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Differentiated Integration and the Nordic States: the Case of Norway

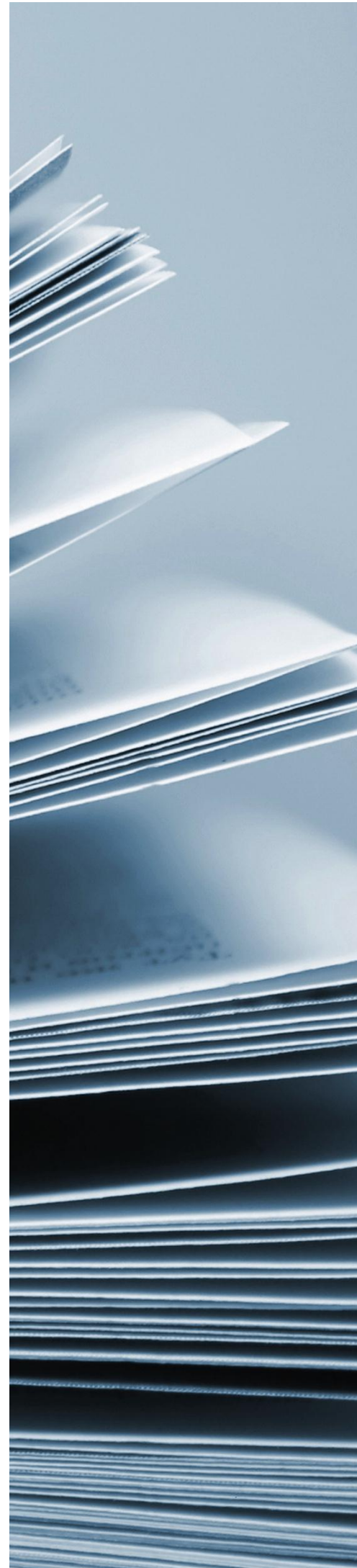
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Benjamin Leruth



Differentiated Integration and the Nordic States: the Case of Norway

Benjamin Leruth, University of Edinburgh / ARENA Centre for European Studies

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Abstract

Since the early 1990s, the relationship between Norway and the European Union [EU] became increasingly complex and accounts for about three quarters of the European legislation. Despite the outcome of the 1994 referendum on EU membership, the various Norwegian governments progressively decided to keep on deepening their cooperation with Brussels. The main objectives of this paper are to describe this complex Norway-EU relationship, how it evolved since the early 1990s, and how it constitutes a relevant example of both internal and external differentiated integration. An overview of the different types of differentiated integration and the evolution of its categorisation are firstly given. The range of agreements between Norway and the EU is analysed per policy areas. In order to explain why Norwegian governments adopted specific positions regarding European integration since the early 1990s, some explanatory factors are then briefly outlined. Finally, it is concluded that as full EU membership does not seem to be a politically viable option in Norway for the past decades, differentiated integration is likely to remain central in the long run.

Studies on regionalism tend to focus on explaining why states seek membership within a regional organisation (see e.g. Baldwin 1994; Laursen 2003). In the case of European Union [EU] *integration*, several competing theories have been put forward to explain the position of national political elites. Until recently, however, the literature on EU integration has mostly emphasised elite views on enlargement (see, inter alia, Schimmelfennig and Sedelmeier, 2005). But the diverse responses regarding agreements between states and the European Union which occurred in the 1990s has made the membership / non-membership dichotomy obsolete for fully understanding the relationship between states and the EU.

Accordingly, there seems to be a lack of analysis on other forms of European integration, which are covered by the notion of “differentiated integration” (Holzinger and Schimmelfennig, 2012) and the authors further state that “empirical analysis has been limited to a few important cases of treaty law (such as the [Economic and Monetary Union] and Schengen), but there are no comprehensive data sets” (p. 293). An explanation for this gap in the literature is the fact that until the early 1990s and the ratification of the Maastricht Treaty, discussions on differentiated

integration were limited, despite the fact that Jean Monnet himself reflected on this idea (Stubb, 1996).

