



**Enhanced Cooperation in the EU and ASEAN? Provision of
Enhanced Cooperation in the European Union in Comparison to
Similar Institutional Developments in the Association of Southeast
Asian Nations**

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The Amsterdam Treaty introduced the mechanism of closer cooperation, allowing certain member states to move the integration forward on specific issues within the EU framework. Later, the Nice Treaty and the Treaty-Constitution expanded possible applicable areas of enhanced cooperation. What is enhanced cooperation? Is it a unique institutional design? The paper will analyze enhanced cooperation from theoretical, institutional, and comparative perspectives. The paper will be constructed on three building blocks: theoretical basis of enhanced cooperation; the developments of enhanced cooperation; comparison of enhanced cooperation between the EU and the ASEAN. The analysis reveals that enhanced cooperation represents an alternative approach to reinforce integration. Enhanced cooperation has become scenario thinking on treaty basis. It also implies an opening for more observations to the dynamic integration process.

Introduction

As the former Belgian Prime Minister Guy Verhofstadt stated in his speech for promoting his latest book: “.... in the globalized world of today, European countries are smaller in size compared to China and the US, yet some of them still don’t realise the fact. If Europe in the future wants to stay an important global player and fulfil the peoples’ expectations, it has to integrate itself stronger. The question is how are we going to go further?¹” The question on how to promote stronger integration triggers the reflection on the future of Europe. The European project is safeguarded by the principles of peace, stability and solidarity, etc. But as Mr. Verhofstadt indicated ‘....today there is no European project, and the idea a federal Europe is not popular among the citizens...(Ibid).’ The enthusiasm for further integration seem to slow down, as demonstrated by the rejection of the Treaty-Constitution last year. So shall we stop further integration or shall we proceed for a federal Europe?

Most of the young Europeans seem to take the traditional value of peace and stability in Europe for granted. By contrast, most Asian countries have begun to be aware of the above values and taken the EU as a model to follow suit. At the same time, they face similar challenges of divergence among the member

¹ This part of the speech was originally in Dutch as follows. “....In de geglobaliseerde wereld van vandaag zijn alle Europese landen kleine landen. Alleen beseffen ze dat nog niet allemaal. Als Europa in de toekomst op wereldvlak dus wil meespelen én tegelijk de verwachtingen van de burger wil inlossen, dan zal het zich sterker moeten integreren. Punt aan de lijn. De vraag die overblijft, is hoe? Er is vandaag geen Europees project. En het standpunt voor een federaal Europa geraakt steeds meer ondergesneeuwd.....” Toespraak Premier Verhofstadt naar

states (MS) and possibilities of slow integration. The paper² will analyze enhanced cooperation in the EU and further investigate two hypotheses. First, enhanced cooperation seems to be the final outcome of the European integration. Second, there are some developments in the ASEAN as enhanced cooperation in the EU. The reason for looking into enhanced cooperation is because it is absolutely crucial for the future developments of the EU. It touches on a fundamental issue whether the member states should always cooperate in collective endeavor, or otherwise there should be some differentiation within the groupings? (Dinan, 2004: 312) It is about the degree of integration, and about the liberty of MS. The question is that if some MS want to go further in the integration than others, are they allowed to do so? Are the other MS obliged to follow (Wessels, 1998; Stub, 1996: 283-90)³? Since the ASEAN is following the EU integration approach, perhaps the former is also considering similar institutional design such as enhanced cooperation?

The concept and complexity of this mechanism inspire the research motivation. Some may question the prospects of enhanced cooperation since it has never been applied to the real world throughout the integration process. However, the

aanleiding van de voorstelling van het boek "De Verenigde Staten van Europa" 2005. 1 december. Résidence Palace.

² This paper is a further research from the author's master thesis on enhanced cooperation in the EU.

³ The member states can be generally divided into four categories: the avant-garde, the frustrated, veto-players, potential drop-outs. The avant-garde refers to pro-integration member states, who share common vision for unified EU. The frustrated refers to the influential big member states, which could endanger the status quo and further deepening. The veto-players are more interested in keeping the status quo, their strong position towards certain policies may lead to veto. The potential drop outs are not so influential compared to the above three types.

research does not focus on which example it could have been applied to, rather, it emphasizes that enhanced cooperation is an alternative institutional design and can provide more observable implications to the future of integration. To test the hypotheses mentioned earlier, the paper will investigate them by answering the following questions: What is the essence of enhanced cooperation? Do similar institutional developments exist in the ASEAN? How to analyze enhanced cooperation on theoretical basis? It is concluded with the finding of comparison and afterthoughts.

The paper is constructed by three building blocks: Firstly, the paper aims to discover the essence of enhanced cooperation by analyzing contribution and challenges of the integration treaties. By discussing developments of enhanced cooperation, one can have systematic understanding on how the mechanism becomes scenario thinking. The discussion helps provide clarification of this seemingly vague concept of enhanced cooperation. Secondly, the paper compares enhanced cooperation in the EU and discusses if there are similar designs in the ASEAN or otherwise, because it seems that not much literature analyzes the concept by comparative approach. The reason for observing the ASEAN is that it also emphasizes regional integration and seems to have adopted similar ideas from the EU. Thirdly, the paper touches upon theoretical basis of enhanced cooperation; it looks into liberal inter-governmentalism (LI) proposed by Andrew Moravcsik for more insight. The theory argues that policies result from bargaining national preferences and outcomes are usually

predictable (Moravcsik, 1993: 473-90). Can LI be a sufficient theory to analyze enhanced cooperation? If not, what other theories can be used to strengthen Moravcsik's view? The discussion intends to present a modified structure to emphasize dynamics of enhanced cooperation.

