by the Greek Cypriot nationalists with disappointment and problems with two sides had resumed. On 30 November 1963, the Archbishop Makarios'

proposed some amendments to the 1960 Constitution, which were designated to revoke all those special rights granted to Turkish Cypriots. Eventually, these amendments were rejected by the Turkish Cypriot members of the parliament, which followed the latter's forced withdrawal from the parliament and other state institutions. The following days marked the beginning of an 11 year period of ethnic clashes between Turkish Cypriots and Greek Cypriots, when Greek Cypriot extremists murdered an innocent Turkish Cypriot family on 20 December 1963 and on 21 December 1963 fired against a group of secondary school students that was protesting the massacre of the family. A year later, the UN Peace-Keeping Force (hereafter UNFICYP) has been created with the UN Security Council Resolution 186/1964.³⁸³ However, even the UNFICYP could not prevent Turkish Cypriots being driven into enclaves and deprived of their basic needs. Life in enclaves continued for Turkish Cypriots until 1974.

Although the Turkish Cypriot representatives were forced to withdraw from the parliament, the international community continued to recognise the "Republic of Cyprus" as a legal entity, and the administration of Turkish Cypriots' daily life related needs, such as education, was conducted by the Turkish Cypriot Congregational Assembly "*Kıbrıs Türk Cemaat Meclisi*". Nevertheless, in 1974, the junta regime in Greece staged a nationalist coup against the Greek Cypriot leadership, which was accused of not committing the *Enosis* cause fully. As a result, Turkey on the basis of being a guarantor power intervened the island. Although Turkey's intervention amidst the chaos emerged out of the coup has ceased the threat over the Turkish Cypriots and prevented Cyprus becoming a Greek island, the international community, especially the UN and the EEC has not responded this situation positively.³⁸⁴

³⁸³ UN Security Council (1964) "Resolution 186: Cyprus Question", New York, 4 March

³⁸⁴ Lord Hannay (2005) quoted by Michael Lake (ed), *op cit*, p.167

Even though the High Level Agreements concluded by both sides in 1977 and 1979³⁸⁵, failure to reach a solution due to the maximalist demands of Greek Cypriots during the intercommunal negotiations has given Turkish Cypriots no choice but to declare the Turkish Republic of Northern Cyprus (hereafter TRNC) in 1983.

To date, upon the UN Security Council Resolution of 541/1983 considering the declaration “as legally invalid” and calling upon “all states not to recognise any Cypriot state other than [“Republic of Cyprus”]”³⁸⁶, no country but Turkey had ever recognised TRNC’s independence. Thus, motherland Turkey have had to support economically, politically and socially the Turkish Cypriots, who are prevented from integration to the international community. The Greek Cypriot authority that claimed to be “Republic of Cyprus” have also denounced TRNC’s declaration of independence and carried out propaganda on every ground against Turkish Cypriot State’s legitimization, insisted on claiming that the only legitimate authority to represent the whole island is still the “Republic of Cyprus“.

4.1.2. EU’s Involvement as an Actor in the Cyprus Problem

However, as current Turkish Cypriot President Mehmet Ali Talat contends:

in order to properly judge the source of the latest UN effort’s failure and to find a way out of the current deadlock both as regards the conflict itself and the Turkey’s negotiating process, one needs to look beyond the intra-island developments and at the underlying dynamics of the EU’s involvement in this process³⁸⁷.

The “Republic of Cyprus” gained interest in establishing relations with Europe in early 1970s. To this end, the first step was the conclusion of an Association Agreement with the European Economic Community in 1972. Entered into force on 1 July 1973, the Association

³⁸⁵ For points raised in High Level Agreements of 1977 and 1979 see respectively UN Secretary-General’s Report No: S/12323 para.5 and UN Secretary-General’s Reports No: S/13369 para.51

³⁸⁶ UN Security Council (1983) “Resolution 541: Cyprus”, New York, 18 November

³⁸⁷ Mehmet Ali Talat (2005) “Turkish Cypriots Expectations from the EU”, Turkish Policy Quarterly, Vol:4, No:3, p.2

Agreement regulated mostly the issues that concerned the trade. The Agreement was followed by a protocol concluded 1987 with a view to drawing the financial structure of EEC-Cyprus relations. Customs Union was also gradually made part of the accession process.³⁸⁸

As the “Republic of Cyprus” sought to upgrade its relationship with the European Community by submitting membership application, such move has been perceived differently amongst certain circles. Demetriou contends that “[t]he accession of Cyprus to the European Union has been viewed by the two communal leaderships on the island in two seemingly contradictory ways” and discusses that the Greek Cypriot leadership sees it “as a solution to the Cyprus Conflict, that would ensure that the new status of Cyprus as EU member would override the ethnic split”, whereas Turkish Cypriot leadership calls it, in her words, “simply illegal because it overwrites the Cypriot Constitution of 1960, that requires both communities on the island to agree before the state can join any other state”. She finally concludes that “[i]n this second view, though, union with Europe would again mean a ‘solution’ because it would prompt the union of TRNC with Turkey, after which point there would be no Cypriot problem to solve.”³⁸⁹

However, being parties of the above discussion, the Greek Cypriots went on making further claims that since the EU was not a state, the application of “Republic of Cyprus” to join the EU did not mean establishing an economic union with an individual state, but with an international organization and thus, this could not be regarded as a breach of the 1960 Constitution. Eventually, the Greek Cypriots made an application to the European Economic

³⁸⁸ George Vassiliou (2007) “The Accession of Cyprus to the EU” in George Vassiliou (ed), *op cit*, pp.117 – 118

³⁸⁹ Olga Demetriou (2005) “EU and the Cyprus Conflict: Review of the Literature”, Working Paper Series in EU Border Conflict Studies, No: 5, p.6

Community for membership in 1990 and this accompanied by the opening of the office of the European Commission Delegation to Nicosia.³⁹⁰

The problem of the island's division had from the outset been pointed out as the EU's primary concern in its consideration of Cyprus' suitability for membership. In this context, the Greek Cypriot leadership argued that membership would act as an instrument in bringing about a solution to the political problem, which was supplemented by the adoption of the following view by the Commission in 1993:

The Commission is convinced that the result of Cyprus's accession to the Community would be increased security and prosperity and that it would help bring the two communities on the island closer together.

.... In the expectations of significant process in the talks currently being pursued under the auspices of the Secretary-General of the United Nations, the Commission feels that a positive signal should be sent to the authorities and the people of Cyprus confirming that the Community considers Cyprus as eligible for membership 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.³⁹¹

The European Commission had longed to "first solution than membership" in its opinion on Cyprus delivered three years after receiving its application. On the other hand, being threatened by Greece over vetoing the Eastern enlargement and also customs union between Turkey and the EU unless Cyprus was included into the new round of enlargement, the European Council had to follow a different approach than of the Commission. As a result, the European Council had adopted a new strategy in which "a solution to the Cyprus problem is no longer a precondition for opening talks with the "Republic of Cyprus" at the Corfu European Council Summit in June 1994"³⁹².

³⁹⁰ *Ibid*, p.10

³⁹¹ European Commission (1993) "Opinion on the Application by Cyprus for Membership", Brussels, 30 June

³⁹² Ron Ayres (1996) "European Integration: The Case of Cyprus", *Cyprus Review*, Vol:8, No:1, p.42

Undoubtedly, the EU's inability to carry out the strategy identified by the European Commission to the European Council level as a short sighted step to achieve any possible impasse played a pivotal role in changing the established political balance between the two sides in Cyprus. Or to put it more bluntly, by explicitly stating that finding a comprehensive settlement in the island was no longer a precondition for starting a process that would eventually lead to EU membership of the "Republic of Cyprus", the EU actually assumed the role of an "interested secondary party" in its relations with Cyprus, which is meant that instead of remaining impartial to Greek Cypriots and Turkish Cypriots, the Union, due to the Greece's intransigent attitude, ended up on the same side as the Greek Cypriots³⁹³.

According to Turkish Cypriot President Mehmet Ali Talat,

[t]he *fait accompli* involvement of the EU in the Cyprus dispute increased as the Greek Cypriots progressed with their EU ambition" and similarly he argues that "[t]he final blow to the peace process came at the December 1999 Helsinki [European Council], where EU [Heads of States and Governments] decided to trade their approval of the ["Republic of Cyprus"s] accession for Greece's removal of its veto to grant Turkey candidate country status.³⁹⁴

At the European Council meeting on 10 – 11 December 1999, Turkey was recognised as a candidate country for membership, while with regard to Cyprus, the Council, in its Conclusions, welcomed the "launch of talks aiming at a comprehensive settlement of the Cyprus problem on 3 December in New York" and, crucially, underlined that "a political settlement will facilitate the accession of Cyprus to the European Union"³⁹⁵. It further decided that

³⁹³ Ulas Doga Eralp and Nimet Beriker (2005), "Assessing the Conflict Resolution Potential of the EU: The Cyprus Conflict and Accession Negotiations", *Security Dialogue*, Vol:36, No:2, p.181

³⁹⁴ Mehmet Ali Talat (2005), *op cit*, p.3

³⁹⁵ European Council (1999) "Presidency Conclusions", Helsinki, 10-11 December

if no settlement has been reached by the completion of accession negotiations, the Council's decision on accession will be made without the above-being a pre-condition. In this, the Council will take into account of all relevant factors³⁹⁶.

This last reference to “relevant factors” has seen then generally been interpreted as a precondition that this decision would hold, provided that the failure of negotiations was not due to the stance of the Greek Cypriot side. In effect, this statement tied Cyprus' EU accession to the negotiation process for resolution of the conflict, but disengaged it from an absolute requirement that such a resolution be reached³⁹⁷.

In the shadow of the Helsinki Decision, a new era was launched resuming the efforts for a comprehensive settlement. Alvaro De Soto, who had in 1990 and 1991 helped broker the peace agreements in El Salvador, was appointed Special Adviser on Cyprus to the UN Secretary General in November 1999. Meetings with leaderships became more frequent and in 1999 a new round of negotiations began. These negotiations proceeded through proximity talks, high-level meetings abroad and intensively publicised social and working meetings in Nicosia. In October 2002, two technical committees with members from both sides were set up, one on Common State Laws and one on Treaties. Their purpose was to meet and examine post-1974 legislation on the two sides and harmonise this legislation both with each other and with EU requirements. A deadline for an agreement had been initially set for December 2002, when the EU would conclude its negotiation on Cyprus' accession and reach a final decision about the island's membership in the meeting of the European Council in Copenhagen. Yet, it was then extended until February 2003.

³⁹⁶ *Ibid.*

³⁹⁷ Olga Demetriou (2004) “The EU and the Cyprus Conflict: The View of Political Actors in Cyprus”, Working Papers Series in EU Border Conflict Studies, No:9, p.34

The Copenhagen European Council meeting of 12 and 13 December 2002 marked a high point in the bi-communal negotiations. In its conclusions related to enlargement, the Council confirmed

its strong preference for accession to the European Union by a united Cyprus and welcome[d] the commitment of the Greek Cypriots and the Turkish Cypriots to continue to negotiate with the objective of concluding a comprehensive settlement of the Cyprus problem by 28 February 2003 on the basis of the UN Secretary-General's proposal, [urging] the leaders of the Greek Cypriot and Turkish Cypriot authorities to seize this opportunity.³⁹⁸

In addition, the Council repeated its willingness to accommodate the terms of a settlement in the Treaty of Accession³⁹⁹. Finally, it is decided that

in the absence of settlement, the application of *acquis* to the northern part of the island shall be suspended, until the Council decides unanimously otherwise, on the basis of a proposal by the Commission". Meanwhile, the Council invited the Commission, in consultation with the ["Government of Cyprus"], "to consider ways of promoting economic development of the northern part of Cyprus and bringing it closer to the Union."⁴⁰⁰

In these conclusions what can be observed, however, is that even before seeing the outcome of Hague meeting, the Council assured the Greek Cypriots that their presence would be recognised as representing the whole island by asking the Commission to consult "Republic of Cyprus" in formulating measures to contribute Turkish Cypriots' economic development and by stating that, in the absence of settlement, *acquis communautaire* would be suspended in the northern part. Up until that period, the EU Heads of States had been opting for the use of Cyprus as an ambiguous geographical term, without referring to either authority of the island. This was a strategy to keep Turkey and Turkish Cypriots on the

³⁹⁸ European Council (2002) "Presidency Conclusions", Copenhagen, 14-15 December

³⁹⁹ *Ibid.*

⁴⁰⁰ *Ibid.*

negotiation table by assuring them that if they were to agree with Greek Cypriots on a settlement, then the Accession Treaty might use the new state's name.

However, as is seen on the Council Conclusion, the EU Head of States, having seen the reluctant approach of the Turkish Cypriot Leader, has mentioned the name of the Greek Cypriot Authority as "Republic of Cyprus" for the first time. The then Turkish Cypriot President Rauf Denktaş was frustrated with the EU's position in the December Summit, adopted an uncompromising stance. Consequently, while he was found to be the cause of the failure of UN efforts, the Greek Cypriot Leadership, comforted by the EU support and hiding behind the intransigency of Mr. Denktaş, did nothing other than wait until they signed the Accession Treaty in April 2003 as the only internationally recognised government of the whole island.

Though having had justifiable reasons in itself such as the EU's becoming a secondary party to the Cyprus Conflict with the Corfu Decision, Mr. Denktaş's stance had in fact prevented any serious questioning of the official "pro-solution" attitude of the Greek Cypriot Government in the past, which was also considered as one of the main reasons behind the EU's opening of accession negotiations with Cyprus and committing itself to its accession without making unification a precondition⁴⁰¹. In the words of Jack Straw, the then UK Secretary of State for Foreign and Commonwealth Affairs:

although it was a decision that we made, there was, I think, an all-party agreement on it and it was not an issue of great controversy between the parties in the late 1990s...[t]he problem then was that the Greek Cypriot Community has reasonable leadership who wished desperately for a deal both on EU membership and a settlement with the Turkish Cypriot Community, but the Turkish Cypriots under Mr. Denktash were almost impossible to negotiate with". He then concluded that [h]ad EU Membership been not proposed under the current circumstances, any British

⁴⁰¹ Senem Aydin Düzgit et al. (2006), *op cit*, p.14

Government nor most European Governments would have touched the idea of allowing a divided Cyprus into the EU.⁴⁰²

It was only the final phase of negotiations of the Annan Plan which revealed that Greek Cypriots' long-declared support for unification was not to be taken at face value⁴⁰³. Whereas Turkey under a new single party government AKP – Justice and Development Party – together with the pro-solution forces in the North was paving the way for a yes vote among the Turkish Cypriots, the South had a clearly negative attitude from the start. The real test case, however, was provided by the prospect of the referendum. The then Greek Cypriot leader Papadopoulos made an emotional appeal on television urging the Greek Cypriot public to reject the plan in the referendum. He stated that he had “received a state” and had no intention of “handing over a community” and despite pleas not to do so from the EU, initiated a very strong “no campaign” in the country⁴⁰⁴. Furthermore, the Greek Cypriot authorities went to extreme measures, preventing the UN special envoy to Cyprus, Alvaro de Soto, and the EU Commissioner for Enlargement, Günter Verheugen, from giving interviews to Greek Cypriot state or private television, fundamentally violating basic principles of the freedom of expression, freedom of press, and the right to information on such a historic decision. In the words of the former Greek Cypriot Leader, George Vassiliou, there was an “industry of misinformation at work... a special kind of police state where people have been told to vote and indirectly threatened”⁴⁰⁵.