The Nordic states (Denmark, Finland, Iceland, Norway and Sweden) constitute illuminating examples for the study of differentiated integration, as their party systems are considered to be made up of a relatively homogenous political block, the so-called 'Nordic political model' (Hilson, 2008) or 'Nordic Model of Government' (Arter, 2006; 2008), but nevertheless each Nordic state decided to change its relations and relationships with the EU institutions at a different pace. There is thus a strong divergence in terms of the 'differentiated integration' advocated by the different Nordic governments. At the time of writing, three of the five states are members of the EU: while Finland (which joined in 1995) is considered as being close to the core of EU activity (Mouritzen and Wivel, 2005), Sweden (1995), on the other hand, is considered an "Euro-outsider" (Lindahl and Naurin, 2005) whereas Denmark (1973) has opted out of three core EU policies (Economic and Monetary Union [EMU], Common Foreign and Security Policy [CFSP], as well as Justice and Home Affairs [JHA]) through the Edinburgh Agreement, having operated one of the most visible and institutional forms of differentiation in the European Union (Miles, 2010). The two remaining states - Iceland and Norway - are part of the European Economic Area [EEA] and the Schengen area but currently remain outside of the European Union. However, following the 2008 financial crisis, Iceland applied for EU membership for the first time in its history. Since December 2012, negotiations between the Icelandic authorities and the European Union are de facto put on ice. Norway, however, has no current prospect of joining the European 'club', despite four previous applications and various (in)formal agreements with Brussels. As emphasised by Egeberg and Trondal (1999, p. 134), Norway may be "even more sectorally penetrated or harmonized" than other EU members as far as policy harmonization is concerned, meaning that non-membership may still involve a great deal of integration. Rieker (2006, p. 284) even views Norway as a "class B member of the EU – a country that is well integrated into most policy areas, but lacking real political influence".

Based on 20 in-depth interviews with Norwegian political elites and on official documents from political parties and governments from the early 1990s onwards, this paper examines Norway's agreements with the European Union and demonstrates why the Norwegian case is a good example illustrating differentiated integration. It is divided into four sections. The first one gives an overview of the different types of differentiated integration and the evolution of its categorisation. The second one, which constitutes the core of this article, analyses the relationship between Norway and the European Union, and maps the different types of agreements between the two parties. The third one briefly outlines factors that potentially shaped governmental

positions regarding European integration. Finally, in the fourth section, it is concluded that as full EU membership does not seem to be a politically viable option in Norway for the past decades, the use of differentiated integration is likely to remain central in the long run.

1. Categorising Differentiated Integration: from 30 models to the horizontal-vertical dichotomy

Alongside defining the notion itself, several attempts to offer a typology of differentiated integration were presented in the literature over the past twenty years. Stubb (1996) lists about 30 models and also classifies differentiated integration into three categories linked to general concepts of European integration: “time” (or “temporal differentiation”), with multi-speed Europe as main concept¹; “space” (or “territorial differentiation”), with “Variable Geometry Europe” as the main concept²; and “matter” (or “sectoral differentiation”), with “A La Carte Europe” as main concept³.

Holzinger and Schimmelfennig (2012) criticised this classification, underlining, *inter alia*, the fact that differentiation always has territorial and sectoral impacts, and that purely functional conceptions are not included in this categorisation. As an alternative to Stubb’s work, they offer a categorisation into six dimensions:

- Permanent v. temporary differentiation;
- Territorial v. purely functional differentiation;
- Differentiation across nation states v. multi-level differentiation;
- Differentiation takes place within the EU treaties v. outside the EU treaties;
- Decision-making at EU level v. at regime level (i.e. intergovernmental decisions);
- Only for member states v. also for non-member states/areas outside the EU territory.

The authors also underline that empirical examples can be found for almost all models, suggesting that “differentiated integration comes in an astonishing variety of forms and [...] the concepts of differentiated integration can and should be used systematically to describe these forms and their frequency” (ibid., p. 297). The categorisation offered by the authors provides a

¹ Stubb (1996, p. 285) defines this concept as a “mode of differentiated integration according to which the pursuit of common objectives is driven by a group of Member States which are both able and willing to go further, the underlying assumption being that the others will follow later”.