From Diversity to Enhanced Cooperation

The concept of diversity seems to exist before the Treaty of Amsterdam institutionalized the concept by introducing closer cooperation mechanism, which was later renamed as enhanced cooperation by the Treaty of Nice (Part I, Art. 6-13). (Table 1)⁴. The Treaty of Amsterdam in 1997 introduced closer cooperation clause (Title VII, Art. 43-45) into the EU framework in addition to supranational and intergovernmental approaches (Philippart and Edwards, 1999: 87-105). Closer cooperation allowed at least more than half of the member states' participation to speed up integration (Title VII, Art. 43d TEU). The member states accepted the Schengen agreement into the EU framework, hoping to increase free movement of persons, goods, services and capitals (Dinan, 2004: 312). Although the Amsterdam Treaty excluded the use of closer

⁴ Examples of the evolution are illustrated by an overview of the Treaties. The Treaty of Paris in 1951 and the Treaty of Rome in 1957 laid the foundation of institutionalized sectoral integration (ex. Establishment of the European Coal and Steel Community (ECSC), the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM)) The Merger Treaty in 1965 established the European Community (EC), which implies regional integration was institutionalized on treaty basis. The Treaty of Maastricht in 1992 established the EU temple structure (three pillars), which indicated coexistence of both Community method and intergovernmental mechanism under the EU framework and that diversity was institutionalized (Dinan, 2004:207)

This paper uses 'closer cooperation' and 'enhanced cooperation' in between the lines; both terms refer to the same concept.

cooperation in the CFSP (Zwaan and Vrouwenraets. 1998: 197-199)⁵, it allowed operation of the Petersberg Tasks, which aimed at peace making, peace keeping and humanitarian aid in reaction to the Yugoslav crisis.⁶ In addition, the treaty allowed transfer of partial JHA issues to the EC pillar, such as civil matters, sheltering, immigration, combating crime. The transfer can be considered an expression of closer cooperation for practical concern (Philippart and Edwards, 1999: 92-93)⁷.

The challenge of the Amsterdam Treaty was that closer cooperation in CFSP needed to be strengthened (Dinan, 2004: 130)⁸. The Helsinki summit proposed Political and Security Committee, the Military Committee and the Military Staff for security and defense policies (Ibid:317). These institutions were later established by the Treaty of Nice. The major contribution of the treaty was that it allowed a possible application of enhanced cooperation (Part I, Art. 6-13) to common external position in CFSP, excluding military and defense issues (Part I, Art. 27 b) (Dinan, 2006: 290-1). Nevertheless, application of enhanced

⁵ The treaty provided the possibility of 'constructive abstention' in case of unanimous decisions (Art. 23.1). An initiative decided by constructive abstention is bound to have less impact. Therefore, there is necessity to seek more operational approaches in CFSP and JHA.

⁶ The Amsterdam Treaty was more prudent than the Maastricht treaty, because the accession countries at this time favored more neutral attitude, they were Austria, Finland, and Sweden.

⁷ This is to respond the establishment for 'an area of freedom, security and justice.' Article 43 (ex Art. K.15), 44 (ex. K.16), 45 (ex. K. 17) of Title VII (ex Title Via) Provisions on Closer Cooperation, The Treaty of Amsterdam, 1999.

⁸ Following diverse approaches to reinforce closer political cooperation can be illustrated by St. Malo agreement in 1998 and the Helsinki Summit in 1999. In 1998, Britain, for the first time, agreed with France on the EU defense issue, because Blair saw possibility for Britain to play leadership in the EU. The agreement led to a Rapid Reaction Force in 2003, which remains intergovernmental cooperation. Chirac saw that it would be favorable to France to have NATO participate in the European context. The following year, the Helsinki summit allowed EU to take over Western European Union (WEU) politically, which emphasized defense cooperation.

cooperation in partial CFSP was considered a breakthrough, compared to the standstill of political cooperation after the Second World War. The Nice Treaty clearly stated the number of participating members to be at least eight countries (Part I, Art. 11). Weighted majority vote replaced constructive abstention. (Art. 13), allowing more possibility for consensus. The challenge of the Nice Treaty was that institutional deepening was limited and the decision-making system was complicated (Nugent, 2003: 169). The Treaty-Constitution proposed more reforms in these regards. In 2003, Javier Solana proposed a declaration on 'A Secure Europe in a Better World,' in reaction to emerging threats from terrorism and weapons of mass destruction, etc. (Dinan, 2004: 316-7). The declaration intended to settle disputes within the EU as well as conflicts between the EU and the US. The European Council adopted the declaration as foundation for the security strategy (Ibid). However, it was challenged by unwillingness of the member states to cooperate further. The elites were again reflecting more institutional reforms for a coherent position in external relations.

The Treaty-Constitution in 2004 considered possible application of enhanced cooperation in defense after the enlargement (Art III 416-423; Article I-44: ex Articles 27, 43 TEU, Art.11 TEC) (European Commission 2004; Bonde, Jens-Peter, 2005: 206-8). It allowed the avant-garde grouping deepen the integration in areas of shared competence. In terms of implementing enhanced cooperation, at least one third of the member states should participate, and voting would be conducted only by the participating members. This mechanism

is used as the last resort (Ibid: 38-9). Enhanced cooperation is characterized with openness to *all* member states, meaning those who are opt-out are welcomed at any time to join cooperation on specific issues. To speed up the integration, the avant-garde grouping could also be CEEC member states which were able and willing to take the lead in global peace and security. The challenge was that the Treaty-Constitution was rejected by France and the Netherlands in 2005. One possible explanation could be the lack of open communication between the EU and the citizens.