⁴⁰² House of Commons Hansard Debates, 7 February 2006, quoted by *Ibid*, p.15

⁴⁰³ *Ibid*, p.14

⁴⁰⁴ International Crisis Group (2008) “Reunifying Cyprus: The Best Chance Yet”, Europe Policy Report, No:194, p.8

⁴⁰⁵ *Ibid*, p.10

4.1.3. Linkage between the Cyprus Problem and EU's Enlargement Policy Towards Turkey

Throughout the four year period following the failure of the Annan Plan, there was almost no improvement in relations between Turkish Cypriots and Greek Cypriots. This no doubt stemmed from former Greek Cypriot Leader Tassos Papadopoulos' intransigent approach of using EU membership at its maximum benefit so as to gain short term concessions from Turkey by threatening her of blocking its EU accession negotiations on the basis of the Additional Protocol.

The extension of the Additional Protocol of Ankara Agreement to cover new member states of the Union was one of the conditions for the opening of accession negotiations with Turkey. This was the cause of the long night negotiations in the December European Council taken place in Brussels in 2004.⁴⁰⁶ Then, in July 2005, Turkey adopted the Protocol but added a declaration saying that such an extension would not mean any form of recognition of the "Republic of Cyprus".⁴⁰⁷ It is Turkey's common practice to avoid any move that would lead to an unintentional recognition of the "Republic of Cyprus".

Equally as Talmon argues, "[n]othing Turkey has done so far during the EU accession process implies its recognition of the Greek Cypriot-controlled ["Government of the Republic of Cyprus"] claim to be the government of the whole of Cyprus" and even if it is apparent that implementation of the Additional Protocol of Ankara Agreement by no means would amount to Turkey's acceptance of Greek Cypriot sovereignty over the whole island, "Turkey is using the transport restrictions vis-à-vis the Republic of Cyprus as a bargaining chip in the

⁴⁰⁶ European Council (2004) "Presidency Conclusions", Brussels, 16-17 December

⁴⁰⁷ Ministry of Foreign Affairs (2005) "Official Declaration on the extension of Ankara Agreement" Ankara, 29 July

negotiations to end the political, cultural and economic isolation of the Turkish Cypriots, and especially to allow direct trade with and flights to northern Cyprus”.⁴⁰⁸

On the other side of the coin, Kramer points out that,

The only reason why Nicosia is calling for free access to Turkey for Greek Cypriot ships and aircraft is the hope that this will at least force Turkey’s de facto recognition of the [“Republic of Cyprus”], thereby landing the latter with an important tactical political advantage in the battle for a potential solution to the Cyprus problem.⁴⁰⁹

Therefore, although Turkey’s additional declaration was a response to the Greek Cypriot attempt for gaining “tactical political advantage”, it was perceived in a very negative way by the EU and its individual member states. Consequently, on 21 September 2005, the EU – the Community and its member states – adopted a counter declaration making clear that the prospect of negotiations would be conditional on the full implementation of the Additional Protocol by the end of 2006. The declaration also stressed that “recognition of all member states is a necessary component of accession process.”⁴¹⁰

To this background, the European Commission closely monitored Turkey’s adopted stance and concluded in the 2006 Progress Report that;

Turkey has not fully implemented the Additional Protocol ... [and] has continued to deny access to its port to vessels flying the [“Republic of Cyprus”] flag or where the last port of call is in Cyprus. Such restrictions on shipping often preclude the most economical way of transport and therefore result in a barrier to free movement of goods and to trade. They infringe the Customs Union... Similar restrictions continued to apply in the field of air transport.⁴¹¹

⁴⁰⁸ Stefan Talmon (2006), “EU-Turkey Controversy over Cyprus or a Tale of Two Treaty Declarations”, *Chinese Journal of International Law*, Vol. 5, No. 3, p. 615

⁴⁰⁹ Heinz Kramer (2007), *op cit*, p. 3

⁴¹⁰ See the EU Counter-Declaration on Turkey, 21 September 2005

⁴¹¹ European Commission (2006) “Regular Report for Turkey’s Progress towards Accession”, Brussels, 8 November

The Commission's Regular Report publicized on the eve of December European Council, had expectedly generated possible scenarios wandering around the Brussels corridors on the future prospect of Turkey – EU relations. Akçakoca draws further attention to these scenarios by defining three most debated which are discussed briefly below.⁴¹²

The first of these scenarios was “a total suspension of the negotiations”. However, there was a general understanding that this scenario would not be likely to take place. Since, if the negotiations failed, then it would be likely for Turkey to lose her motivation for solving the Cyprus problem, and thus leading a permanent division of the island. By only taking this very reason, most of the European Union member states saw it better to have Turkey on the track, instead of leaving her out of the process.⁴¹³

The second scenario was “a partial suspension of the talks”. This could be interpreted as the EU's right to suspend the opening of a number of the chapters related to the customs union or to decelerate the process by not closing negotiations on certain chapters. The EU could also require “opening benchmarks” for these chapters before negotiations could be carried on.⁴¹⁴

Lastly, the third scenario was mentioned as “a de facto suspension of the talks”, which would mean that if the member states fail to reach an agreement on what should happen next, a single country or group of countries could block the opening and closing of individual chapters, and thus effectively suspend negotiations unilaterally.⁴¹⁵

⁴¹² Amanda Akçakoca (2006) “EU – Turkey Relations 43 years on: train crash or temporary derailment?”, EPC Issue Paper No:50, p.12

⁴¹³ *Ibid*, p.13

⁴¹⁴ *Ibid*, p.14

⁴¹⁵ *Ibid*, p.14.

Within the light of aforementioned scenarios, the Commission went for the second scenario by adopting the view that “[i]t is in the key interest of the EU and Turkey to keep the accession process alive”, and recommended the suspension of the opening of eight chapters of accession negotiations with Turkey until it meets its obligations on allowing free traffic with Cyprus. In addition, the Commission recommended that no chapter be closed until Turkey has fulfilled its commitments.⁴¹⁶ The eight chapters concerned are: free movement of goods, right of establishment, freedom to provide services, financial services, agriculture and rural development, fisheries, transport, customs union, and external relations.

The Commission’s proposal to freeze eight chapters went further than Turkey had hoped. However, as Prime Minister Recep Tayip Erdoğan stated in a press conference that “[w]e have very openly indicated to the actual 25 members of the EU that they should not expect anything from Turkey on the additional protocol, airports and ports unless the isolation of the [Turkish Cypriots] ends”⁴¹⁷, Ankara is unlikely to step back from the position it adopted vis-à-vis the demands of Greek Cypriot leadership. However, although Turkey’s decision of not implementing the Additional Protocol to cover the “Republic of Cyprus” until isolations on Turkish Cypriots are lifted is quite understandable, as former UK Special Representative to Cyprus Lord David Hannay warned:

It [has been found] unwise [by EU Representatives] because the first is an inescapable legal obligation while the second is a quite separate political pledge. [He also added that it was] even more unwise because it ignored the iron rules of Cyprus Diplomacy, which, to adapt one of Newton’s laws of physics, means that any proposal by one party immediately provokes an equal and contrary reaction from the other.⁴¹⁸

⁴¹⁶ Press Conference by Enlargement Commissioner Olli Rehn, Brussels, 8 November

⁴¹⁷ Press Conference by Prime Minister Recep Tayip Erdoğan, 16 June 2006, [available at http://www.aa.com.tr/index.php?](http://www.aa.com.tr/index.php?)

⁴¹⁸ Lord David Hannay (2006) “Cyprus, Turkey and the EU: Time for a sense of proportion and compromise”, quoted by Amanda Akçakoca (2006), *op cit*, p.9

Leaving the past to aside, negotiations might, to all intents and purposes, eventually come to an end if the current climate prevails as it is. As long as the Cyprus problem remains unresolved, it risks, again in the words of Lord Hannay, “bringing a premature end”⁴¹⁹ to the accession talks. It is not much realistic to expect half-century old problem to be solved over night. Yet, the EU member states and the Commission have to realise that any unilateral action would damage the sensitive balance as regards the prospective settlement negotiations.

4.2. EU’s Attempt to Lift Turkish Cypriots’ Isolation and Ease the Impact of the Cyprus Problem on EU Enlargement Policy towards Turkey

The EU’s main concern prior to the simultaneous referenda was to convince Turkey and the Turkish Cypriots to come to terms with the consecutive UN proposals. In agreement with the Greek Cypriot side, it also invited Turkish Cypriots to appoint a representative during Cyprus’ accession negotiations with the EU. However, this would have been done under the 1960 Constitution and it was apparent that such invitation would be rejected by the Turkish Cypriots. Demetriou also argues that if Turkish Cypriots were to join the Greek Cypriots in their EU membership bid, “[t]his [would] effectively [mean] that they would have to renounce the political status of the north, which was still an issue for discussion in the negotiations”.⁴²⁰

To be more precise; on the one hand, the Turkish Cypriot leadership was negotiating with their Greek Cypriot counterpart for establishing a bizonal federation on the island based on the UN parameters, on the other hand, the Turkish Cypriot people were expected to bypass their leadership and join the Greek Cypriots in their bid to the EU as “Republic of Cyprus”,

⁴¹⁹ *Ibid.* p. 9

⁴²⁰ Olga Demetriou (2004), *op cit*, p.7

the republic which has been dominated by the Greek Cypriots since 1963. However, the EU had always seen the Greek Cypriots' support for unification in the bag, and this prevented them from anticipating the impacts of the failure of the peace process by the Greek Cypriots.

As can be extracted from the above discussion, the EU has failed to take a neutral stance on the issue. Therefore, this led the balance between Turkish Cypriots and the Greek Cypriots being altered in the peace process for the benefit of the latter. Öniş fortifies this idea by saying that

[g]iven the crucial impact of the signals provided by the EU on Turkey's domestic politics, a more balanced approach on the part of the EU to the Cyprus issue would have made a major contribution towards the resolution of the dispute, [and goes on to state that] a more balanced approach on the part of the EU would mean setting explicit standards for Southern Cyprus to resolve her disputes with the North, as a necessary step for accession to full membership.⁴²¹

The failure of the EU to follow "a more balanced approach" in fact due to its becoming a secondary party to the Cyprus problem following the Corfu European Council of 1994 resulted in Greek Cypriots rejecting the UN sponsored comprehensive settlement plan. It was only after the referenda simultaneously held on both sides, when the GAERC stated its determination to

put an end to the isolation of Turkish Cypriot Community so as to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot Community" and invited the European Commission "to bring forward comprehensive proposals to this end with particular emphasis on the economic integration of the island and on improving contact between two communities and with the EU."⁴²²

The former EU Commissioner for Enlargement Günther Verheugen aimed at both relieving the Turkish Cypriots concerns by stating "[i]t would be unfair, to say the least, to

⁴²¹ Ziya Öniş (2003), *op cit*, p. 27

⁴²² General Affairs and External Relations Council (2004) "Presidency Conclusions", Brussels, 26 April

leave [Turkish Cypriots] out in the cold”.⁴²³ Further to this he implied that they will work to keep the caught momentum alive until another opportunity appears for a comprehensive settlement in his below cited words:

It was not anticipated that the majority of Greek Cypriots would reject a UN-sponsored settlement of the conflict. But the story is not yet finished. Inevitably, the ongoing negotiations with Turkey will eventually create a momentum for a new initiative to settle the Cyprus problem. In the meantime, we should do everything to help the Turkish Cypriot community to catch up. We should not tolerate that the Turkish Cypriots will be the only victims of the enlargement.⁴²⁴

To this background and with respect to discussions in the previous section, it is the utmost concern to seek an answer to the question of “whether the benefit to be brought by the materialisation of EU’s efforts to lift Turkish Cypriots’ isolation would be enough to justify the cost to be caused by the full implementation of the additional protocol”. Therefore, a brief explanation of what instrument the European Commission sought to create to this end will be first stated, and then an analysis of how these instruments cannot be enough incentive for Turkey to implement the Additional Protocol will be drawn.

4.2.1 Green Line Regulation

The GAERC adopted the Green Line Regulation (on 28 April 2004), which, on the basis of Article 2 of Protocol 10 annexed to the Accession Treaty, determines the EU rules applicable to the movement of goods, people and services across the Green Line.⁴²⁵ Despite the fact that the Green Line Regulation was a necessity for the EU to prevent any smuggling or illegal immigration to the EU territories via the Northern Cyprus, it has always been perceived by Turkish Cypriot authorities as the EU’s first tangible step for bringing both

⁴²³ Turkish Cyprus aid plan unveiled (07 July 2004), *BBC*,

<http://news.bbc.co.uk/2/hi/europe/3873861.stm>

⁴²⁴ Günter Verheugen (2007), “Introduction” in George Vasiliou (ed), *op cit*, p.5

⁴²⁵ Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Art. 2 of Protocol 10 to the Act of Accession

Turkish Cypriots and Greek Cypriots closer under the EU umbrella. This could be explained with three reasons: first the legitimacy of movement across the Line is not biased in terms of direction, for example, non-visa nationals are allowed to cross both ways even if they have, in the Greek Cypriots' discourse, entered through an "illegal port". Secondly, the Regulation allows the intra-island trade of North Cyprus originated goods (goods wholly obtained or have undergone their last substantial transformation). Thirdly, the certifying authority for these goods is designated as the Turkish Cypriot Chamber of Commerce, with the Commission having overseeing powers over the process and the Greek Cypriots agreeing.

The general aim of the Green Line Regulation was to regulate free movement of persons and facilitate intra-island trade through the Green Line. However, according to an official of the Turkish Cypriot Chamber of Commerce (hereafter TCCC), this regulation, since its implementation in August 2004, the Regulation could not reach its originally intended aim to lift Turkish Cypriots' isolation and bring both peoples of the island together⁴²⁶. The statistical data found on the Table 4.1 depict an increase in the number of revenue enjoyed through the Green Line Regulation over four years⁴²⁷.

Table 4.1: Total Spread of Values for the Green Line Trade Across two Sides of Cyprus

	2004 ⁴²⁸	2005	2006	2007	2008
Accumulated Green Line Trade (in thousand USD)	441	1,673	3,228	4,127	3,111

Source: TCCC

⁴²⁶ Yeşil Hat Tüzüğü Hedefine Ulaşamadı, Kıbrıs Gazetesi, (31 July 2008), available at http://www.kibrisgazetesi.com/popup.php/cat/2/news/57119/PageName/Ic_Haberler

⁴²⁷ Green Line Regulations Statistics (2008), Turkish Cypriot Chamber of Commerce

⁴²⁸ Due to the adoption of Green Line Regulation in April and its implementing rules in August, the figures for 2004 only covers the period between September to December.

Nevertheless, the numbers could not reach at the intended level, as the TCCC official states. The primary reason for such failure was that only a number of goods are allowed to be traded and these are subject to strict rules and procedures. Additionally, the Greek Cypriots are still reluctant to allow Turkish Cypriot commercial vehicles to carry the goods into the South, which is far from being facilitative. “[I]t is far from a panacea” declares Skoutaris and in support of the above mentioned idea, concludes that;

Although it is apparent that the Regulation’s provisions with regard to the crossing of persons has lifted partially but effectively the isolation of the inhabitants of an area the ports of entry into which are all deemed closed under international law, with regard to the crossing of goods that piece of legislation has not proved particularly successful to enable goods originating in the areas not under the effective control of [“the Republic of Cyprus”] to penetrate the EC Market.⁴²⁹

4.2.2. Financial Aid Regulation

In July 2004, the Commission responded the Council’s invitation with a comprehensive package of aid and trade measures. The issue of direct air links, which is considered to be crucial for easing international isolation of Turkish Cypriots, was not even figured in the Commission proposal, mostly due to the combination of a strong Greek stance with member states reluctance to take any step in this area⁴³⁰. Still, the package had many positive repercussions on the Turkish Cypriot side and Turkish Cypriot leadership, as foreseen by the Commission, opted for a simultaneous adoption of the two measures in complementary nature.