² “Mode of differentiated integration which admits to unattainable differences within the integrative structure by allowing permanent or irreversible separation between a hard core and lesser developed integrative units” (ibid.).

³ “Mode of differentiated integration whereby respective Member States are able to pick-and-choose, as from a menu, in which policy they would like to participate, whilst at the same time holding only to a minimum number of common objectives” (ibid.).

meticulous way of analysing differentiated integration, which reflects the complex reality of European integration, as shown in Table 1.

Table 1. Holzinger and Schimmelfennig's categorisation of differentiated integration

| Dimension | | | | | | | | | | |
|-----------|---------------------------------------|---|--------------------------|---------------------------------|---|--|-----------------------------|--|-------------------------------|------------|
| 1 | Temporary | | | Permanent | | | | | | |
| 2 | Territorial | | | | | | | | Functional | |
| 3 | Differentiation at nation-state level | | | | | | Multi-level differentiation | | | |
| 4 | Only inside EU treaties | | | | Also outside EU treaties | | | Only inside | Also outside EU treaties | |
| 5 | EU decision-making | | | | | Club decision-making (intergovernmental) | | | | |
| 6 | Only member states | | | Also non-members | Only members | Also non-member states | | Only members | Also jurisdictions outside EU | |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Models | Multiple Speed | Multiple Standards | Avantgarde Europe | Core Europe, Concentric Circles | Flexible integration | Variable Geometry | Europe à la carte | Optimal Level of Jurisdiction | Flexible Co-operation | FOCJ |
| Examples | Many in secondary law | In secondary law, e.g. environmental policy | EMU, basic rights charta | EMU, EEA, associated states | Enhanced co-operation, Bologna (at the start) | Schengen | Bologna | Competence allocation in Lisbon Treaty | EUREGIOS | No example |

The most recent attempt at categorising DI was made by Leuffen *et al* (2013), who also see the European Union as a system of differentiated integration, i.e. “one Europe with an organizational and member state core but with a level of centralization and territorial extension that vary by function” (p. 10). Basing their study on primary law, they start from the assumption that “the EU potentially covers the entire range of policies, but that each policy varies with regard to the level of centralization and the territorial extension” (p. 12). They determine that differentiated integration is composed of two main categories: the variation in the level of centralisation across policies (or “vertical differentiation”), and the variation in territorial extension across policies (or “horizontal differentiation”) ⁴. Furthermore, they classify horizontal differentiation into four sub-categories:

- 1) *No horizontal differentiation*: all EU rules apply uniformly to all EU member states. This was the case until the early 1990s, before differentiated integration was implemented through the Maastricht Treaty;
- 2) *External differentiation*: EU rules apply uniformly to all EU member states, but non-member states can also adopt these rules. The European Economic Area illustrates this type of horizontal differentiation: all EU member states are members of the EEA, such as three non-members, Iceland, Liechtenstein and Norway.
- 3) *Internal differentiation*: EU rules do not apply uniformly to all EU member states. For instance, this type of horizontal differentiation applies when EU member states decide to opt out from membership in a policy area. This is the case of Denmark (through the Edinburgh Agreement), the United Kingdom (who opted out from several policies through the Maastricht Treaty) and Sweden (who has not joined the EMU). Another example of internal differentiation is the enhanced cooperation procedure, introduced by the Treaty of Amsterdam and allowing at least one third of the EU member states to adopt a policy within the EU framework, without affecting states that are not willing to cooperate.
- 4) *Internal and external differentiation*: EU rules from which some EU member states opted out, while non-member states opted in. An example of internal and external differentiation is the Schengen agreement: while Ireland and the United Kingdom opted out from this policy, four non-EU members (Iceland, Liechtenstein, Norway and Switzerland) opted in.