The Essence of Enhanced Cooperation

Enhanced cooperation represents differentiated integration (Stubb, 1996: 281). Enhanced cooperation can be included under the large concept of flexible integration⁹; it is an expression of 'diversity' throughout the integration process. The institutional mechanism can be interpreted from quality and quantity perspectives. In terms of quality, enhanced cooperation demonstrates the evolution of 'diversity' from ideology to a mechanism on treaty basis. The best illustration is the diverse pattern of the three pillar structure in the Maastricht Treaty plus the flexibility clause in the Amsterdam Treaty. Schengen and the EMU are possible expressions of flexible integration. The paper emphasizes that enhanced cooperation seems to go beyond diversity; it is both scenario thinking on treaty basis and an ongoing process. Enhanced cooperation

⁹ 'Flexible integration' has binding effect to those who do not join in; 'enhanced cooperation' has no binding effect to those who do not join in.

intends to be a solution when some member states have no intention to integrate further, while others want a step ahead. From a quantitative perspective, enhanced cooperation is to be carried out only by the avant-garde member states¹⁰. This can be explained by the relevant number set by the treaties: from at least half of the total member states to at least eight, and to one third of the enlarged EU.

Similar Institutional Development in the ASEAN

Are there similar developments like enhanced cooperation in the ASEAN? How has the ASEAN evolved in reaction to the changing world? Does the evolution imply any enhanced cooperation or otherwise? Established in 1967, the ASEAN aimed to strengthen economic growth, social progress and cultural developments through cooperation, as stated in the Bangkok Declaration (Soesastro, 2003: 6). The notion of the integration is that the MS do not transfer national sovereignty to a supranational institution, but rather the MS consider the ASEAN as another stage to promote national interests (Ibid). To discover similar implication to enhanced cooperation in the EU, one needs to understand the overall developments in the ASEAN as follows.

¹⁰ I see it necessary to clarify the difference between *acqui communautaire* and enhanced cooperation regarding the number of participating member states. The *acqui communautaire* demands *all* member states to meet all the integration requirements necessary, even though opt-out is allowed to be flexible to possible tensions, yet opt-out is exception confronting the rule of the game. Enhanced cooperation allows *part* of the member states who want a step further with the integration, because they do not want to pace down. The states who take the lead of further integration are seen as avant-garde or core group.

Conventional Mechanism: ASEAN Ministerial Meeting

The ASEAN Ministerial Meeting (AMM) functions as the highest decision-making body, de facto. The AMM is also the central institution in formulating guidelines and coordinating all activities. The daily operation is carried out by a standing committee, which is under leadership of a foreign minister on rotating basis (Ibid: 7). The advantage of the AMM is that it provides an institutional open forum for the ministers to dialogue on common challenges. It also encourages confidence building mechanism in Southeast Asia. Each ASEAN member state should hold one-on-one dialogue on economic issues with an individual counterpart; this is to avoid time-consuming in collective negotiations (Ibid: 8).

Controversial Flexibility in Everyday Politics: 'The ASEAN Way'

In everyday politics, the ASEAN is operated more by conventional meetings between heads of states. This is a contrast to the EU daily politics, which allow participation of actors at different levels. The AMM is second to the ASEAN Summit, which functions as the supreme organ of the ASEAN. Decisions are made mostly by consensus and informal manner; the decision-making approach has been used so often that it is conceived as the 'ASEAN Way' (Ibid: 9). It represents three major principles in operation: restraint, respect and responsibility (Ibid). Restraint means non-interference in domestic affairs of other MS. The mentality helps avoiding conflicts, allowing governments to concentrate on primary policies. Respect refers to providing an open forum for negotiation and consultation, allowing the MS to express different views and

express dissatisfaction towards a certain policy. The principle of responsibility means to bear burden in collective manner, and reframe diverse interests among the MS. The flexible ASEAN Way has led to different views. Some criticize the ineffectiveness of the ASEAN as 'intergovernmental neighborhood watch group,' (Hund, 2002: 99-122) because decisions are mostly made informally among national governments. Personal relations are stronger than the institutional structure framework; consequently, member states would be less likely to initiate pooled sovereignty. As regional cooperation increases, the ASEAN is aware that a certain degree of institutional restructure is necessary to adapt to external challenges. The leaders are considering if they should stick to the 'ASEAN-way' or employ other alternative methods to reinforce integration on broader scale.

Contending Mechanisms for Political Cooperation

The structural changes in the ASEAN are mainly affected by external circumstances. This is demonstrated by the crisis in Cambodia in 1978 due to the Vietnamese invasion. The crisis forced the AMM to intervene and establish an anti-Vietnam coalition for stability concern. The non-interference principle was violated due to the post Cold War climate. The role of the AMM was expanded to external relations, and that the function of the ASEAN was broadening into safeguarding wider regional security (Soesastro, 2003: 12). In 1993, the ASEAN regional forum (ARF) was established based on the consensus in the Treaty of Amity and Cooperation (TAC), which stated that

'flexible engagement' should be allowed for regional peace and stability. The annual forum now consists of the member states and large non-member powers, such as the U.S., Canada, Australia, New Zealand, Japan and China (Ibid). The Thai prime minister formally proposed flexible engagement in 1998 to challenge national sovereignty and advocated that the 'principle of non-interference' should not be applied when internal politics of a certain member state poses negative effect to regional integration (Hund, 2002: 116). In other words, the ASEAN could intervene member states' domestic affairs which would influence the ASEAN integration. The concept later was adopted as 'enhanced interaction' by the ministerial meetings, seeing the term as more moderate consensus formula than flexible engagement (Hund, 2002: 77-8)¹¹. However, to skeptical member states like Malaysia and Singapore, who insisted the traditional ASEAN way, 'enhanced interaction' appeared to be a strong rhetoric for more centralized ASEAN institutions against national sovereignty (Ibid). The Thai government also proposed an ASEAN troika in 1998, representing 'a centralized rapid responsive task force/ flexible political body to intervene serious local crises that will pose negative impacts to regional integration' (Severino, 1999). The troika intends to be an independent body of three ASEAN foreign ministers--- the former, the present and the next chairman of the ASEAN Standing Committee---on rotating basis to act independently on behalf of all the ASEAN governments. Such design is controversial as it poses