⁴²⁹ Nikos Skoutaris (2008), “The Application of the Acquis Communautaire in the Areas not under the Effective Control of the Republic of Cyprus: the Green Line Regulation”, Common Market Law Review, p.31

⁴³⁰ International Crisis Group (2006) “The Cyprus Stalemate: What Next?”, European Policy Report, No. 171, p.10

However, the Greek Cypriots, who defined possible direct shipments from Famagusta port as against their vital national interest, blocked any discussion in the Committee of Permanent Representative (hereafter COREPER) regarding the Direct Trade Regulation. Although some member states have been tired of the Cyprus problem and its regular stumbling into the EU – Turkey relations, some have felt sympathetic to the “Republic of Cyprus”’s explanation of national interests in the EU internal discussion on the basis of solidarity principle, which resulted in their reluctance to bypass a voting member of the Council even though the adoption of Regulation requires the qualified majority voting. The problem with this “solidarity” though is that it risks making the EU partisan in the Cyprus problem since only Greek Cypriots speak for the whole island, to the strong objection of Turkish Cypriots who have no voice at EU tables whether Council or Parliament⁴³¹.

Consequently, the Aid Regulation has been adopted alone on 27 February 2006. With its adoption, a sum of 259 million € in funding has been earmarked for the North under six objectives with an overarching aim of facilitating the unification of the island. These objectives are “the promotion of social and economic development”, “development and restructuring of infrastructure”, “reconciliation, confidence building measures and support to civil society”, “bringing Turkish Cypriots... closer to the Union”, “preparation of legal texts aligned with the *acquis*” and “preparation for implementation of the *acquis* in view of its suspension”.⁴³²

The Aid Regulation also provides in Article 10 that “[e]ach year the Commission shall send to the European Parliament and the Council a report on the implementation of

⁴³¹ Kirsty Hughes (2006) “Turkey and the EU Four Scenarios: From Train Crash to Full Steam Ahead”, Friends of Europe Report, p.21

⁴³² Council Regulation 386/2006 on establishing an instrument of financial support on encouraging the Economic development of Turkish Cypriot Community, 27 February, p.4

Community assistance under this instrument”, and that. “[t]he report shall contain information on the actions financed during the year and on the findings of monitoring work, and shall give an assessment of the results achieved in the implementation of the assistance”.⁴³³ In respect to this Article, the Commission prepared its first Annual Report for the implementation of the assistance and publicly disseminated in September 2007. What striking amongst other things in the Report is the problems faced in its implementation, particularly due to the strict deadlines, highly centralized structure for the projects’ execution and the property issue.⁴³⁴

Strict deadlines stems from the late adoption of the Regulation, which delayed many preparatory activity needed for project fiches to take place. Highly centralized structure is a simple example illustrates how hard it is to make small moves on Cyprus in the absence of settlement. To be more precise, a European Commission Office to assist in management and information on the EU funds is opened in the North Nicosia in September 2006. After much wrangling over details by Greek and Turkish Cypriots, the formal address of this office decided to be in Brussels, which means officials working there is formally on a travel-mission from Brussels, tender applications and call for proposals is posted to Brussels address, from there to the Commission’s information office in the South and finally to the Support Office in the North for evaluation.⁴³⁵

Although both problems are time consuming, the one way or another a solution can be found in the coming phases of the implementation. However, the property issue, which is the most complicated one, seems to block many projects and minimize the EU funds’ positive impact on the Turkish Cypriots’ economic development nearly to “0”. Since, as the “Annual

⁴³³ *Ibid*, p.4

⁴³⁴ European Commission (2007), Annual Report 2006-2007 on the implementation of Community assistance for encouraging the economic development of the Turkish Cypriot community, 16 September, p.5

⁴³⁵ Kirsty Hughes (2006), *op cit*, p. 24

Report As Regards the Progress in the Implementation of Financial Assistance” states, approximately 78% of property in the North belong allegedly to the Greek Cypriots and according to Article 6 of the Regulation – injected at the very last moment to the text upon the Greek Cypriots’ uncompromising stance – the Commission could not execute any infrastructure project on a Greek Cypriot property without getting the consent of the owner – which is considered almost impossible to be gotten in the absence of rapprochement among two sides.⁴³⁶

Provided that the certain aspects of aid regulation are already hindering its effective implementation and particularly, contributing to the removal of the negative atmosphere caused by the long-imposed isolation policies, the Direct Trade Regulation still seems like the only solid ground to bring some openings and liberalization.

4.2.3 Efforts to Restore Trade Relations and Reach a Compromise Deal

The Direct Trade Regulation, to say from a pragmatic point of view, aims at establishing a unilateral trade regime vis-à-vis North Cyprus originated goods.⁴³⁷ This unilateral trade regime would expectedly open new trade channels for Turkish Cypriots in the EU Member States and effectively contribute to their economic development without creating a dependent structure to the Greek Cypriot market and the Southern ports. Amongst all, the adoption of Direct Trade Regulation would be the reversal of the decision taken by European Court of Justice (hereafter ECJ) in 1994, which, in effect, ended the preferential treatment of direct shipments originating in North Cyprus by virtue of the Association Agreement signed

⁴³⁶ European Commission (2007), *op cit*, p. 8

⁴³⁷ European Commission (2004), “Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cprus does not exercise effective control”, 7 July

between Cyprus and the European Economic Community in 1972.⁴³⁸ At that time, there were two major problems confronting the ECJ: in the absence of administrative cooperation with North Cyprus authorities a) who will provide the evidence of origin required under the EC Law; b) how will phytosanitary controls be carried out for citrus and potatoes.

It seems thus clear that both the authorization of the Turkish Cypriot Chamber of Commerce to issue an accompanying document substituting certificate of origin and the appointment of independent Commission experts to carry out phytosanitary controls through the Direct Trade Regulation, as is precedent with the Green Line Regulation, would create the necessary remedy for ECJ's decision and eliminate the obstacles precluding the Turkish Cypriots to exercise their right to trade with EU countries.

Even a quick glimpse at the trade diversions in Turkish Cypriot economy after 1994 clearly demonstrate that the ECJ Decision not only put a powerful strike to the Turkish Cypriot traders, but also removed the possibility of bringing them closer to the EU's Common Market. As can easily be deduced from the statistical figures mentioned in Table 4.2, at the beginning of 1990s, the EU had the highest share in Turkish Cypriots' total exports (nearly 70 – 75%). Following the ECJ decision, this share have started to gradually decrease, which confirms further the significant lost of Turkish Cypriots' competitiveness in the EU market due to being subject to customs duties and other import charges. By 2006, the EU has unfortunately 15% share in total Turkish Cypriot exports.⁴³⁹

⁴³⁸ Sustainability and Sources of Economic Growth in the Northern Part of Cyprus, 8 June 2006, available at [http://www.kktcbasbakanlik.org/files/Cyprus_Economic_Assessment_\(World_Bank\)_Vol_1.doc](http://www.kktcbasbakanlik.org/files/Cyprus_Economic_Assessment_(World_Bank)_Vol_1.doc), p.4-6

⁴³⁹ Trade Statistics (2006), Turkish Cypriot Chamber of Commerce, 9 January 2007, available at <http://www.ktto.net>

Table 4.2: Share of the EU in total exports

	1980	1985	1990	1995	2000	2006
Export to EU Countries (in million USD)	34,5	35,1	51	36,5	20,3	9,1
Total Exports (in million USD)	44,5	46,3	65,5	67,3	50,4	61,1
Share of the EU Countries in total exports						
(%)	77,5	75,8	77,9	54,2	40,3	14,8

Source: TCCC

The unjust EU trade barriers for Turkish Cypriots have undoubtedly had negative repercussions on the sectors of the Turkish Cypriot economy and have acted as a further handicap against bridging the economic gap between two sides on the island. Between 1980 and 2005, the share of agriculture declined by 17% in total employment while nearly ten thousand textile sector employees lost their jobs after the imposition of 14% customs duty on “ready-to-wear products” at their entrance to the Community Customs territory.⁴⁴⁰

The Direct Trade Regulation, in this sense, would return back to the Turkish Cypriots an opportunity to engage in preferential trade relations with the EU Member States and help compensate, at least to some extent, both the material and psychological losses caused through restrictions on North Cyprus originated goods. European markets are the natural and traditional markets for Turkish Cypriot products. Their restoration to Turkish Cypriots through the Direct Trade Regulation would, therefore, not only encourage Turkish Cypriots to optimize their production capacity and to restructure their economy, but also motivate them further to adapt EU-recognized rules and standards, which in the long-run would serve to integrate the Turkish Cypriot economy to the EU with even stronger bonds.

⁴⁴⁰ TRNC State Planning Organisation, Statistics on Diverging Trends in Economic Activities from 1980-2005, 19 March 2007

However, the legal basis of the Direct Trade Regulation has been its most debated aspect, which is the formal reason for Greek Cypriots to block any substantial discussions regarding its content during the COREPER meetings. There are two differing views on the appropriate base: the Article 133 as originally proposed and favored by the Commission, and the Article 1 (2) of Protocol 10 as favored by Greek Cypriots and the Council legal service.

The Article 133, which is widely-associated with Community's Common Commercial Policy, is used not only for the association agreements signed between the Community and a "third country", but also for executing the Community's unilateral trade rules and regulations vis-à-vis the goods originating from the Community territories, where the *acquis* is not implemented, such as, Gibraltar, Ceuta and Melilla.⁴⁴¹ Within this framework, considering that North Cyprus is a Community territory where *acquis* is suspended by virtue of the Accession Treaty 2003, it is certainly appropriate for the Community to also establish a unilateral trade regime on the basis of Article 133 so as to clarify applicable rules in the importation of North Cyprus originated goods.

The legal advice provided by the Council legal service and the Greek Cypriots is, on the other hand, built on the assumption that the Direct Trade Regulation is intended to partly implement *acquis* in North Cyprus. This however represents a fundamental misunderstanding of the Regulation. Unilateral trade regimes under the Article 133 are just to make clear for the Member States' authorities how to treat the imported goods originating from the Community territories where the *acquis* is not in force. There is no suggestion that having such regimes in place amounts to the *acquis*' partial or full implementation.⁴⁴² Furthermore, the Article 1 (2)

⁴⁴¹ European Commission (2005) "Legal Service's Opinion on Direct Trade Regulation", Commission Internal Working Document submitted at Council Discussions, 3 February

⁴⁴² *Ibid.*

of Protocol 10, in envisaging only withdrawal of *acquis*, does not seem to offer the possibility of modifying the *acquis* to incorporate the trade regime intended to be established through the Direct Trade Regulation.

Despite the stand-off caused by the controversial opinions of the Commission's and Council's legal services, and despite the support Greek Cypriots found among member states on the basis of solidarity, the EU's Luxembourg Presidency in the first half of 2005 undertook talks with both sides to see if Famagusta port could be opened under EU or UN supervision.⁴⁴³ However, as Lord Hannay pointed out in his recent report and referred also above-paragraphs, the iron rules of Cyprus Diplomacy prevailed once again and every proposal done by one side provoked an equal and contrary reaction from other side⁴⁴⁴.

To be more precise, the Greek Cypriot Leadership insisted that there should be a joint management committee of both Greek and Turkish Cypriots at the port, and asked for the return of Maraş/Varosha (the tourist area close to the Famagusta port), and also asking for a moratorium on property development in the North on Greek Cypriot property. Unsurprisingly, both the latter rejected by the Turkish Cypriot side. The Turkish Cypriot side suggested that a joint management committee at Famagusta should be mirrored with a joint committee at the southern port of Limassol – which was rejected by the Greek Cypriot side - and apparently suggested the return of Maraş/Varosha provided that the Ercan Airport was also opened – a proposal again rejected by the Greek Cypriots.⁴⁴⁵

⁴⁴³ Luxembourg Presidency's Efforts to resolve the stalemate as regards Direct Trade Regulation, 3 March 2005, available at <http://www.fco.gov.uk/Files/kfile/CM6506.pdf>

⁴⁴⁴ Lord Hannay(2006), *op cit*, quoted by Amanda Akçakoca, *op cit*, p. 9

⁴⁴⁵ *Ibid*, p.9

The Finnish Presidency, on the eve of December 2006 crisis in Turkey – EU relations, made another attempt similar to that of the Luxembourgian Presidency. Yet, the Fins preferred to refine the proposal by proposing that Turkish troops should withdraw from Maraş/Varosha and hand over administration of the town to the UN for two years rather than returning it directly to the Greek Cypriots. Both the Greek and Turkish Cypriots could be involved in the redevelopment of the area. During this two year period, Famagusta port would also be opened for trade under EU supervision; the EU's Regulation on Direct Trade would enter into force; and Turkey would only need to open a number of designated ports. However, it was not clear what would happen after this two-year period elapsed or who would pay for redeveloping Varosha.⁴⁴⁶

Although all parties involved expressed a willingness to discuss these proposals in a constructive manner, a deal along these lines were unlikely because the Turkish Cypriots, through referring to Gali Set of Ideas proposed in 1992, insisted that Varosha should be linked to freeing international air traffic to Ercan Airport in order not to distort the settled negotiation deals under the UN auspices.⁴⁴⁷

While both sides disagree on exactly how and why the talks collapsed (and who offered and agreed to what), various EU representatives suggest the both Presidencies overloaded the deal, adding more elements at each stalemate. EU officials are also rightly nervous of becoming involved in negotiations that touch on issues that would belong to the UN comprehensive settlement.⁴⁴⁸

⁴⁴⁶ Finnish Presidency' Efforts to resolve the stalemate as regards Direct Trade Regulation, Speech by PM Matti Vanhanen, 16 December 2006, available at http://www.eu2006.fi/news_and_documents/speeches/vko51/en_GB/178743/

⁴⁴⁷ Speech by Georg Ziegler at the Seminar on the Cyprus Conflict: Looking Ahead, 7-8 May 2007, Representative from Turkish Cypriot Task Force, DG Enlargement.

⁴⁴⁸ *Ibid.*

4.2.4. Preparing Turkish Cypriot Administrative and Legal Structure for the Eventual Membership

As part of the Financial Aid's 5th Objective of "preparing legal texts [of the Turkish Cypriot administration] aligned with the *acquis communautaire* for the purpose of these being immediately applicable upon the entry into force of a comprehensive settlement of the Cyprus problem", the Programme for Future Adoption of the Acquis (hereafter PFAA) was presented in two workshop on "Administrative Challenges of harmonization with the *acquis communautaire*" organized in Brussels respectively in May and October 2007. Plan that would fall into constituent state competences were taken into account. The attending parties defined twelve EU policy areas in priority, and responsible contacts for each policy area were specified. When these twelve priority areas were identified, those areas of the Annan Plan that would fall into constituent state competences were taken into account.

Preparation of the PFAA was not only one of the tangible outcomes of the European Commission's determination of "not leaving Turkish Cypriots in the cold", but also a belated motive that should have been offered even before the Annan Plan referenda. In fact, the goal of the PFAA was defined in 2007 activity report of the European Commission's Technical Assistance and Information Exchange Unit as "[allowing] a better understanding of the steps needed to align Turkish Cypriot legislation to the EU legislation and policies in view of the future reunification of the island"⁴⁴⁹.

Although PFAA is seen as an incentive for Turkish Cypriots to commit themselves both to a settlement and consequent European Union membership, it is in fact Commission's secret warning for the Greek Cypriots that it does not disregard the Turkish Cypriot

⁴⁴⁹ European Commission (2008) "TAIEX 2007 Activity Report", p.11

administration and any future settlement will inherit not only from the “Republic of Cyprus”, but also from the TRNC.

The above paragraphs have elaborated that even though the EU’s appeal towards Turkish Cypriots was not fully satisfactory, it still did have an effect in the change in the seat of Greek Cypriot leadership, as Greek Cypriots realized that Papadopoulos’ intransigent policies were cementing partition and the Turkish Cypriots were developing relations with the Union by by-passing the “Republic”.

The International Crisis Group’s (hereafter ICG) Policy Report dated 23 June 2008 states that

[t]he 2008 Greek Cypriot presidential election produced a major upset in the [election’s] first round”, in which, the report continues that, “incumbent Tassos Papadopoulos, who based his re-election campaign on having blocked the 2004 UN-mediated comprehensive settlement...and his promise to say ‘no’ to any attempt to resurrect it, was defeated despite the advantages of incumbency, including wide coverage on state-owned television and its targeting of any who opposed his nationalist line.⁴⁵⁰

The defeat of Papadopoulos has been the natural outcome of policies pursued under his leadership, i.e. the Greek Cypriot electorate was no longer supportive of his hardline approach which had been delaying any solution prospect. On the other hand, the new president Demetris Christofias appealed the electorate with his determination to end the Cyprus problem and signalled a shift in previous government’s policies. ICG’s 2008 Policy Report gives the details of such change in policies as such:

[t]he new administration admitted Greek Cypriot errors in the 1960s; talked publicly of a future Turkish Cypriot administration... [and] also recognised that some internally displaced Greek Cypriots would not be going home; warned that some

⁴⁵⁰ *Ibid*, p.1

immigrants from Turkey would stay on the island; told Greek Cypriots to prepare for a solution.⁴⁵¹

Turkish Cypriot President Mr. Talat welcomed the election of Christofias in the second round on 24 February 2008 and two leaders met on 21 March 2008 to give a start to a new round of settlement negotiations. They both agreed to formation of six working groups with a view to setting agendas for the full-fledged negotiations and seven technical committees for short term cooperation between two sides as part of confidence building measures.

The committees and working groups started work on 18 April 2008, and since then at least little progress have been achieved between Greek Cypriot and Turkish Cypriot delegates. Following committees' three month work, both leaders have met again and this time they decided to launch full-fledged negotiations on 3 September 2008.

To briefly sum up, the steps taken with a view to lifting Turkish Cypriots' isolation had to some extent led to a change in the Greek Cypriot leadership and consequent start of a new phase of settlement negotiations in Cyprus. However, in so far, those steps were still not sufficient for Turkey to implement the Additional Protocol, since the EU's pledge for not leaving Turkish Cypriots out in the cold has still not been materialized. In fact, Turkish Cypriots still cannot trade directly with the European Union, and there have been almost no attempt to ease cultural and sportive isolations. Therefore, it can be concluded that the EU should be more committed to its promises made for the Turkish Cypriots. Otherwise, Turkey will continue to be wedded to its decision of not implementing the Additional Protocol if Turkish Cypriots continue to be isolated.

⁴⁵¹ *Ibid*, p. 2

4.3. Rational Choice Institutional Explanation of Impact of the Cyprus Problem on EU Enlargement Policy towards Turkey

The operationalisation of the EU's enlargement policy in view of Cyprus and in the absence of a comprehensive settlement has unfortunately initiated a process whereby the balance shifted increasingly to the Greek Cypriot side and unjustly enabled them to assert their demands from Turkish Cypriots during negotiations. Greece as being a member state rendered the EU's ability to effectively and equally apply the conditionality principle vis-à-vis both peoples. As such, the EU lost its neutrality and was perceived as a party to the conflict, which in return provoked mistrust and prejudices against its any attempt aimed at pursuing dialogue and reconciliation. The EU's tradeoffs at the crucial summits in 1994 and 1999 with a view to clearing Turkey's way in its EU bid are also the telling examples of how it has been trapped by its own decision-making rules.

By the same token, as recent developments as regard Turkey's negotiations put forth, Greece's hand has been strengthened after the Greek Cypriots are granted veto right as a new Council member, which translates both Greece and "Republic of Cyprus" will now reinforce their efforts in order to find a solution to their problems with Turkey through using the EU's conditionality and concessions. However, as is mentioned previously in parallel to Öniş remarks, the EU should follow "a more balanced approach"⁴⁵² and the Greek Cypriots should therefore not be given the right to use their unilateral EU membership as a tool to coerce Turkey and Turkish Cypriots accept their demands, instead of sitting on the negotiation table as equal partners with their northern neighbours.

⁴⁵² Ziya Öniş (2003), *op cit*, p.27

Considering that the blockage caused by the Additional Protocol will continue to prevail and Turkey has already demonstrated that it would follow a rational choice institutionalists approach as not giving any concession that is likely to harm the main parameters in its foreign and constitute a precedent for the prospective relations with the EU particularly in the absence of a clear assurance for her full membership, the European Commission, as an agent responsible for ensuring the sustainability of the EU's enlargement policy vis-à-vis Turkey, must formulate innovative ways of handling the problem. Otherwise, negotiations, to all intents and purposes, will eventually come to an end and Turkey will once again fall apart from the western countries in an age that rhetoric on clash of civilizations is gaining ground more than ever. As Oğuzlu contends "unless the EU seriously encourages Turkey's EU accession process with credible rewards and sanctions, pro-EU sympathies will be outweighed in number and intensity by Euro-sceptic opinion"⁴⁵³

No doubt, formulating innovative ways of handling the problem is very difficult for the European Commission, particularly when all interested parties have adopted precise and tough stance for the issue. As the rational choice institutionalists suggest, the Commission has to ensure both Turkey and the Greek Cypriots that the marginal benefits at the end of the day will justify the marginal costs.⁴⁵⁴

However, main question that would be appropriate to ask at this stage is whether the European Commission has sufficient expertise and competence to draw such a "balanced approach". More importantly, is the Commission in position of influencing the member state position that defines the issue as part of its national interests. To recall how the rational institutionalists explain the relationship between member states (principals) and the

⁴⁵³ Tarık Oğuzlu (2004), *op cit*, p.350

⁴⁵⁴ Frank Schimmelfennig and Ulrich Sedelmeier (2005) *op cit*, p.15

Commission (agent), “the Commission’s informal agenda-setting influence depends on member state uncertainty regarding the policies confronting them”⁴⁵⁵. It can fairly be deducted from this analysis that although the Commission can develop expertise and competence, this could only work out when a member state is not among the subjects of the conflict. As is explored in the above sections, particularly as the outcome of Corfu European Council makes obvious, if a member state’s national interests are influenced, the EU will likely become partisan and lose its effectiveness in the conflict.

Nevertheless, on many occasions, the European Commission has stated its determination to put an end to Turkish Cypriots’ isolation, and to this end, has proposed Green Line Regulation, Financial Aid Regulation and Direct Trade Regulation, all adopted except the last one. Additionally, harmonisation of Turkish Cypriot legislation under PFAA has been given a start. Such policies followed during the last two years, were not enough for Turkey to implement the Additional Protocol. Furthermore, Turkey’s reluctance to back off has created an incentive amongst the Greek Cypriots to realize that their former Leader Papadopoulos’ policies were not helping to force Turkey accept their demands. This was reflected in the recent elections held in the Greek Cypriot side, when Papadopoulos was defeated and a new one was instead elected. The new leader and former Communist, Demetris Christofias has always been known as more moderate towards a settlement and this was also observed by the International Crisis Group in their last report.⁴⁵⁶

State it in a more explicit way, even though European Commission’s low profile approach was not sufficient enough for Turkish Cypriots in easing their isolation, it still did

⁴⁵⁵ Mark Pollack (2006), *op cit*, p.23

⁴⁵⁶ International Crisis Group (2008), *op cit*, p. 2

help change the Greek Cypriot Leadership, which paved the way for the start of the new settlement negotiations.

As long as Commission continues to follow a neutral and expertise based policy, then it will not be impossible to conclude, that the outcome of this policy will be the solution of the Cyprus problem as well as a new impetus in Turkey – EU Relations. When the Cyprus problem is solved, this will not only help the EU regain its reputation harmed with the admission of a divided country, but also open way for settling other disputes such as Aegean issue between Turkey and Greece.

It is also worth questioning whether “Republic of Cyprus”, which is playing into cards of the Turkey’s EU ambitions so as to get more concessions, will accept the Commission’s balanced approach or it will cause another crisis. Given that it is not necessary that enlargement as such is beneficial to each member state and it can also result from unequal bargaining power among the incumbents⁴⁵⁷, the other twenty-six member states are able to threaten it credibly with exclusion. No doubt, the cost of exclusion for the Greek Cypriots will exceed the cost of letting Turkey smoothly continue in the negotiations process.

As Ker-Lindsay clearly states that, Greece has abandoned the policy of opposing Turkey’s EU bid since the December 1999 Helsinki European Council, since it has realized that “vetoing Turkish candidacy was in fact counterproductive”⁴⁵⁸. On the other hand, Greek Cypriots do not follow the same track and continue to view Turkish accession as “a form of leverage”⁴⁵⁹.

⁴⁵⁷ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.20

⁴⁵⁸ James Ker-Lindsay (2007) “The Policies of Greece and Cyprus towards Turkey’s EU Accession”, *Turkish Studies*, Vol. 8, No. 1, p.72

⁴⁵⁹ *Ibid*, p.71

Approaching from a different angle, if there is a failure to establish such balance on the part of the EU, Oğuzlu explains that,

in the absence of strong cultural, moral and ethnic links between the EU on the one hand and an aspirant state on the other, the accession process become problematic, for the rewards of the membership are less consistent, and the cost perhaps larger, leading the aspirant state to show less ideational commitment toward membership.⁴⁶⁰

Therefore, it is also worth to underline that if Turkey, the aspirant state, excludes itself from the accession process due to the fact that it does not want to give any irreversible concession in Cyprus in the absence of the EU's full commitment for membership (for details please see the analysis as regards the Negotiating Framework in Chapter III), the Greek Cypriots' net losses will again far exceed their net losses from giving up their veto threat.

Concluding Remarks

Given that the NFD adopted on 3 October 2005 bears an unusual political criterion in asking for the opening of Turkish ports to Greek-Cypriot flagged vessels and airplanes; and given that Turkey's decisive refusal to fulfil this criterion, which she in fact consider as the EU's *fait accompli*, has slowed down the pace of Turkey – EU relations regardless of the new dimension it has recently entered to, it is deemed an integral part of the analyses carried out throughout this dissertation to seek also an answer to the question of what the EU's and Turkey's rationalist calculations could be in resolving the current impasse caused by the Greek Cypriots' blockage.

To this end, during this Chapter, it is first intended to make an introductory review of the roots of the Cyprus problem as well as the EU's involvement into the picture so as to

⁴⁶⁰ Tarık Oğuzlu (2004), *op cit*, p. 339.

reinforce the understanding in view of the contemporary developments (Section 4.1). The EU's delayed efforts to put an end to the isolation of Turkish Cypriot people are then discussed and whether the concrete outcomes of these efforts would be enough to justify the costs to be caused by the full implementation of the additional protocol are critically questioned with a sole aim of shedding light on the attempt to explain Turkey's and the EU's rationalists calculations.

By doing so, the contents and the benefits expected to be offered in the long-run have been mentioned by the Green Line Regulation and the Financial Aid Regulation. Besides, the Commission's efforts are assessed to restore trade relations with North Cyprus that existed until the year of 1994 and briefly touch upon the recently launched studies to prepare Turkish Cypriot Administration's legal and administrative structures to the eventual EU membership. It is at the end of Section 4.2 concluded that though all these delayed efforts indeed represented symbolically good incentives to urge for a change in the Greek Cypriot leadership and equally facilitated the resumption of the settlement talks between two sides, they were not sufficient enough to compensate the damage that the full implementation of the Additional Protocol would cause in the established political parameters.

In other words, as Turkish Cypriots are still barred from establishing trade relations with the EU member states, shipping goods destined to go to Europe directly from Famagusta port and joining cultural and sportive activities, the opening of Turkish ports to Greek Cypriot flagged vessels would not go beyond deepening the Turkish Cypriots' isolation. More importantly, the European Commission's "baby steps" to lessen the Turkish Cypriots' concern not to be left out alone in the cold are only far away from justifying the costs that

would be brought by the normalisation of relations between Turkey and the wholly Greek Cypriot ruled “Republic of Cyprus”

Having reached this conclusion, in the Section 4.3 there has been accordingly an attempt to figure out Turkey’s and the EU’s rationalists calculations so as to achieve the impasse mainly created by the Greek Cypriots’ unilateral EU membership. Recalling from Sedelmeier and Schimmelfennig that incumbents favour the integration of an outsider and vice versa only when the marginal benefits justify the marginal costs, it is not much difficult to see what would be the best rationalist option for Turkey.⁴⁶¹

To put it in a more explicit way, it is demonstrated at the end of Chapter III that though Turkey has not been given a clear membership perspective contrary to the other negotiating countries, it has at least gotten a feasible ground to continue in its EU bid. However, having just a feasible ground instead a strong commitment is not enough for Turkey to give any concessions as regards Cyprus that would distort the sensitive balance between two sides during any prospective settlement talks under the UN auspices. The most rationalist calculation for Turkey would therefore be to follow wait and see strategy rather than assuming any proactive role in the process.

On the other hand, conditions differ for the EU, particularly for the European Commission that its main role is defined as ensuring the sustainability of the enlargement policy. Given that Turkey – EU relations have been halted by the Greek Cypriots’ veto and this has practically frozen the effective materialisation of the enlargement policy in view of Turkey, the European Commission has to create innovative remedies so as to bring new

⁴⁶¹ Frank Schimmelfennig and Ulrich Sedelmeier (2005), *op cit*, p.15

impetus to the process. To this end, a review of different strategies that could be pursued by the Commission constitutes the main focus during Section 4.3.

Amongst all, it is argued that the Commission must follow a neutral and expertise based policy. Equally, it could continue to create even stronger incentive in order to keep momentum alive on the island through pushing for the materialisation or benefit-oriented implementation of the instruments proposed for ending Turkish Cypriots isolation. No doubt, the Greek Cypriots will in turn intensify their resistance to block such kind of incentives. Yet, as rational choice institutionalists believe, if other 26 member states credibly threaten the Greek Cypriots with exclusion, they would then most likely feel obliged to cooperate. Since, the cost of being excluded in the EU could not be easily justified by the benefits of blocking economic development in the North Cyprus.

As an another option, the Commission could try to demonstrate to all EU member states that if Turkey suspends political dialogue as is the case between 1997 – 1999, the costs of this suspension will again far exceed the benefits that are gotten from blocking Turkey's progress in the negotiations. Probably, due to having an earlier precedent, this is the most realistic alternative option where the Commission needs to invest at utmost.

History has proved us that Turkey's tough stance adopted in 1997 made Greece understand that she needs to seek solution to the bilateral problems with Turkey through using the EU's incentives and discipline: closer Turkey gets to the EU, more chance for Greece to obtain what she wants for the "peaceful settlement of the border disputes". In this sense, if the Commission is to follow a rational choice institutionalists' approach in ensuring the sustainability and continuity of enlargement policy, it needs to make all member states and

particularly, the Greek Cypriot leadership realise that Turkey could once again turn its back to the EU and search for some other sorts of alliances.