¹¹ To Thailand, flexible engagement and enhanced interaction are equivalent and interchangeable terms. The 33rd AMM in July 2000, the Thai minister stated that "our initiative on 'flexible engagement', which has evolved into 'enhanced interaction', is part of our effort to ensure that ASEAN is more effective, cohesive and relevant to the changing world situation".

a challenge to the intergovernmental process of the ASEAN way (Hund, 2002: 144); tension prevails between reformers (Thailand, Philippines) and traditionalists (Malaysia, Singapore). As institutional development is multi-dimensional, the lack of transparency in the ASEAN Summit also triggers skepticism on effectiveness of the ARF. Political cooperation is built on the sense of security community, which is possible only with clear institutional arrangement and shared identity (Ibid: 105). Outward-oriented cooperation between the ASEAN and its powerful neighbors makes one question its internal solidarity. Some are also suspicious that the interests of the ASEAN will be overridden by powerful regional countries (Ibid: 22).

Major Proposals for Institutional Changes

To strengthen the institutional structure, the ASEAN Chambers of Commerce and Industry delivered a proposal in 1986, stressing “the adoption of greater flexibility in the ASEAN decision-making method through the ‘ASEAN-minus-X formula.’” The formula aimed to reduce development disparities between the old and new member states, ensuring that every member state has some benefits. The report was accepted by the ASEAN foreign ministers (Soesastro, 2003: 12-23). In 1992, ASEAN Free Trade Area (AFTA) was included in the framework for strengthening economic cooperation (Ibid). It aimed to reduce customs and tariff barriers to increase competition and production (Quan Li. 2000: 106). The AFTA was not fully implemented until 2003. Stubbs points that the AFTA follows the “ASEAN minus X” formula, allowing some member states to opt out

of general ASEAN policies, so that those who want to move ahead can proceed (Hund, 2002: 136).

In 1997, the ASEAN realized its incompetence to react to the Asian financial crisis and that deeper economic cooperation was necessary. This was the precedent factor leading to the proposal for the ASEAN Economic Community. The 7th summit in 2001 decided to develop the Roadmap for Integration of ASEAN (RIA), hoping to establish the ASEAN Economic Community by 2020 characterized by free movement of capital, service, and investment. To reduce regional disparities, the summit introduced the three pillar structure serving as foundation for the RIA. The 1st pillar aimed to reduce development disparities among the member states. The 2nd pillar focused on deepening economic cooperation (including sub-regional growth) in areas such as telecommunications, transport, energy, etc. The 3rd pillar concentrated on increasing economic integration, such as the AFTA and e-ASEAN, etc. The Joint Communiqué in 2004 emphasized the Initiative for the ASEAN Integration (IAI). Art. 34 stated the approach for implementation:

‘We expressed our satisfaction at the overall progress in the implementation of the IAI Work Plan projects and stressed the need to secure funding support for carrying out a number of remaining projects. We urged new approaches and strategies to be developed to get more funding support from within ASEAN, ASEAN’s Dialogue Partners and other interested parties. In the regard, we welcomed the initiative to set up the co-shepherd mechanism between ASEAN-6 and Cambodia, Lao PDR, Myanmar and Vietnam in order to jointly take charge of moving forward the implementation of the IAI projects. We also urged China, Japan, the Republic of Korea and India to jointly implement the IAI projects with ASEAN.’

In a nutshell, the institutional evolution shows that the ASEAN emphasizes economic integration more than political cooperation. Different mechanisms for enhanced cooperation are introduced, such as 'ASEAN-minus-X formula' and 'co-shepherd mechanism.' But the argument is mainly on psychological aspect. That is, if the national governments are willing to transfer sovereignty to the ASEAN (Soesastro, 2003: 23). In terms of theoretical basis of the ASEAN developments, constructivism has been used and indicated that shared identity is necessary in the ASEAN for further institutional restructure (Switky, 2000: 41-2). The ASEAN should be aware of its changing role in the region and act as pioneer for deepening and widening. In reaction to the current global changes, the ASEAN is trying to reassess collective responsibility and national sovereignty without abolishing existing norms. It means that the Secretary-General advocates reform from informal consensus building to regime-based method; while at the same time preserve the ASEAN way of quiet diplomacy and agreeability (Hund, 2002: 116). The ASEAN institutional development tries to keep balance between enhanced integration and national sovereignty. Traditional norms have to be re-evaluated to enhance capability for both external and internal circumstances. According to Markus Hund (2002: 136), emerging norms in the ASEAN refers to collective action, which sometimes overlaps with traditional norms. The contending issue is that whether these emerging norms can be institutionalized as the ASEAN norms, because national sovereignty is still strong in the operation.

Comparing Institutional Development between the EU and the ASEAN

The above analysis shows that enhanced cooperation concept in the EU and similar institutional development in the ASEAN are developing in different ways (Table 2). First, we can perceive different patterns of enhanced cooperation. The EU emphasizes internal (endogenous) core group acting as avant-garde to enhance cooperation. However, the ASEAN tends to depend on external (exogenous) powerful non-member states for closer cooperation. Second, the focuses of institutional development reveal a contrast. The EU began with the economic integration; and as it proceeds, enhanced cooperation aims at implementing the EU integration in an encompassing way. Enhanced cooperation may not be applied to all issues, but it intends to be used---for practical concern---in as many policies as possible. However, the ASEAN operates the other way around; it considers enhancing the economic cooperation is more important than the political one. Third, the structures are different. Flexible integration in the EU has been institutionalized.