CONCLUSION

This dissertation has argued that though the EU has not provided exactly the same incentives for Turkey as it did for former candidate countries, the intention behind this was neither to treat Turkey as different from the European mainstream nor to discriminate against her on the basis of normative criteria shaped by cultural and religious characteristics. Rather, the EU, mainly the European Commission as the initial drafter of the NFD that governs contemporary Turkey – EU relations, tried to ensure that the next round of enlargement would neither threaten the interests of member states, nor risk the functionality of the Union by setting tougher principles and procedures for the negotiations. Defining enlargement as an “open-ended process” and drawing particular attention to the “absorption capacity of the EU” that has until now been considered as the silent aspect of qualitative membership criteria introduced in the Copenhagen European Council of December 1993 represent a few striking illustrations of this approach in view of Turkey.

It is also worth emphasising that the EU’s adopted approach has not been unique for Turkey. The EU, in fact, tends to harden accession conditions in almost every round of enlargement through learning from its own experiences. Even a glimpse at the fifth enlargement round shows how it paved the way to the realisation and management of enlargement within the context of a structured policy domain due to relatively greater challenges confronting the Union in terms of the sheer size and inherited political tradition of applicant countries.

Moreover, prior to launching the accession negotiations with CEECs plus Cyprus and Malta, the EU upon the proposal of the European Commission created new instruments for

the effective delivery of the objectives of enlargement policy, such as, APs, NPAAAs and Regular Reports. Basically, these instruments empowered the Commission to turn into a patron vis-à-vis the applicants and to apply successfully the principle of differentiation and principle of conditionality so as to guarantee not just the transposition but also the implementation of *acquis communautaire* by the time of accession.

Nevertheless, what has been unjust for Turkey is the recent stalemate caused in the negotiations process due to the Cyprus problem. Turkey's decisive stance vis-à-vis the Greek Cypriots' demand for unilateral concession in the absence of a political settlement has led to the suspension of eight negotiations chapters. In fact, this suspension was legally possible since Paragraph 6 of the NFD in addition to other accession conditions expects Turkey to normalise its relations with all member states, including the "Republic of Cyprus".

Though the insertion of the Cyprus clause among the accession conditions has been viewed by many European circles as something needed in order to create leverage for a political settlement, this dissertation has contended that it was not the best rationalist choice and even risked the future prospect of Turkey – EU relations. To be more precise, it demonstrated a failure in mutual accommodation of the preferences of member states and the candidate country, which is *sine qua non* for the realisation of enlargement policy. As a party that already acted constructively and supported in line with the AP requirements the UN Secretary – General's Proposal for a Comprehensive Settlement in 2004, Turkey preferred not to face the Cyprus issue once again as a political criterion in her EU bid. By not taking Turkey's preference on board and particularly, not addressing the Cyprus issue on an alternative ground rather than the NFD for Turkey, the EU has not only upset the Turkish

political elite, but at the same time reinforced the intransigent attitude of the Greek Cypriot Leadership.

The above-mentioned observations have been derived from the comparative analysis of EU enlargement policy towards Turkey. The comparative framework / evaluation criteria has been first developed in Chapter I as regards the identified common characteristics of the EU's past enlargement rounds. After an explanation of the similarities and discrepancies of five enlargement rounds on the basis of the existing literature and particularly, Neill Nugent's findings, a different conclusion as regards the "management of applications", which Nugent categorises among the "recurring features of enlargement rounds"⁴⁶², has been reached. Instead of the categorisation of this among the recurring features, it is argued that the fifth enlargement round paved the way to the realisation and management of enlargement within the context of a structured policy domain due to the evolutionary nature and slow pace of the EU's policy in view of CEECs.

Furthermore, the European Commission played an important role in the delivery of this structured policy. Highlighted stages of the fifth enlargement have demonstrated that the Commission effectively used the consensus for enlargement among the member states and invented necessary remedies to relieve their concerns for its possible costs. In other words, although enlargement negotiations are defined as "us versus future of us", the European Commission acted heavily in favour of the interests of member states, and the costs of enlargement have been rather imposed on new comers.

⁴⁶² Neill Nugent (2004), *op cit*, pp.60 – 61

The conclusion drawn has however represented only one dimension. Regardless of the asymmetrical bargaining power, enlargement takes place as a result of the interaction between two parties and other dimensions of the equation, that is to say new comers' preferences, bear importance also for the successful completion of the process.

This perception inevitably brought in the conceptual explanation of the EU's policy towards the CEECs by Sedelmeier and Wallace, which is phrased as "a composite policy consisting of macro policy and many sectoral meso policies"⁴⁶³. Yet, taking this a stage further in the light of the findings put forth during the previous section, "macro policy" have been established as representing various independent and intervening variables that launch the enlargement process, and "meso policies" as representing dependent variables that are mainly acquis based sectoral reforms assumed by candidates.

Having developed an equation based explanation for EU enlargement policy, it has been argued respectfully that macro and meso policies are mutual reinforcements and they have to progress in a synchronised manner in order that the objectives of enlargement policy could be realised. To be more specific, if macro policy refers precisely to the decisions taken at the highest level as regards establishing an association relation with aspirants, accepting the eligibility of their formal application to membership, creating pre-accession strategy to assist candidates in their preparation for negotiations, and opening as well as completing accession negotiations, meso policies, such as; liberalising the economy to quicken integration to the EU's internal market, evolve in a harmonious manner with macro policy.

⁴⁶³ Ulrich Sedelmeier and Helen Wallace (1996), *op cit*, p.355

Equally, considering that reforms can be feasible only when expectations related to the longer term future outweigh sacrifices in the short term, clarity, persistency and substance of macro policy matters to a great extent in driving meso policies. Another important characteristic of composite policy has been governance by conditionality, which translates to increase the reward and credibility of the EU's external incentives at macro level (independent variables of process), and increase the courage on the side of the target government to undertake painful reforms at the meso level (dependent variable).

In respect to the issue of mediating factors or intervening variables between macro policy and meso policies, the above features of composite policy has been finally interpreted together with the role attributed to the European Commission during the fifth enlargement process. What has been deducted is that the European Commission, as an actor in direct contact with both the member states and applicant country, should be responsible for mediating effectively with a view to ensuring not only the accommodation of mutual preferences of distinctive policy-makers at macro and meso levels but also the continuity and sustainability of the policy.

With a view to increasing the explanatory power of these analyses, composite enlargement policy has been then situated into the mounting theoretical debate in the existing literature, namely rational choice institutionalism vs. constructivist institutionalism. A two-dimensional empirical analysis engaged in the light of a brief introduction to the main explanations of two competing theories as well as Sedelmeier and Schimmelenig's respective hypotheses for the prevailing dynamics of composite policy has put forth that the rational choice institutionalist explanation better justifies the main dynamics of EU enlargement policy. Contrary to what constructivist institutionalists contend, "logic of

consequentiality” prevails in the course of enlargement rather than “logic of appropriateness”. Both member states and applicants favour enlargement only when they are assured that their net benefits would justify their net costs. Similarly, the Community Institutions that exercise Treaty-given power in the enlargement process - the European Commission and the European Parliament - act as intervening variables instead of independent variables, mainly with a rationale to ensure continuity and sustainability of the process. Approaching with an understanding that there is a positive correlation between healthy integration of an applicant country and the pace of European integration itself, they do care about the interests of both incumbents and new comers in supporting the enlargement.

However, it would be incomplete if the European Commission were not given particular credit due to its role as an “honest and trusted broker” between macro and meso levels. The Commission has been therefore perceived as the most active and influential Community institution due to its main asset to access policy-makers at both level of the “composite policy” as well as the information. Put it in this way, the assets at its disposal enable the Commission to assume a crucial role in formulating and devising appropriate strategies that would ensure positive net benefits out of enlargement for all parties. The European Commission could not assume such a role successfully when there are strong opponents of enlargement or even worse a strong opponent of an applicant country among member states. Precise and decisive stances of member states in view of policies confronting the Union minimize the Commission’s “entrepreneurial supranational activity”⁴⁶⁴, which has been in fact the case when France vetoed the first enlargement two times due to her reservations in view of the UK’s membership.

⁴⁶⁴ Mark A. Pollack (1997), *op cit*, p.101

Having identified the comparative framework to analyse better the EU's enlargement policy in view of Turkey, Chapter II has made an initial attempt to analyze Turkey – EU relations in its historical context and particularly, to look at from a rational choice institutionalist view point in explaining the ups and downs during late 1990s. To this end, after an introduction of the developments taken place from Turkey's first encounter with the EEC in 1959 until the date she was granted officially candidate status, rational choice institutionalist explanation has been provided specifically for the period not only marked with EU's U-turn in view of Turkey, but also corresponding to the realisation of the enlargement process as a policy domain. The rational choice institutionalist explanation has in fact answered respectively the questions of what drove Turkey to consider itself excluded in 1997 and what urged the EU to change its approach vis-à-vis Turkish membership.

As for the former, it has been argued that the EU has reshaped its priorities and strategic interests expected to be gained from enlargement following the establishment of the Single Market, transformation from economic community to political union, the end of the Cold War and CEECs regaining of their independence. However, completion of the customs union between Turkey and the EU in 1995 and further deepening of relations enabled Turkey to realise this change in the EU's enlargement preferences. Turkey's view of EU – CEECs relations and confidence that she will easily be able to proceed with the next stage of integration following the completion of the customs union unfortunately paved the way to its exclusion.

In other words, neither at the Copenhagen European Council in 1993, nor at the Madrid European Council in 1995, the Turkish authorities did not recognize that the changing dynamics in the EU's enlargement process could also affect Turkey – EU relations. Yet, these

two critical summits respectively marked an important qualitative shift in the formation of proper policy framework for enlargement; and the crucial role that the European Commission must assume to ensure the efficient delivery of policy by using or inventing necessary tools.

As for the latter question on the EU's changing approach, two main reasons have been identified. Firstly, upon Turkey's suspension of political dialogue in December 1997, the Cardiff European Council held in March 1998 adopted a tailored strategy for Turkey and empowered the Commission to prepare "Regular Reports" as it would do for CEECs and southern applicants under pre-accession strategy and to inform the Council as regards Turkey's progress. Through such empowerment, the European Council, consciously or unconsciously, activated an important tool of the EU's enlargement policy. In this sense, the Cardiff European Council represented a radical change regarding the Commission's role in the context of EU - Turkey relations and made it a potential mediator between macro and meso levels of the policy.

Secondly, the diversion in Greece's attitude following the "earthquake diplomacy" carried out between Turkish and Greek Foreign Affairs Ministers in the second half of 1999 was an important factor in moving Turkey – EU relations to a new stage. If Greece had remained as strong opponent of Turkish membership instead of visualising a solution to bilateral disputes within the orbit of the EU, it would be far more difficult for the European Commission to sustain Turkey – EU relations by also taking on board Turkey's preferences. As acknowledged in Chapter I, a strong opponent of an applicant country among member states undermines to a great extent the Commission entrepreneurship emanating from its role as an informal agenda-setter.

With respect to the findings gathered above, Chapter III has sought directly an answer to the main research question of whether the EU provided similar incentives for Turkey to conclude negotiations successfully. Considering that the 1999 Helsinki Decision has formally brought into operation the EU's enlargement policy in view of Turkey, an initial focus on the developments from 1999 to 2004 has demonstrated how change can be smoother if the EU provides clear, equal and persistent macro incentives to a candidate country. In other words, the courageous reform steps taken following Turkey being granted candidate status and joining the enhanced pre-accession strategy like other candidate / negotiating countries, shows that the EU's equal and balanced approach is crucial in driving change at meso level policies. Throughout this period, activation of all instruments of enhanced pre-accession strategy, mainly the APs, the Community Programmes and financial assistance has also proved to be influential for the Turkish government in proceeding with its rigorous reform agenda.

The analysis of development between 1999 – 2004 have then be followed by a comparative approach to Turkey's NFD on the basis of the General Negotiating Framework provided for CEECs as well as the NFD for Croatia. The results showed that both NFDs for Turkey and Croatia include relatively tougher principles and procedures then the ones applied for the CEECs. To illustrate, though the principle of differentiation and the principle of conditionality that marked the fifth enlargement would be applicable for Turkey and Croatia, the EU went beyond this and refrained itself from giving any assurance as regards the inclusive nature of the enlargement process. On the contrary, it has been stated that negotiations would be an open-ended process. Furthermore, opening and closing benchmarks have been introduced as new instruments supplementary to APs and Regular Reports.

Nevertheless, more striking has been the differentiations between Turkey's and Croatia's NFDs that were summarized as follows: linkage established between the absorption capacity and "open-ended process" so as to reinforce the meaning of the latter; inclusion of issues as regards Greece and Cyprus as new political criterion into the Paragraph 6 where accession conditions cited; and the long transitional measures for policies like CAP and structural funds as well as the permanent derogations foreseen for the free movement of Turkish people.

Having identified all these, the rational choice institutionalist explanation has been sought in view of why Turkey has not been provided with exactly the same incentives as for Croatia and equally, why the EU has hardened the accession criteria both for Turkey and Croatia compared to the CEECs. Reaching to an understanding as regards the rationalist preferences of Turkey, member states and the EU that enlargement is realized only when all stakeholders ensure net gains, the essential rational choice institutionalist explanation has been that the European Commission, as an intervening variable responsible for driving the accession process, well-analysed the member states' and the EU's concerns and effectively reflected them in the draft NFD for Turkey as focal points of bargaining that in turn facilitated reaching a consensus on launching Turkey's negotiations.

Recalling once again that the Commission's ability in influencing member states' positions is however undermined when one or more member states have strong positions vis-à-vis an applicant, the Commission could not prevent the insertion of Cyprus as an additional political criterion in Turkey's NFD despite the fact that it contradicts Turkey's preferences. This has in turn not only led to a stalemate in the EU's enlargement policy in relation to

Turkey due to the politicization of the negotiations process, but also created the perception that Turkey has been subjected to a discriminatory stance by the EU.

Given that the Cyprus clause in the NFD is to be blamed for the current stalemate encountered in contemporary Turkey – EU relations, Chapter 4 have looked at the rational choice institutionalist explanation of this stalemate as an integral part of the analyses carried out throughout the whole dissertation and drawn some insights on how to overcome it.

Following an introductory review of the roots of the Cyprus problem as well as the EU's involvement in the picture, a discussion held on the EU's delayed efforts to put an end to the isolation of the Turkish Cypriot people. The discussion shedding light also on the attempt to explain Turkey's and the EU's rationalists calculations has showed that the concrete outcomes expected even in the full materialisation of these efforts would not be enough to justify the costs to be caused by any concession on Cyprus by Turkey.

In the search of the best rational choice for both Turkey and the EU, the conclusion has eventually been reached as follows. For Turkey, considering that the NFD provides only a feasible ground instead of a clear prospect for membership, which in fact does not represent a strong macro incentive to urge the applicant to undertake any concession with a high cost, the most rationalist calculation would be to follow a wait and see strategy and not assume any proactive role. Similarly, Turkey could for the time being in a low tone imply to the EU member states that as was the case in December 1997, she would not tolerate any unjust political criterion trying to be imposed on her.

For the EU, however, conditions differ to a great extent, particularly for the European Commission, that is responsible for ensuring the sustainability of the enlargement policy. It is in this regard concluded that there are two rational choice institutionalist options for the Commission, which could be pursued in a parallel manner.

The Commission must follow initially a neutral and expertise based policy and must work hard for creating influential incentives in order to keep momentum alive on the island. Pushing for the materialisation or benefit oriented implementation of the instruments proposed with a view to lifting Turkish Cypriots' isolation would definitely serve this end. In a complementary nature, the Commission should aim at demonstrating to all EU member states that if Turkey suspends political dialogue as she did during the period between Luxembourg 1997 and Helsinki 1999, the costs of this suspension will again far exceed the benefits that are to be gained from blocking Turkey's progress in negotiations.