The institutional evolution is visionary to prevent any possible future negative impacts to the integration. On the contrary, flexibility in the ASEAN appears to be *informal*. The institutional evolution is slow and passive to external influence. Fourth, the intervention approaches are different. The EU takes soft approach to resolve conflicts through negotiations and seeking agreements. Quite the opposite, ASEAN uses hard approach to directly intervene the political crisis in Cambodia. Fifth, the approaches for reaching consensus are different. The EU

elevates network and partnership among different levels of government. The decentralization pattern emphasizes that every stakeholder should be on equal footing in bargaining process to meet different interests. By contrast, ASEAN allows direct intervention in domestic affairs of the member states regarding political cooperation; such centralization approach appears to be against decentral decision-making (Ibid: 144-50). Sixth, the Treaty Constitution advocates transparency by allowing citizen participation in ratifying the treaty through referendum. However, the ASEAN summit remains a closed regime operated by national governments only. There is hardly evidence that citizens are granted a channel to express their views. Seventh, enhanced cooperation is characterized by openness to all member states; the opt-out groupings are welcomed to join the avant-garde at any time. Enhanced cooperation intends to be used more in *political* cooperation. By contrast, the 'ASEAN minus X' formula is applied only to *economic* dimension, rather than political aspects. Scholars point out that ASEAN still has clear in-group and out-group division, and that there is 'a strong implementation problem due to ASEAN nations' strong inward-looking focus on primary national interests, and ideas of the ASEAN's purposes sometimes differ widely' (Ibid: 276). The ASEAN relations sometimes could be disconnected because there is a high potential of distrust among major national governments, and relevant negative impact on the regional integration should not be underestimated (Ibid). Eighth, institutionalized diversity is already on treaty basis in the EU, and various expressions of differentiated integration are allowed to reinforce the EU project. In comparison

with the EU, there is hardly differentiated integration in ASEAN, as the institutions tend to seek a homogeneous pattern out of diversity. The previous discussion reveals that both the EU and the ASEAN seem to be challenged on power disparity and collective identity. The EU is struggling with restructuring the institutional framework to adjust the eastern enlargement and Turkey's accession. The ASEAN is challenged by political instability in Cambodia. These factors will affect institutional arrangement and the outcome of integration. Deeper cooperation may generate more possibility for conflicts, yet simultaneously more mechanisms will possibly evolve to settle disputes. The ongoing quest for institutionalized alternative approaches to combat integration stalemate seem to be the common task for both the EU and ASEAN; only by continuously searching for better solutions can both of them move on from crisis to crisis.

Theories on Enhanced Cooperation

The Amsterdam Treaty introduced closer cooperation approaches (opt-out, exit, side payments, etc); its expressions are related to intergovernmental bargaining. The Nice Treaty later renamed the approach into enhanced cooperation, of which one of the expressions is variable geometry, meaning unevenness or differentiation in the process of integration; it allows different groupings of MS integrate on different policy issues (Stubb, 1996: 280-310). Burgess suggests that liberal inter-governmentalism (LI) proposed by Andrew Moravcsik considers most of the current developments of the EU (Burgess,

2000: 34). The following discussion will discuss the challenges of LI and possible modification.

Liberal Inter-governmentalism (LI) on Enhanced Cooperation & Challenges

LI is proposed by Andrew Moravcsik, who emphasizes that integration results from 'grand bargains' between chiefs of governments; the outcomes are determined by convergence of 'national preferences.' (Moravcsik, 1993: 473-90) The theory assumes that bargaining outcomes are predictable before negotiations take place (Moravcsik, 1991: 33-40) because national preferences are often formulated before grand bargains¹². However, scholars have pointed out the challenges of LI as follows. First, LI explains intergovernmental integration, but less on differentiated integration. In other words, it explains little about how MS maneuver bargaining tactics such as opt-out, exclusion, side payment, alternative coalitions, etc. (Gstoehl, 2000: 46-7). The outcome of using these diverse tactics may not be predictable. Therefore, LI needs to be modified to include *unexpected* factors in bargaining processes (Ibid). Second, LI focuses mainly on national preferences regarding economic issues. It seems to overlook national preferences formation from 'Euro sceptic' perspective. LI also discusses less about domestic institutions, policies, social or regional nature (Ibid: 47-9). Third, comparative scholars emphasize that the EU should be regarded as a system of multi-level governance (Peterson and Bomberg,

¹² Examples are the SEA and the Maastricht Treaty.

1999: 9-23)¹³. It consists of actors of different levels: global, international, supranational, national, and sub-national (Ibid). Scholars criticize that LI oversimplifies grand bargains without discussing informal approaches and different actors in daily EU politics (Burgess, 2002: 38)¹⁴.

Hub-Like Enhanced Cooperation Structure Based on LI

The paper presents an initial structure called 'Hub-like enhanced cooperation structure based on LI'. This conceptual framework *combines* different integration theories to strengthen LI. The purpose is to emphasize that one should not ignore unexpected factors in bargaining processes¹⁵ (Figure 1). This preliminary structure tries to point out aspects overlooked by LI yet emphasized by the following theories.

The LI-Plus Framework

To compensate the limits of LI in explaining enhanced cooperation, Sieglinde Gstoehl (2000: 51) proposes LI-Plus framework, which combines LI and Institutionalized International Governance (IIG). IIG concentrates on dynamic interaction between supra-systemic, systemic, and sub-systemic levels in

¹³ Peterson talks about the policy network in the EU and Burgess takes comparative approach between LI and federalism.

¹⁴ Moravcsik was also criticized for failing to explain why member states governments continue to be responsible for supranational development and federal Europe.

¹⁵ The initial structure is weak in explaining the compatibility among these different theories; this will be an aspect for further research.