In conclusion, though Turkey has been provided with tougher accession conditions that reducing the effectiveness of EU incentives in urging the domestic reform process, there is still a feasible ground for the continuity of the bilateral relations between Turkey and the EU. The role to be assumed by the European Commission would also play a role in the determination of pace and substance of the prospect of these relations. Previous enlargement rounds have demonstrated that the Commission bears in itself necessary assets in terms of channelling information, creating focal bargaining points for member states' cost benefit calculations and accessing directly to key policy makers within both member states and an applicant country. All these in turn enable the Commission drive accession process through ensuring the accommodation of mutual preferences and synchronised action between macro and meso levels of EU enlargement policy. In Turkey's case, careful and utmost utilisation of

the Commission's assets will be particularly important in view of achieving the impasse caused by the Cyprus problem. Since there is a positive relation between gradual progress in Turkey's EU bid and suppression of the Greek Cypriots intransigent attitude, the Commission must manoeuvre among member states and gain allies in the accommodation of Turkey's rational preferences.

**ANNEX I: CHRONOLOGY OF TURKEY – EU RELATIONS WITHIN
THE CONTEXT OF THE EU’S ENLARGEMENT POLICY**

SEPTEMBER 2008

The fifth enlargement of the European Union represented an historic landmark on the road towards an 'ever closer Union among the peoples of Europe'. It was regarded an opportunity to secure peace and prosperity in Europe. Enlargement is the natural continuation of the process of forging relations with the countries of central and eastern Europe, and with Cyprus and Malta, which began with the fall of the Berlin wall and the implosion of the former USSR. Turkey applied for full EU membership in 1987.

In 1989, the European Council meeting in Strasbourg took a whole series of measures to provide financial assistance and economic partnerships have been established between the European Union and these countries to help them achieve their painful reconstruction period.

In 1993, the European Council in Copenhagen laid down precise economic and political criteria for accession. Then a complete pre-accession strategy was drawn up by the European Council, under the supervision of the Commission. The 1997 European Council in Amsterdam declared that the way was now open for accession negotiations to begin. Official negotiations with the first group of countries began in March 1998. At the Summit, EU leaders declined to grant candidate status to Turkey.

Accession of ten new member states to the EU took place in May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. This has been then followed by Romania and Bulgaria in January 2007. In its 17 December 2004 decision, the European Council recognised Turkey's "significant legislative progress in many areas" and agreed to start negotiation on 3rd October 2005.

September 1959: The EEC Council of Ministers accepted Ankara's and Athens' applications for associate membership.

September 1963: The Ankara Agreement (an Association Agreement) was signed to take Turkey to Customs Union and finally to full EEC membership. The first financial protocol was also signed.

December 1968: Negotiations on the Additional Protocol started.

26 October 1970: First Customs Cooperation Committee meeting.

23 November 1970: The Additional Protocol and the second financial protocol signed in Brussels

5 December 1970: signature of European association agreement with Malta.

1 April 1971: entry into force of European association agreement with Malta.

July 1971: The Additional Protocol was approved in the Turkish Grand National Assembly with 149 votes for and 69 against.

19 December 1972: signature of European association agreement with Cyprus.

January 1973: The Additional Protocol went into force. A step to lowering customs duties and harmonization of the consolidated liberation list started.

The United Kingdom, Ireland and Denmark became full member.

1 June 1973: entry into force of Association Agreement with Cyprus.

12 September 1973: entry into force Additional Protocol with Turkey.

January 1981: Greece became full member.

January 1986: Portugal and Spain became full members.

14 April 1987: Turkey submits its application for membership.

9 November 1989 – Fall of the Berlin wall

December 1989: establishment of the PHARE programme

The aim of the programme is to facilitate the political and economic transition of Poland and Hungary. It is subsequently extended to include the other applicant countries.

8-9 December 1989 – European Council in Strasbourg
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The Council reaffirms the role of the Community and the Member States on the international political and economic stage, particularly vis-à-vis the CEECs.

29 May 1990: establishment of the European Bank for Reconstruction and Development (EBRD) intended to provide financial support for the countries of central and eastern Europe.

3 July 1990: Cyprus submits its application for membership.

16 July 1990: Malta submits its application for membership.

3 October 1990 – Reunification of Germany

14-15 December 1990 – European Council in Rome
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The Council approves the establishment of a technical assistance programme (TACIS) for the independent states of the former USSR.

9-10 December 1991 – European Council in Maastricht

The European Council recalls that the Treaty on European Union stipulates that any European state whose system of government is based on the principle of democracy may apply for membership of the European Union (Presidency conclusions).

12 December 1991: signature of European association agreements with Hungary and Poland.

26 December 1991 – Supreme Soviet endorses the disappearance of the USSR

7 April 1992: European Parliament resolution on the outcome of the IGC.

The European Parliament confirms that, in addition to the Treaty of Maastricht, other reforms are needed before it can approve the accession of new member states, particularly as regards overcoming the democratic deficit and extending the principles and objectives underlying political union.

26-27 June 1992 – European Council in Lisbon

The European Council states that the question of enlargement cannot be divorced from the internal development of the Union. In addition, the European Union's cooperation with the associated countries will be aimed systematically at supporting their efforts to prepare for accession to the Union.

8 February 1993: signature of European association agreement with Romania

1 March 1993: signature of European association agreement with Bulgaria.

21-22 June 1993 – European Council in Copenhagen

Associated countries will be able to accede once they are able to meet the necessary economic and political conditions:

- stable institutions ensuring democracy, rule of law, human rights, respect for and protection of minorities (political criterion)
- existence of a viable market economy and ability to cope with competitive pressures and market forces within the Union (economic criterion)

- ability of the applicant country to meet the requirements deriving from accession and in particular to subscribe to the objectives of political, economic and monetary union (criterion of the *acquis communautaire*).

The European Council also approved the establishment of a strengthened and extended multilateral dialogue between the Community and the associated countries and consultation on matters of common interest (concept of structured dialogue)

6 October 1993: signature of European association agreements with the Czech Republic and Slovakia.

1 February 1994: entry into force of European association agreements with Hungary and Poland.

31 March 1994: Hungary submits its application for membership.

5 April 1994: Poland submits its application for membership.

24-25 June 1994 – European Council in Corfu

The European Council points out that the institutional conditions needed for the proper functioning of the Union must be created at the 1996 IGC, which should therefore be held before accession negotiations begin.

The European Council adopts a global strategy to bring the countries of central and eastern Europe closer to the European Union (submitted by the Council and the Commission, Annex IV to the Presidency conclusions).

This strategy is based on:

- a White Paper to be drawn up by the Commission setting out the measures needed to prepare the associated countries for integration into the Union's internal market
- the Europe Agreements
- the structured dialogue at institutional level
- the PHARE programme as the main financial instrument to support the pre-accession strategies

1 January 1995: entry into force of the European free trade agreements with Estonia, Latvia and Lithuania.

Sweden, Finland and Austria became full members.

1 February 1995: entry into force of the European association agreements with Romania, Bulgaria, Slovakia and the Czech Republic.

3 May 1995: publication of the Commission's White Paper on preparing the countries of central and eastern Europe for integration into the internal market.

12 June 1995: signature of the European association agreements with Estonia, Latvia and Lithuania (once they enter into force they will replace the free trade agreements).

22 June 1995: Romania submits its application for membership.

26-27 June 1995 – European Council in Cannes

The European Council welcomes the White Paper drawn up by the Commission. It proposes the vital measures in different sectors of the internal market needing to be taken as a matter of priority by the associated countries.

27 June 1995: Slovakia submits its membership application.

13 October 1995: Latvia submits its membership application.

24 November 1995: Estonia submits its membership application.

30 November 1995: adoption of a resolution tabled by the EPP Group on the Europe agreement with Slovenia.

8 December 1995: Lithuania submits its membership application.

14 December 1995: Bulgaria submits its membership application.

15-16 December 1995 – European Council in Madrid

The European Council believes that the initial phase of negotiations with the CEECs should coincide with the opening of negotiations with Cyprus and Malta, six months after the end of the 1996 IGC.

31 December 1995: entry into force of the customs union with Turkey.

17 January 1996: the Czech Republic submits its application for membership.

10 June 1996: Slovenia signs the European association agreement and submits its application for membership.

21-22 June 1996 – European Council in Florence

The Council sets a firm timetable for negotiations with the countries of Central and Eastern Europe.

25 November 1996: Malta decides to suspend its membership application.

13-14 December 1996 – European Council in Dublin

The European Council stresses that the future of the Union and the success of the enlargement process will depend on satisfactory solutions for the revision of the Treaties being found during the 1996 IGC.

1 January 1997: entry into force of the interim agreement with Slovenia.

15 June 1997: ratification of the Europe agreement by Slovenia.

16-17 June 1997 – European Council in Amsterdam

The European Council declares that the way is now open for the enlargement process to begin, with negotiations scheduled to open in 1998.

The Treaty of Amsterdam, signed on 2 October 1997, adds that the possibility of membership will depend on respect for the principles on which the Union itself is founded: ‘liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law’.

The IGC takes note of the Declaration by Belgium, France and Italy on the Protocol on the institutions with the prospect of enlargement of the European Union to the effect that the countries concerned consider that a reinforcement of the institutions is an indispensable condition for the conclusion of the first accession negotiations.

15 July 1997: the Commission publishes Agenda 2000

The Commission considers that all the CEECs, with the exception of Slovakia, meet the political conditions for accession. However, Bulgaria, Latvia and Lithuania still have progress to make, particularly with regard to economic reform and the adoption and implementation of EU legislation and rules, before negotiations can begin.

4 December 1997: The European Parliament ‘asks the European Council to set in motion the enlargement process by a common act with all applicant countries; believes that all the applicant countries which do at present meet the criterion of a stable, democratic order, respect for human rights and the protection of minorities laid down at Copenhagen, have the right to open the reinforced accession and negotiating process at the same time, and that this process should begin for all these countries early in 1998’.

12-13 December 1997 – European Council in Luxembourg
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The European Council declares that, as a prerequisite for enlargement of the Union, the operation of the institutions must be strengthened and improved in keeping with the institutional provisions of the Amsterdam Treaty.

The accession negotiations will take place in two separate groups, depending on the degree of preparedness of the states. Bulgaria, Latvia, Lithuania, Romania and Slovakia will be fully involved in the accession process, including the ‘screening’ exercise and the pre-accession strategy. The negotiations with these countries in the second wave will begin once the Council decides, on the basis of the regular reports drawn up by the Commission that they have made sufficient progress (concept of a global, inclusive and evolutionary process, developing in stages, with each state proceeding at its own pace depending on its degree of preparedness).

The Council also decided to set up a European conference bringing together the Member States of the European Union and the European states aspiring to accede to it and sharing its values and internal and external objectives. The conference will be a multilateral forum for political consultation, intended to address questions of general concern to the participants and to broaden and deepen their cooperation.

At the Luxembourg Summit, EU leaders decline to grant candidate status to Turkey.

1 January 1998: entry into force of the final stage of the customs union with Cyprus.

1 February 1998: entry into force of the Europe agreements with Estonia, Latvia and Lithuania.

12 March 1998: opening of the first European Conference in London. Turkey declines the invitation to attend.

15 March 1998: launch of the accession partnerships, spelling out how all the instruments intended to help the applicant countries to prepare for accession will operate.

31 March 1998: opening of negotiations with Cyprus, Hungary, Poland, Estonia, Czech Republic and Slovenia.

15-16 June 1998 – European Council in Cardiff

The European Council notes that seven chapters of the ‘acquis communautaire’ have already been covered by the screening process.

10 September 1998: Malta decides to renew its application for membership.

6 October 1998: opening of the second European Conference in Luxembourg. Turkey declines the invitation to attend.

4 November 1998: adoption of the first twelve assessment reports by the Commission.

11-12 December 1998 – European Council in Vienna
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The Council stresses the great importance it attaches to the continuing development of relations between the European Community and Turkey and the European strategy to prepare Turkey for accession. However, the country must make special efforts to ensure respect for the rule of law in a democratic society.

1 February 1999: entry into force of the European association agreement between Slovenia and the European Union.

1 March 1999: the Commission begins the screening of the second wave of applicant countries.

24-25 March 1999 – Special European Council in Berlin

The governments of the Fifteen reach political agreement on the Agenda 2000 reform package concerning the European Union's finances and its regional and agricultural policies for the period 2000-2006.

1 May 1999: entry into force of the Treaty of Amsterdam.

5-6 May 1999: European Parliament part-session in Strasbourg.

The European Parliament approves the aid plans for the applicant countries. Several points are adopted with the support of the EP Group, including the institutional agreement on the financial perspective, agriculture, Structural Funds, ERDF, ESF, trans-European networks and the Cohesion Fund.

3-4 June – European Council in Cologne
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In order to ensure the effective functioning of the EU institutions after enlargement, the European Council confirms that it intends to convene a conference of representatives of the governments of the Member States in early 2000 to settle institutional questions not finalised at Amsterdam and which need to be tackled before enlargement. The conference should conclude towards the end of the year 2000 with agreement on the amendments to be made to the Treaty.

19 July 1999: opening of the third European Conference.

4-5 September 1999: informal meeting of Foreign Ministers in Saariselka.

- the European Union will not yet commit itself to dates for the accession of the countries of eastern Europe and Cyprus, as called for by Germany.
- The Fifteen will probably decide at the Helsinki summit to open negotiations on substance with the five other second wave applicants.
- negotiations on substance with Malta could begin in early 2000.
- Turkey can hope to be recognised as an official candidate at the Helsinki summit.

13 October 1999: adoption by the Commission of its regular reports on the thirteen applicant countries.

It recommends that the Helsinki European Council decide to open accession negotiations with the six countries in the second group.

The Commission advocates a ‘differentiated approach’ in the negotiations, representing an important change in EU strategy, particularly as the Commission wants to introduce a requirement for ‘parallelism’ between the progress of the negotiations and the progress made in implementing the acquis.

The Commission also advocates that Turkey be accorded the status of ‘official applicant for accession’, while stressing that negotiations cannot begin until the political criteria have been met.

13 October 1999: statement by Commission President Romano Prodi to Parliament’s enlarged Conference of Presidents, explaining the reasons for the Commission’s decisions and the objectives set. The Commission recommends that the European Council be prepared to decide in Helsinki on the accession of the applicant countries which meet all the necessary criteria with effect from 2002

10 – 11 December 1999: Helsinki European Council
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Turkey has been officially granted candidate status and the scope of pre-accession strategy has been extended.

February 2000: Accession negotiations formally launched with Bulgaria, Latvia, Lithuania, Malta, Romania, and the Slovakia.

Feira European Council in June confirms the principles of differentiation and catching up and emphasises the importance of candidate countries' administrative capacity to implement the *acquis communautaire*

November 2000: European Commission adopts third set of Regular Reports.

7 – 9 December 2000 Nice European Council

The Council provides the institutional basis for enlargement by concluding the IGC on institutional reform, and endorses the enlargement strategy proposed by the Commission. The central element of the strategy is the roadmap for the conduct of the negotiations.

March 2001: The EU Council of Ministers adopts EU – Turkey Accession Partnership document.

March 2001: The Turkish government adopts the National Programme for the Adoption of *Acquis*

15 – 16 June 2001 Gothenburg European Council

The Council confirms that the enlargement process is irreversible, and reaffirms the roadmap as the framework for completion of the negotiations. “Provided that progress towards meeting the accession criteria continues at an unabated pace, the roadmap should make it possible to complete negotiations by the end of 2002 for those candidates that are ready, allowing the countries concerned to participate in the European Parliament elections of 2004 as new Members.” The European Council recognises that the decisions in Helsinki have brought

Turkey closer to the EU, and urges Turkey to take concrete measures to implement the priorities of the Accession Partnership. Ireland, in a referendum, fails to ratify Nice Treaty

September 2001: Turkish parliament adopts over 30 amendments to the constitution in order to meet the Copenhagen political criteria for EU membership.

November 2001: European Commission adopts fourth set of Regular Reports and proposals for revised Accession Partnerships.

15 – 16 December 2001 The Laeken European Council

The Council agrees that, "if the present rate of progress of the negotiations and reforms in the candidate States is maintained, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, the Czech Republic and Slovenia could be ready" to conclude negotiations by the end of 2002 and take part in the elections for the European Parliament due in June 2004.

August 2002: The Turkish Parliament passes sweeping reforms to meet the EU's human rights criteria.

October 2002: The European Commission announces, on 9 October, that it considers Second Irish referendum to ratify the Nice Treaty scheduled for 19 October.

12 - 13 December 2002 The Copenhagen European Council

The Council resolves that if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the EU would open accession negotiation with Turkey. In the meantime, EU

leaders have agreed to extend and deepen co-operation on the EC-Turkey Customs Union and to provide Turkey with increased pre-accession financial assistance.

April 2003: The EU Accession Treaty is signed in Athens, Greece on April 16, 2003

May 2003: The EU Council of Ministers decides on the principles, priorities, intermediate objectives and conditions of the Accession Partnership with Turkey.

March 2004: The Council of Europe recommends ending monitoring of Turkey.

May 2004: Accession of ten new member states to the EU in May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia

October 2004: The European Commission issues progress report on Turkey suggesting commencement of negotiations.

16 – 17 December 2004 Brussels European Council

The Council decided to open accession negotiations with Turkey - with strings attached regarding Cyprus.

23 May 2005: Turkey names Economy Minister Ali Babacan as the country's chief accession negotiator.

1 June 2005: Turkey's revised penal code, first adopted in September 2004, enters into force.

17 June 2005: The Council reiterates the EU's determination to proceed with the enlargement process.

29 June 2005: The Commission presents its “rigorous” negotiating framework to Turkey.

29 July 2005: Turkey signs protocol to Ankara agreement, extending EU-15 customs union to the ten new member states including Cyprus. Ankara also issues a declaration on the non-recognition of Cyprus.

21 September 2005: The EU approves its counter-declaration on Turkey's 29 July declaration.

3 October 2005: Accession talks officially opened with Turkey.

23 January 2006: The Council decides on the principles, priorities and conditions contained in the Accession Partnership with Turkey.

16 March 2006: The European Parliament adopts a resolution based on a report by Elmar Brok on the Commission's enlargement strategy paper.

12 June 2006: The EU starts concrete accession negotiations with Turkey. The negotiating framework specifies 35 chapters. Each chapter needs to be unanimously opened and closed by the Council. The Council agrees on opening and closure of the chapter on science and research.

8 November 2006: Commission publishes a report on Turkey's obligation to implement Ankara Agreement covering all member states.

December 2006: EU suspends negotiations of eight acquis chapters.

17 April 2007: Turkey introduces Program for Alignment with the EU Acquis 2007-2013

26 June 2007: IGC proposes of opening two chapters, namely Statistics and Financial Control.

6 November 2007: European Commission issues the 2007 Progress Report on Turkey

19 December 2007: IGC proposes opening of two chapters, namely Trans-European Networks, Consumer and Health Protection

September 2008: In total seven chapters remain open for discussions. Science and Research Chapter is provisionally closed.

ANNEX II: THE COMMISSION'S SUMMARY OF TURKEY'S ACHIEVEMENTS OVER THE PERIOD OF 1999 – 2004

Assessment of the Political Criteria

Following decades of sporadic progress, there has been substantial legislative and institutional convergence in Turkey towards European standards, in particular after the 2002 elections. The political reforms are mainly contained in two major constitutional reforms in 2001 and 2004 and eight legislative packages adopted by Parliament between February 2002 and July 2004. Civil-military relations are evolving towards European standards. Important changes have been made to the judicial system, including the abolition of the State Security Courts⁴⁶⁵. Public administration reform is underway. As regards human rights, Turkey recognises the primacy of international and European law. It has aligned itself to a large extent with international conventions and rulings, such as the complete abolition of the death penalty and the release of people sentenced for expressing non-violent opinion. Although some practical restrictions still exist, the scope of fundamental freedoms enjoyed by Turkish citizens, such as freedom of expression and assembly, has been substantially extended. Civil society has grown stronger. Cultural rights for the Kurds have started to be recognised. The state of emergency has been lifted everywhere; although the situation is still difficult, the process of normalisation has begun in the Southeast. Finally, on the

⁴⁶⁵ In the Turkey's 2004 Progress Report, which was accompanying the above-stated Recommendation, the Commission also stated as regards the civil-military relations that "the government has increasingly asserted its control over military. In order to enhance budgetary transparency the Court of Auditors was granted permission to audit military and defence expenditures. Extra-budgetary funds have been included in the general budget, allowing for full parliamentary control. In August 2004, for the first time a civilian was appointed as Secretary General of the National Security Council. The process of fully aligning civil – military relations with EU practice is underway; nevertheless, the armed forces in Turkey continue to exercise influence through a series of informal mechanisms".

enhanced political dialogue, Turkish foreign policy is contributing positively to regional stability.

Turkey has substantially progressed in its political reform process, in particular by means of far reaching constitutional and legislative changes adopted over the last years, in line with the priorities set out in the Accession Partnership. However, the Law on Associations, the new Penal Code and the Law on Intermediate Courts of Appeal have not yet entered into force. Moreover, the decision on the Code of Criminal Procedure, the legislation establishing the judicial police and the law on execution of punishments and measures are still to be adopted.

Turkey is undertaking strong efforts to ensure proper implementation of these reforms. Despite this, implementation needs to be further consolidated and broadened. This applies specifically to the zero tolerance policy in the fight against torture and ill-treatment, and the strengthening and implementation of provisions relating to freedom of expression, freedom of religion, women's rights, trade union rights and minority rights.

In view of the overall progress of reforms, and provided that Turkey brings into force the outstanding legislation mentioned above, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened.

The irreversibility of the reform process, its implementation, in particular with regard to fundamental freedoms, will need to be confirmed over a longer period of time.

Moreover, the *acquis* related to the political criteria is developing, in particular as a result of the Constitution for Europe. Turkey should closely follow this evolution.

Turkey has and continues actively to support efforts to resolve the Cyprus problem; in particular, Turkey agreed to the solution put forward in the peace plan of the UN Secretary General. The European Council of June 2004 invited Turkey to conclude negotiations with the Commission on behalf of the Community and its 25 Member States on the adaptation of the Ankara Agreement to take account of the accession of the new Member States. The Commission expects a positive reply from Turkey to the draft protocol on the necessary adaptations transmitted in July 2004. Moreover, it should be noted that any accession negotiations are held in the framework of an Intergovernmental Conference consisting of all Member States of the EU.

ANNEX III: THE GENERAL NEGOTIATING FRAMEWORK FOR CENTRAL AND EASTERN EUROPEAN COUNTRIES

1. With a view to the decisions to be taken by the European Council in Luxembourg in the context of the enlargement process and in the light of discussions in Coreper, the Presidency has drafted a general negotiating framework based on the following three documents:

- key components for the opening statement;
- internal rules of procedure;
- external procedural arrangements to be proposed to the applicant countries.

For this purpose it used as a basis the texts drawn up in December 1992 for the previous enlargement (10397/92) but has incorporated the elements made necessary by developments in the situation and the specific features of the applicant countries.

2. In accordance with the procedure followed in 1992, it was agreed to submit these texts to the General Affairs Council at its meeting on 8 December 1997. Subject to the Council's discussions on the subject, this will then enable the European Council, in Luxembourg, when deciding to initiate the accession negotiations, to note that they will be based on that general negotiating framework.

3. The Council's attention is also drawn to the fact that these texts are then to be finalized in the light of the European Council's conclusions in Luxembourg and fleshed out in detail early in 1998 in the form of a general statement to be submitted by the Union at the ministerial

meeting at which the negotiations are opened. That statement will be drawn up by Coreper and submitted for the Council's approval.

I. KEY COMPONENTS FOR THE OPENING STATEMENT

A. CONTEXT

– Summary of relations between the Union and the applicant CCEE, including a reference to the importance of enlargement and the background of contractual relations (in particular the conclusions of the Copenhagen European Council); reference to the fact that the Europe Association Agreements have led to a qualitatively new stage in those relations as well as reference to the conclusions of the Essen European Council (pre-accession strategy, including the White Paper, and PHARE). These factors have paved the way for the inauguration of the enlargement process.

– Reference to the comprehensive, inclusive and evolutionary nature of the enlargement Process.

– Reference for the applicant CCEE to the importance of the possibilities contained in the Europe Association Agreements and the implementation of the reinforced pre-accession strategy as ways of facilitating and accelerating the process of preparing for accession, which will require major, sustained efforts by the applicant countries; the main need is to ensure that applicant countries are in a position to put the "acquis" into practice. Also a reference to the Commission's annual reports.

- Reminder that the applicant countries must come into line with the "acquis" before accession, including in relations between them.

- Summary of the background to relations between the Union and Cyprus, including the conclusions of the Madrid and Florence European Councils; reference to the Association Agreement which paved the way for the opening of enlargement negotiations.

- Reminder of the internal development of the Union, which led to Maastricht and Amsterdam, with a reference to the signing of the Amsterdam Treaty.

- Full statement of the objectives of the Amsterdam Treaty as defined in Article B; statement of the main features of the Treaty; including a reference to those connected with prospective enlargement.

- Reminder that it will be up to the Member States to decide in due course whether conditions are right for the conclusion of the negotiations, bearing in mind developments in the "acquis" since the date of opening of negotiations, especially as regards policy developments in the light of the proposals put forward in Agenda 2000, in particular.

B. NEGOTIATING BASES: PRINCIPLES

- Statement that accession implies full acceptance by the applicant country of the actual and potential rights and obligations attaching to the Union system and its institutional framework, known as the "acquis" of the Union. The new Member States will have to apply this as it

stands at the time of accession. Statement that accession also implies effective implementation of the "acquis" by the applicant country, which requires the establishment of an efficient, reliable public administration. The "acquis" is constantly evolving and includes:

- the content, principles and political objectives of the Treaties (including those of the Amsterdam Treaty);
- legislation adopted pursuant to the Treaties, and the case law of the Court of Justice;
- statements and resolutions adopted within the Union framework;
- joint actions, common positions, declarations, conclusions and other acts within the
- framework of the common foreign and security policy (CFSP);
- joint actions, joint positions, conventions signed, resolutions, statements and other
- acts agreed upon within the framework of justice and home affairs (JHA);
- international Agreements concluded by the Community and those concluded among
- themselves by the Member States with regard to Union activities.

– Statement that any specific arrangements under the Association Agreement which depart from the "acquis" of the Union cannot be considered as precedents in the accession negotiations.

- Section setting out the approach of the Union in relation to the common foreign and security policy and justice and home affairs (including the integration of the Schengen "acquis") with the entry into force of the Amsterdam Treaty in prospect.

- Statement that, in accordance with the conclusions of the Copenhagen European Council, the Union should be capable of absorbing new members, while maintaining the momentum of European integration.

- Statement that enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to ensure that the institutional structures of the Union are not weakened or diluted, or its powers of action reduced.

- Section explaining that the acceptance of these rights and obligations by a new Member State may give rise to technical adjustments and exceptionally to non-permanent transitional measures as defined during the accession negotiations (limited in time and scope, and accompanied by a plan with clearly defined stages for application of the "acquis"), but can in no way involve amendments to the rules or policies of the Union, to disrupt their proper functioning or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and the applicant countries.

- Negotiations with the different applicant countries will be conducted on the basis of the same principles and criteria, but separately and according to the individual merits of each applicant country. Their progress and conclusion are not required to take place in parallel.

– The individual progress of each applicant country in preparing for accession will contribute, within a framework of economic and social convergence, to the advancement of the negotiations, taking into account:

- the Copenhagen and Madrid criteria, i.e. membership requires of the applicant country:
 - stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
 - the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union;
 - administrative capacity;
- the objective of a high level of nuclear safety and environmental protection;
- undertakings to resolve any border disputes within the framework of the Stability Pact procedures or by means of other dispute settlement methods laid down in the United Nations Charter, including the prior, compulsory jurisdiction of the International Court of Justice;
- the Association Agreements; partnerships for accession, including compliance with intermediate priorities laid down in those partnerships (CEEC).

- Acceptance by each applicant country of the principle that its application forms part of the inclusive enlargement process established by the European Council.

- Undertaking by the applicant countries, within the framework of their policies towards third countries and within international organizations, particularly the WTO, to align progressively – with a view to their accession – on the policies and positions adopted by the Community and its Member States.

C. ORGANIZATION AND PROCEDURE

- Section setting out the broad lines of the procedure to be followed for the accession negotiations (based on the agreed documents on internal procedure) and stipulating in particular that negotiations will be conducted with each applicant on its own merits, the Union delegation being led by the Presidency.

- Reference to forthcoming meeting of deputies to agree on specific details of negotiating procedure (secretariat, expenses, documents, organization of work, etc.) and on first subjects for negotiation and proposal that work should start with the examination of secondary legislation⁴⁶⁶ with a view to gathering full information, deciding what technical adaptations are necessary and identifying the substantive problems to be dealt with in the negotiations.

⁴⁶⁶ Internally, it is understood that the lists of Union "acquis" could be drawn up with Council help, as appropriate, in the JHA field in particular.

II. PROCEDURE FOR NEGOTIATIONS WITH APPLICANT COUNTRIES

1. The accession negotiations will be conducted by the European Union according to a uniform procedure at all levels and in relation to all problems.
2. Accordingly, the Council⁴⁶⁷ will determine the common position of the European Union on all problems posed by the accession negotiations.
3. In order to determine the common positions of the European Union, the Commission is invited to make proposals on all the problems posed by the accession negotiations in those areas which relate to the Treaties establishing the European Communities.

Concerning matters related to CFSP and cooperation in the field of justice and home affairs, proposals will be made by the Presidency, as a general rule, in close liaison with Member States and the Commission. It is also open to Member States to make proposals, and to the Commission to make proposals in the areas covered by Article J and Article K.1(1) to (6) of the Treaty on European Union.⁴⁶⁸

4. In accordance with Article 151 of the EC Treaty, COREPER will have overall responsibility for preparing the deliberations of the Council concerning the establishment of the common positions.

⁴⁶⁷ This arrangement does not prevent the Permanent Representatives Committee from defining the common position of the European Union at its own level in conjunction with the Commission representative, insofar as it can reach agreement.

⁴⁶⁸ Articles K.1 to K.6 after entry into force of the Amsterdam Treaty.

The Political Committee and the Coordinating Committee referred to in Article K.4⁴⁶⁹ will act as consultation and coordination bodies, contributing to the definition of the common positions for matters relating to CFSP and to cooperation in the field of justice and home affairs respectively, the results of their work being submitted to Coreper.

5. On the European Union side, the negotiating meetings between the European Union and the applicants will be chaired at all levels by the Presidency-in-Office of the Council.

6. The common position of the European Union will be set out and upheld in the negotiations with the applicant countries either by the President of the Council or, where the Council so decides, by the Commission, particularly if existing Community policies are concerned.

7. When the negotiations are conducted at the level of Permanent Representatives and in the working parties that will be established, the rules set out in paragraphs 5 and 6 above will apply.

8. In addition, the Council declares itself ready to give the Commission the task of seeking possible solutions, in contact with the applicant countries, to certain problems arising in the course of negotiations and reporting to the Council, which will give it the necessary guidance for the subsequent continuation of this task in order to identify points of agreement to be submitted to the Council.