‘everyday EU politics’ (Ibid). The aspects of ‘everyday EU politics’ and IIG are elaborated as follows.

Everyday EU Politics

As the EU proceeds in diverse approaches, there is also discussion on everyday EU politics in a broader concept of policy network. Peterson elevates that the EU can be regarded as a policy network (Peterson and Bomberg, 1999: 9). The level of the policy specifies three types of the EU decisions into supra-systemic, systemic, and sub-systemic level. Each level has different decision types and bargaining modes (Ibid: 15-20). Super-systemic level emphasizes ‘history-making’ decisions based on intergovernmental bargaining by changing the EU policy procedures¹⁶. Systemic level is the area of policy-making or policy-setting based on inter-institutional bargaining. It focuses more on institutions, which aim to push policy forward rather than making changes (Ibid: 16-21)¹⁷. The sub-systemic level resembles the EU politics to national policy processes rather than international bargaining; actors are granted institutional power (Gstoehl, 2000: 50). Nevertheless, it is less clear how institutions influence policy and how they change, so IIG is included to supplement everyday EU politics (Ibid: 48-9).

¹⁶Illustration is that budget distribution issues are often decided by intergovernmental negotiations Peterson, John and Elizabeth Bomberg. 1999. *Decision-Making in the European Union*. Macmillan, pp. 9-11.

¹⁷ For example, the Commission serves as a mediator negotiating policy agenda with sub-national actors. Sub-systemic level is about policy-shaping based on coordination, resource exchange on policy details and alternatives, Ibid. pp. 22-23.

Institutional International Governance (IIG)

The crucial role of the EU institutions can be further supported by IIG, which mainly concerns policy-shaping and policy-setting in everyday decision-making processes (Ibid: 49). Gering proposes 'norm-application' referring that MS will try selective exit to avoid issues they are unwilling to cooperate within the institutional framework. It means on the one hand they try to avoid certain cooperation for national preferences; on the other hand, they still play by the rules to ensure their EU membership will not be endangered. When a certain decision is entrusted to majority, policy-making affects actors in supra-systemic, systemic and sub-systemic levels. Even negotiation in the EU sub-systemic level can be complicated and similar to national policy processes; therefore mutual impact among institutions should not be ignored (Gstoehl, 2000: 50).

To summarize, we learn that LI touches upon national preferences and intergovernmental bargains; IIG supplement LI by emphasizing sub- trans- and supranational actors in everyday politics. LI-Plus framework can be considered a modified LI (Ibid: 52).

Historical institutionalism emphasizes dynamics of policy network (Peterson, 1995: 69-93). It mainly uses 'locked in' and 'path dependence' to explain that certain decisions once made and implemented, it would be difficult to change to other directions (Pierson, 1996: 123-63). Garbage can theory highlights the 'uncertainty' before and during bargaining process. In the real world, national

representatives usually have little information about the bargaining issues. During a bargaining process, they simply respond what comes along by their professional experience. Therefore, results can be influenced by national preferences and could only be known after bargaining (Bendor, 2001: 163-90). Structuration theory looks into comprehensive picture on the treaty evolution, institutional developments and socialization process (Cohen, 1989: 2). Constructivism strengthens collective identity and institutionalization as essential factors for establishing a sense of community. Actors have better understanding towards certain issues through bargaining and interacting with different actors. National preferences are liable to be modified from time to time according to actors' familiarity to bargaining issues (Checkel, 1999: 545-60). In short, the development of enhanced cooperation cannot be supported by one theory alone, and other theories are needed to discuss alternative bargaining tactics after the Amsterdam treaty. Maneuvering these strategies also has multi-dimensional impacts on relevant actors, institutions and bargaining outcomes. The paper suggests that one should use combination of different theories to analyze the ongoing developments of the EU.

Conclusion

Here are some of the afterthoughts from the previous discussions. First, enhanced cooperation cannot be explained by one theory alone, but various ones are needed to support both expected and unexpected dimensions. We should discuss not only the relevant treaty provision but also possible informal norms, different level of governance or actors, etc. Second, enhanced

cooperation evolves from the concept of diversity to a mechanism on treaty basis. The concept of diversity had existed way before the EU structure was introduced. Enhanced cooperation reflects scenario thinking throughout the integration process, as demonstrated by the Amsterdam Treaty, the Nice Treaty and the Treaty Constitution. Even though the mechanism has never been utilized, the fact that it has been granted treaty basis should not be ignored. The sole purpose of the research is to emphasize that enhanced cooperation is an alternative integration approach, which allows the avant-garde to move forward a step ahead than others. By comparing the EU and the ASEAN regarding enhanced cooperation, we learn that the concept is not reflected in the same manner as shown by Table 2. The paper does not suggest that the EU and ASEAN are of the same nature, as some may question the purpose of comparing the two. Rather, it is scenario thinking on how to strengthen cooperation being compared between the two regional organizations. Third, is enhanced cooperation the final outcome of the EU integration? The analysis reveals that this hypothesis is not valid. One should not identify enhanced cooperation as the ultimate outcome of the EU integration. Rather, it should be regarded as a way out to prevent integration from pacing down. Fourth, as both the EU and the ASEAN are expanding, there will be different voices and disputes, the question will often rise: "should we stop or should we go further?" Both regional organizations will see the need to search for alternative approaches to reinforce integration under their own institutional frameworks. Scenario thinking such as enhanced cooperation will be taken into account during the integration process. That's the purpose of bringing in the topic for discussion.