This arrangement will apply in particular when existing common policies are concerned.

⁴⁶⁹ Article K.8 after entry into force of the Amsterdam Treaty.

III. PROCEDURE FOR AND ORGANIZATION OF THE NEGOTIATIONS

1. Chairmanship

In accordance with the practice in bilateral negotiations between two delegations, each led by a head, the question of electing a President of the Conference does not arise.

The practical work involved in chairing meetings will be performed by the head of the Union delegation in his capacity as head of the host delegation.

2. Frequency of meetings at ministerial level and deputy level – setting up of working parties

It is planned that there should be at least [–]⁴⁷⁰ meetings per year at ministerial level and [–] meetings per six-month period at deputy level, on the understanding that the frequency could be adjusted if this were felt necessary.

The negotiations will remain centralized at ministerial and deputy level. The setting up of working parties should not be envisaged except to meet objective requirements of the negotiations. Any such working parties will operate under the authority of the deputies, on the basis of explicit terms of reference and in accordance with a specific timetable.

3. Venue for the meetings

Meetings will be held in Brussels, but during April, June and October ministerial meetings will be held in Luxembourg.

⁴⁷⁰ To be decided on in due course.

4. Organization

(a) Secretariat

Conference secretariat services will be provided, under the authority of the Secretary- General of the Council of the European Union or his representative, by a team consisting of officials of the General Secretariat of the Council and officials appointed by the [–] delegation.

(b) Operating expenses of the Conference

Each party will bear its own travel⁴⁷¹ and subsistence expenses and also the salaries of staff who are put at the disposal of the Secretariat.

The operating expenses of the Conference (rents, office furniture and supplies, telecommunications, interpreting, translation, auxiliary staff recruited for the Conference, etc.) will be met by advances made by the Council of the European Union.

These expenses will be entered in the Council's budget under a special budget heading.

The General Secretariat of the Council will submit an annual financial management report to the Conference on the operating expenses. These expenses will be divided among the participants in accordance with procedures to be mutually agreed.

⁴⁷¹ The travel expenses of the delegations of the Member States of the Union will be refunded on the basis of the Community rules.

(c) Preparation of meeting documents

Without prejudice to other special documents which the Secretariat might be asked to draw up, the following arrangements have been adopted on the understanding that they could, if necessary, be modified in the light of experience.

(i) Ministerial meetings

- Preparation, after each meeting, of a summary of conclusions, to be finalized by the deputies on the basis of a draft produced by the Secretariat and submitted to the next ministerial meeting for formal approval.
- The verbatim account of the ministerial meetings, as recorded on tape, will be filed in the archives of the Secretariat, where it can be consulted in the event of a dispute over the interpretation of a decision.

(ii) Meetings at deputy level

- Preparation of a summary of conclusions after each meeting.
- Preparation of reports for submission to ministerial meetings on the basis of drafts produced by the Conference Secretariat.

(iii) Working parties

- Preparation of reports for the deputies on the basis of drafts produced by the Conference Secretariat.

PROVISIONAL INDICATIVE LIST OF CHAPTER HEADINGS

(Note: This list in no way prejudices the decisions to be taken at an appropriate stage in the negotiations on the order in which the subjects will be dealt with.)

1. Free movement of goods
2. Freedom of movement for persons
3. Freedom to provide services
4. Free movement of capital
5. Company law
6. Competition policy
7. Agriculture
8. Fisheries
9. Transport policy
10. Taxation
11. Economic and monetary union
12. Statistics
13. Social policy and employment
14. Energy
15. Industrial policy
16. Small and medium-sized undertakings
17. Science and research
18. Education and training
19. Telecommunications and information technologies
20. Culture and audiovisual policy
21. Regional policy and coordination of structural instruments

22. Environment
23. Consumers and health protection
24. Cooperation in the fields of justice and home affairs
25. Customs union
26. External relations
27. Common foreign and security policy
28. Financial control
29. Financial and budgetary provisions
30. Institutions
31. Other

ANNEX IV: NEGOTIATING FRAMEWORK FOR TURKEY

(Luxembourg, 3 October 2005)

Principles governing the negotiations

1. The negotiations will be based on Turkey's own merits and the pace will depend on Turkey's progress in meeting the requirements for membership. The Presidency or the Commission as appropriate will keep the Council fully informed so that the Council can keep the situation under regular review. The Union side, for its part, will decide in due course whether the conditions for the conclusion of negotiations have been met; this will be done on the basis of a report from the Commission confirming the fulfilment by Turkey of the requirements listed in point 6.

2. As agreed at the European Council in December 2004, these negotiations are based on Article 49 of the Treaty on European Union. The shared objective of the negotiations is accession. These negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand. While having full regard to all Copenhagen criteria, including the absorption capacity of the Union, if Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond.

3. Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to protect the cohesion and effectiveness of the Union. In accordance with the conclusions of the Copenhagen European Council in 1993, the Union's capacity to absorb Turkey, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and Turkey. The Commission shall monitor this capacity during the negotiations, encompassing the whole range of issues set out in its October 2004 paper on issues arising from Turkey's membership perspective, in order to inform an assessment by the Council as to whether this condition of membership has been met.

4. Negotiations are opened on the basis that Turkey sufficiently meets the political criteria set by the Copenhagen European Council in 1993, for the most part later enshrined in Article 6(1) of the Treaty on European Union and proclaimed in the Charter of Fundamental Rights.

The Union expects Turkey to sustain the process of reform and to work towards further improvement in the respect of the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms, including relevant European case law; to consolidate and broaden legislation and implementation measures specifically in relation to the zero tolerance policy in the fight against torture and ill-treatment and the implementation of provisions relating to freedom of expression, freedom of religion, women's rights, ILO standards including trade union rights, and minority rights. The Union and Turkey will continue their intensive political dialogue.

To ensure the irreversibility of progress in these areas and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council, addressing all points of concern identified in the Commission's 2004 report and recommendation as well as its annual regular report.

5. In the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption. The Council will decide by qualified majority on such a recommendation, after having heard Turkey, whether to suspend the negotiations and on the conditions for their resumption. The Member States will act in the Intergovernmental Conference in accordance with the Council decision, without prejudice to the general requirement for unanimity in the Intergovernmental Conference. The European Parliament will be informed.

6. The advancement of the negotiations will be guided by Turkey's progress in preparing for accession, within a framework of economic and social convergence and with reference to the Commission's reports in paragraph 4. This progress will be measured in particular against the following requirements:

– the Copenhagen criteria, which set down the following requirements for membership:

* the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

* the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;

* the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union and the administrative capacity to effectively apply and implement the *acquis*;

– Turkey's unequivocal commitment to good neighbourly relations and its undertaking to resolve any outstanding border disputes in conformity with the principle of peaceful settlement of disputes in accordance with the United Nations Charter, including if necessary jurisdiction of the International Court of Justice;

– Turkey's continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, including steps to contribute to a favourable climate for a comprehensive settlement, and progress in the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus.

– the fulfilment of Turkey's obligations under the Association Agreement and its Additional Protocol extending the Association Agreement to all new EU Member States, in particular those pertaining to the EU-Turkey customs union, as well as the implementation of the Accession Partnership, as regularly revised.

7. In the period up to accession, Turkey will be required to progressively align its policies towards third countries and its positions within international organisations (including in relation to the membership by all EU Member States of those organisations and arrangements) with the policies and positions adopted by the Union and its Member States.

8. Parallel to accession negotiations, the Union will engage with Turkey in an intensive political and civil society dialogue. The aim of the inclusive civil society dialogue will be to enhance mutual understanding by bringing people together in particular with a view to ensuring the support of European citizens for the accession process.

9. Turkey must accept the results of any other accession negotiations as they stand at the moment of its accession.

Substance of the negotiations

10. Accession implies the acceptance of the rights and obligations attached to the Union system and its institutional framework, known as the *acquis* of the Union. Turkey will have to apply this as it stands at the time of accession. Furthermore, in addition to legislative alignment, accession implies timely and effective implementation of the *acquis*. The *acquis* is constantly evolving and includes:

- the content, principles and political objectives of the Treaties on which the Union is founded;
- legislation and decisions adopted pursuant to the Treaties, and the case law of the Court of Justice;
- other acts, legally binding or not, adopted within the Union framework, such as interinstitutional agreements, resolutions, statements, recommendations, guidelines;
- joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy;
- joint actions, joint positions, conventions signed, resolutions, statements and other acts agreed within the framework of justice and home affairs; international agreements concluded by the Communities, the Communities jointly with their Member States, the Union, and those concluded by the Member States among themselves with regard to Union activities.

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Turkey will need to produce translations of the *acquis* into Turkish in good time before accession, and will need to train a sufficient number of translators and interpreters required for the proper functioning of the EU institutions upon its accession.

11. The resulting rights and obligations, all of which Turkey will have to honour as a Member State, imply the termination of all existing bilateral agreements between Turkey and the Communities, and of all other international agreements concluded by Turkey which are incompatible with the obligations of membership. Any provisions of the Association Agreement which depart from the *acquis* cannot be considered as precedents in the accession negotiations.

12. Turkey's acceptance of the rights and obligations arising from the *acquis* may necessitate specific adaptations to the *acquis* and may, exceptionally, give rise to transitional measures which must be defined during the accession negotiations.

Where necessary, specific adaptations to the *acquis* will be agreed on the basis of the principles, criteria and parameters inherent in that *acquis* as applied by the Member States when adopting that *acquis*, and taking into consideration the specificities of Turkey.

The Union may agree to requests from Turkey for transitional measures provided they are limited in time and scope, and accompanied by a plan with clearly defined stages for application of the *acquis*.

For areas linked to the extension of the internal market, regulatory measures should be implemented quickly and transition periods should be short and few; where considerable adaptations are necessary requiring substantial effort including large financial outlays, appropriate transitional arrangements can be envisaged as part of an ongoing, detailed and budgeted plan for alignment. In any case, transitional arrangements must not involve amendments to the rules or policies of the Union, disrupt their proper functioning, or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and of Turkey.

Long transitional periods, derogations, specific arrangements or permanent safeguard clauses, i.e. clauses which are permanently available as a basis for safeguard measures, may be

considered. The Commission will include these, as appropriate, in its proposals in areas such as freedom of movement of persons, structural policies or agriculture. Furthermore, the decision-taking process regarding the eventual establishment of freedom of movement of persons should allow for a maximum role of individual Member States. Transitional arrangements or safeguards should be reviewed regarding their impact on competition or the functioning of the internal market. Detailed technical adaptations to the *acquis* will not need to be fixed during the accession negotiations. They will be prepared in cooperation with Turkey and adopted by the Union institutions in good time with a view to their entry into force on the date of accession.

13. The financial aspects of the accession of Turkey must be allowed for in the applicable Financial Framework. Hence, as Turkey's accession could have substantial financial consequences, the negotiations can only be concluded after the establishment of the Financial Framework for the period from 2014 together with possible consequential financial reforms. Any arrangements should ensure that the financial burdens are fairly shared between all Member States.

14. Turkey will participate in economic and monetary union from accession as a Member State with a derogation and shall adopt the euro as its national currency following a Council decision to this effect on the basis of an evaluation of its fulfilment of the necessary conditions. The remaining *acquis* in this area fully applies from accession.

15. With regard to the area of freedom, justice and security, membership of the European Union implies that Turkey accepts in full on accession the entire *acquis* in this area, including the Schengen *acquis*. However, part of this *acquis* will only apply in Turkey following a Council decision to lift controls on persons at internal borders taken on the basis of the applicable Schengen evaluation of Turkey's readiness.

16. The EU points out the importance of a high level of environmental protection, including all aspects of nuclear safety.

17. In all areas of the *acquis*, Turkey must bring its institutions, management capacity and administrative and judicial systems up to Union standards, both at national and regional level, with a view to implementing the *acquis* effectively or, as the case may be, being able to

implement it effectively in good time before accession. At the general level, this requires a well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system.

Negotiating procedures

18. The substance of negotiations will be conducted in an Intergovernmental Conference with the participation of all Member States on the one hand and the candidate State on the other.

19. The Commission will undertake a formal process of examination of the *acquis*, called screening, in order to explain it to the Turkish authorities, to assess the state of preparation of Turkey for opening negotiations in specific areas and to obtain preliminary indications of the issues that will most likely come up in the negotiations.

20. For the purposes of screening and the subsequent negotiations, the *acquis* will be broken down into a number of chapters, each covering a specific policy area. A list of these chapters is provided in the Annex. Any view expressed by either Turkey or the EU on a specific chapter of the negotiations will in no way prejudice the position which may be taken on other chapters. Also, agreements reached in the course of negotiations on specific chapters, even partial ones, may not be considered as final until an overall agreement has been reached for all chapters.

21. Building on the Commission's Regular Reports on Turkey's progress towards accession and in particular on information obtained by the Commission during screening, the Council, acting by unanimity on a proposal by the Commission, will lay down benchmarks for the provisional closure and, where appropriate, for the opening of each chapter. The Union will communicate such benchmarks to Turkey. Depending on the chapter, precise benchmarks will refer in particular to the existence of a functioning market economy, to legislative alignment with the *acquis* and to a satisfactory track record in implementation of key elements of the *acquis* demonstrating the existence of an adequate administrative and judicial capacity. Where relevant, benchmarks will also include the fulfilment of commitments under the Association Agreement, in particular those pertaining to the EU-Turkey customs union and those that mirror requirements under the *acquis*. Where negotiations cover a considerable period of time, or where a chapter is revisited at a later date to incorporate new elements such as new *acquis*, the existing benchmarks may be updated.

22. Turkey will be requested to indicate its position in relation to the *acquis* and to report on its progress in meeting the benchmarks. Turkey's correct transposition and implementation of the *acquis*, including effective and efficient application through appropriate administrative and judicial structures, will determine the pace of negotiations.

23. To this end, the Commission will closely monitor Turkey's progress in all areas, making use of all available instruments, including on-site expert reviews by or on behalf of the Commission. The Commission will inform the Council of Turkey's progress in any given area when presenting draft EU Common Positions. The Council will take this assessment into account when deciding on further steps relating to the negotiations on that chapter.

In addition to the information the EU may require for the negotiations on each chapter and which is to be provided by Turkey to the Conference, Turkey will be required to continue to provide regularly detailed, written information on progress in the alignment with and implementation of the *acquis*, even after provisional closure of a chapter.

In the case of provisionally closed chapters, the Commission may recommend the re-opening of negotiations, in particular where Turkey has failed to meet important benchmarks or to implement its commitments.

PRELIMINARY INDICATIVE LIST OF CHAPTER HEADINGS

(Note: This list in no way prejudices the decisions to be taken at an appropriate stage in the negotiations on the order in which the subjects will be dealt with.)

1. Free movement of goods
2. Freedom of movement for workers
3. Right of establishment and freedom to provide services
4. Free movement of capital
5. Public procurement
6. Company law
7. Intellectual property law
8. Competition policy
9. Financial services
10. Information society and media
11. Agriculture and rural development
12. Food safety, veterinary and phytosanitary policy
13. Fisheries
14. Transport policy
15. Energy
16. Taxation
17. Economic and monetary policy
18. Statistics
19. Social policy and employment(1)
20. Enterprise and industrial policy
21. Trans-European networks
22. Regional policy and coordination of structural instruments
23. Judiciary and fundamental rights
24. Justice, freedom and security
25. Science and research
26. Education and culture
27. Environment
28. Consumer and health protection
29. Customs union
30. External relations
31. Foreign, security and defence policy

32. Financial control

33. Financial and budgetary provisions

34. Institutions

35. Other issues

(1) This chapter includes also anti-discrimination and equal opportunities for women and men.

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