Table 1 From Diversity to Enhanced Cooperation on Treaty Basis

The Treaties	Institutional Evolution of Enhanced Cooperation
Paris Treaty (1951) Rome Treaty (1957)	<ul style="list-style-type: none"> ● <u>Contribution</u>: ECSC, EEC and EURATOM demonstrated institutionalized sectoral Integration. ● <u>Challenge</u>: Political cooperation appeared infeasible
Merger Treaty (1965)	<ul style="list-style-type: none"> ● <u>Contribution</u>: The European Community (EC) was established; regional integration was institutionalized, meaning on treaty basis ● <u>Challenge</u>: Community method applied mainly to socio-economic issues
SEA (1986)	<ul style="list-style-type: none"> ● <u>Contribution</u>: Proposed a consolidated single market and further integration in other areas¹⁸. ● <u>Challenge</u>: The major concern was more on the internal market than political cooperation
Maastricht Treaty (1992)	<ul style="list-style-type: none"> ● <u>Contribution</u>: Introduced coexistence of both Community method and intergovernmental mechanism under the EU framework. Diversity was institutionalized¹⁹ ● <u>Challenge</u>: Political cooperation was still dominated by the member states
Amsterdam Treaty (1997)	<ul style="list-style-type: none"> ● <u>Contribution</u>: Introduced closer cooperation (Title VII, Art 43-45) and applied it to part of Judicial and Home Affairs.²⁰ ● <u>Challenge</u>: Closer cooperation in CFSP needed to be strengthened.
Nice Treaty (2001)	<ul style="list-style-type: none"> ● <u>Contribution</u>: Renamed closer cooperation into enhanced cooperation. Renamed JHA into Judicial and Police Cooperation. Allowed more application of enhanced cooperation in partial CFSP for common position. (Art. 27b) ● <u>Challenge</u>: Institutional deepening was limited; complicated decision-making system
Treaty- Constitution (2004)	<ul style="list-style-type: none"> ● <u>Contribution</u>: Applied enhanced cooperation to defence. (Art III 416-423)²¹. ● <u>Challenge</u>: Communication deficit between the EU and the citizens. The French and the Dutch rejected it.

¹⁸ Desmond Dinan, *Europe Recast*, Palgrave, 2004, p.207.

¹⁹ Ibid, pp.251-257.

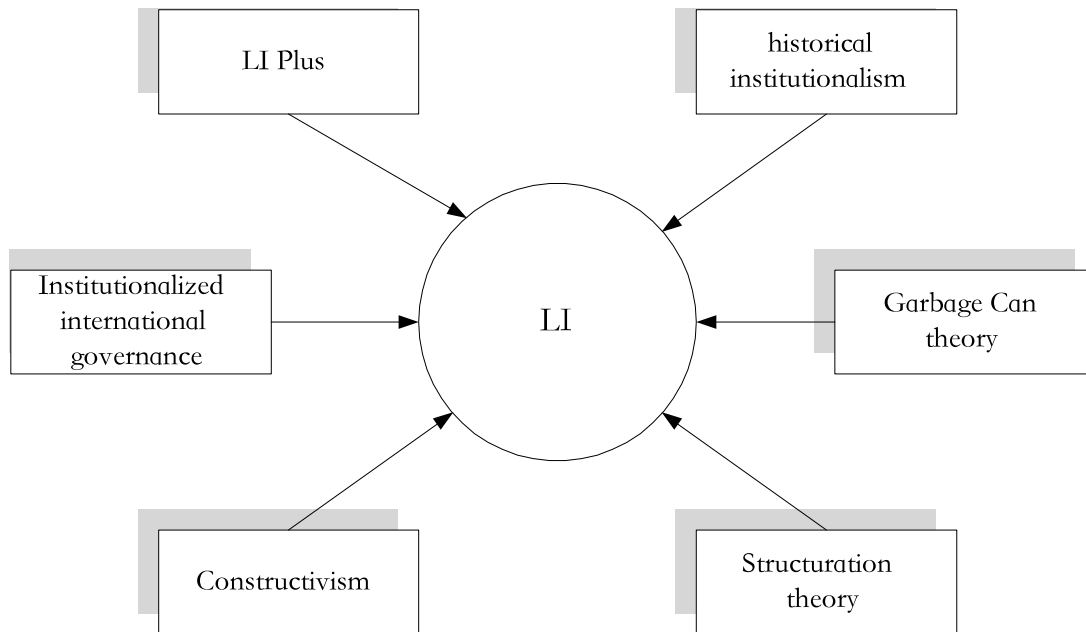
²⁰ Eric Philippart & Geoffrey Edwards, "The Provisions on Closer Co-operation in the Treaty of Amsterdam: The Politics of Flexibility in the European Union," *Journal of Common Market Studies*, Vol. 37, No.1, 1999, pp.92-93; Article 43 (ex Art. K.15), 44 (ex. K.16), 45 (ex. K. 17) of Title VII (ex Title V) *Provisions on Closer Cooperation, the Treaty of Amsterdam*, 1999.

²¹ Jens-Peter Bonde Ed., *The Constitution—The Reader-Friendly Edition*, 2005. pp.206-208.

Table 2. Comparing Institutional Development between the EU and the ASEAN

EU	ASEAN
Endogeneous/inward approach	Exogeneous/ outward approach
Economic to political cooperation	Political to economic cooperation
preventative	Reactive
Soft liner approach	Hard liner approach/coercive
Decentralization/ Network oriented	Centralization oriented
Transparency	Closed regime
Openness to all	In-group & out-group distinction
Institutionalized diversity	Homogeneous
Differentiated integration	Less differentiated integration

Figure 1 Hub-like Enhanced Cooperation Structure Based on Liberal Intergovernmentalism.



Bibliography

Bendor, Jonathan. 2001. "Recycling the Garbage Can: An Assessment of the Research Program", *American Political Science Review*, 95 (1): 169-90.

Bonde, Jens-Peter Ed., 2005, *The Constitution—The Reader-Friendly Edition*: 39-9; 206-8

Burgess Michael. 2002. "Federalism", in Antje Wiener and Thomas Diez, ed., *European Integration Theory*, Oxford: 30-55.

Checkel, J.T. 1999. "Social Construction and Integration," *Journal of European Public Policy* 6 (4): 545-60.

Chrysochoou, Dimitris N. 1999. *Theory and Reform in the European Union*. New York: Manchester University Press.

Cohen, Ira J. 1989. *Structuration Theory*. Houndmills: Macmillan.

Dinan, Desmond. 2004. *Europe Recast*, Palgrave: Macmillan.

Dinan, Desmond. 2006. *Origins and Evolution of the European Union*. Oxford.

European Commission, *Summary of the Agreement on the Constitutional Treaty*, June 28, 2004.

Friedrich, Carl J. 1968. *Trends of Federalism in Theory and Practice*. New York.

Gstoehl, Sieglinde. 2000. *The State of the European Union: Risks, Reform, Resistance, and Revival*. New York: Oxford University Press.

Haas, E. 1958. *The Uniting of Europe*. Stanford University Press.

Hew Denis and Hadi Soesastro. 2003. "Realizing the ASEAN Economic Community by 2020," *ASEAN Economic Bulletin* 20 (3): 292-96.

Hix, Simon. 1994. "The Study of European Community: The Challenge to Comparative Politics," *West European Politics* 17(1): 2-23.

Horeth, Marcus. 1997. "No Way Out for the Beast? The Unsolved Legitimacy Problem of European Governance" *Journal of European Public Policy* 6 (2): 187-259.

Hund, Markus. 2002. "From 'Neighborhood Watch Group' to Community: The Case of ASEAN Institutions and the Pooling of Sovereignty," *Australian Journal of International Affairs* 56 (1): 99-122.

Kerreman, Bart ed., 2000. *Political Importance of Regional Trading Blocs*. Ashgate.

King, Gary, Keohane and Sidney Verba. 1994. *Designing Social Inquiry: Scientific Inference in Qualitative Research*. Princeton: Princeton University Press.

Koehane, Robert and Stanley Hoffmann ed. 1991. *The New European Community: Decision-Making and Institutional Change*, Oxford: Westview Press.

Mitrany David. 1996. *A Working Peace System: An Argument for the Functional Development of International Organization*, Chicago: Quadrangle Books.

Moravcsik, Andrew. 1991. "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community," *International Organization* 45: 33-40.

Moravcsik, Andrew. 1993. "Preferences and Power in the European Community: A liberal Intergovernmental Approach," *Journal of Common Market Studies* 31: 473-90.

Moravcsik, Andrew. 1996. "In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union", *Journal of Common Market Studies* 40 (4): 550-616.

Nugent, Neill. 2003. *The Government and Politics of the European Union*. Palgrave: Macmillan.

Peterson, J. 1995. "Decision-Making in the European Union: Toward a Framework for Analysis," *Journal of European Public Policy* 2 (1): 69-93.

Peterson, John and Elizabeth Bomberg. 1999. *Decision-Making in the European Union*. Macmillan.

Philippart, Eric and Geoffrey Edwards. 1999. "The Provisions on Closer Co-operation in the Treaty of Amsterdam: The Politics of Flexibility in the European Union," *Journal of Common Market Studies* 37 (1): 87-105.

Pierson, Paul. 1996. "The Path to European Integration: A Historical Institutional Analysis," *Comparative Political Studies*, 29: 123-163.

Quan Li. 2000. "Institutional rules of Regional Trade Blocs and their Impact on Trade" in Bart Kerreman ed, *Political Importance of Regional Trading Blocs*. Ashgate: 106-40.

Rosamond, Ben. 2000. *Theories of European Integration*. London: Macmillan.

Ruggie, J. 1993. "Territoriality and Beyond: Problematizing Modernity in International Relations," *International Organization* 47 (1): 35-50.

Schmitter, P. 2000. *How to Democratize the EU And Why Bother?* Lanham, MD: Rowman and Littlefield.

Severino. 1999. "The ASEAN Way in Manila," *Far Eastern Economic Review*. Vol.3, pp.23-45.

Soesastro, Hadi. 2003. "ASEAN: Regional Economic Cooperation and Its Institutionalization," *CSIS Working Paper Series WPE 071*.

Stubb, Alexander. 1996. "A Categorization of Differentiated Integration," *Journal of Common Market Studies* 34 (2): 280-310.

Stubb, Alexander. 2002. *Negotiating Flexibility in the EU - Amsterdam, Nice and Beyond*. Palgrave: Macmillan.

Stubbs, Richard. 2000. "Signing on to Liberalization: AFTA and the Politics of Regional Economic Cooperation," *The Pacific Review* 13 (2): 297-318.

Switky, Bob. 2000. "The Importance of Trading Bloc: Theoretical Foundations" in Bart Kerreman ed, *Political Importance of Regional Trading Blocs*. Ashgate: 40-65.

Wallace, Helen and W. Wallace. 2000. *Policy-Making in the European Union* 4th Edition. Oxford.

Wallace, Wallace. 1996. *Government Without Statehood; The Unstable Equilibrium-- Policy Making in the European Union*. Oxford: Oxford University Press.

Wessels, Wolfgang. 1998. *The European Union Beyond Amsterdam*. London: Routledge.

Wiener, Antje and Thomas Diez. 2002. *European Integration Theory*. Oxford.

Zwaan, J. and M. Vrouenraets. 1998. "The Future of the Third Pillar: An Evaluation of the Treaty of Amsterdam", in T. Heukels, N. Blokker and M. Brus ed., *The European Union after Amsterdam: A Legal Analysis*, The Hague: Kluwer Law International.