In order to avoid semantic confusion and to understand differentiated integration within the context of this paper, Leuffen *et al*'s conceptualisation is retained. The emphasis is here put on horizontal differentiation. As Norway is a non-EU member who opted into several EU

⁴ While categorising the European Union as a “system of differentiated integration”, Leuffen *et al* (2013, p. 12) start from the assumption that “the EU potentially covers the entire range of policies, but that each policy varies with regard to the level of centralization and the territorial extension”.

policies, the relationship between this country and the European Union shows signs of both internal and external differentiation.

Figure 1. Types of horizontal differentiation over time⁵

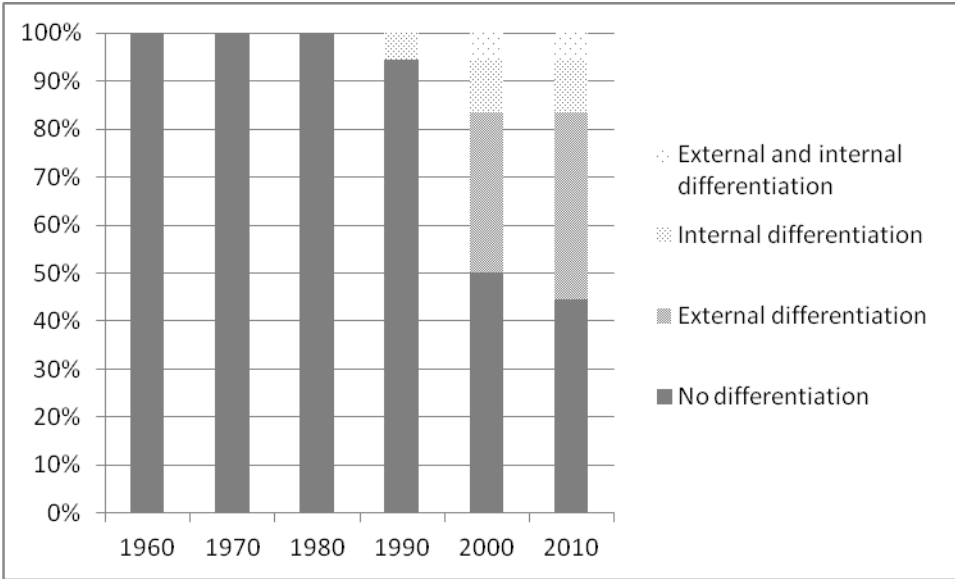


Figure 1 illustrates the evolution of horizontal differentiation over time. While member states uniformly applied EU rules until the 1980s, less than half of EU policies still show no signs of differentiation in 2010. One can observe a strong increase in external differentiation, which can mostly be explained by the fact that non-EU member states (including Norway) joined the Single Market in the early 1990s through the European Economic Area.

Now that differentiated integration has been contextualised within the framework of this paper, the following section will demonstrate how Norway is a relevant example of both internal and external differentiation.

2. Norway and the European Union: a complex relationship

The relationship between Norway and the European Union has constantly evolved over time, especially since the early 1990s. Associations between those two parties take place largely through the EEA agreement, which constitutes a meta-agreement between Norway, Iceland, Liechtenstein and the EU. This agreement covers about three quarters of the European legislation and grants parties access to the European Single Market. Egeberg and Trondal (1999, p. 134) even argue that “the non-member EEA countries are integrated to the same extent as full members are as far as policy harmonization is concerned”. However, the reality is more complex. Indeed, Norway cooperates with the European Union in many areas that are not covered by the EEA agreement. The aim of this section is to demonstrate Norway’s deep connection with the EU by analysing agreements that go beyond the EEA, from the early 1990s to 2011. A brief

⁵ Based on Leuffen *et al*, 2013. Analysis based on the 18 policy areas covered in European integration.

review of the European Economic Area is firstly given. In order to provide a better understanding of the situation, agreements that are not falling within the scope of the EEA are classified into five categories: the Economic and Monetary Union [EMU], Trade, Agriculture and Fisheries, Foreign and Security policies, and Justice and Home Affairs [JHA].

Figure 2. Map of the agreements between Norway and the European Union (in 2011)

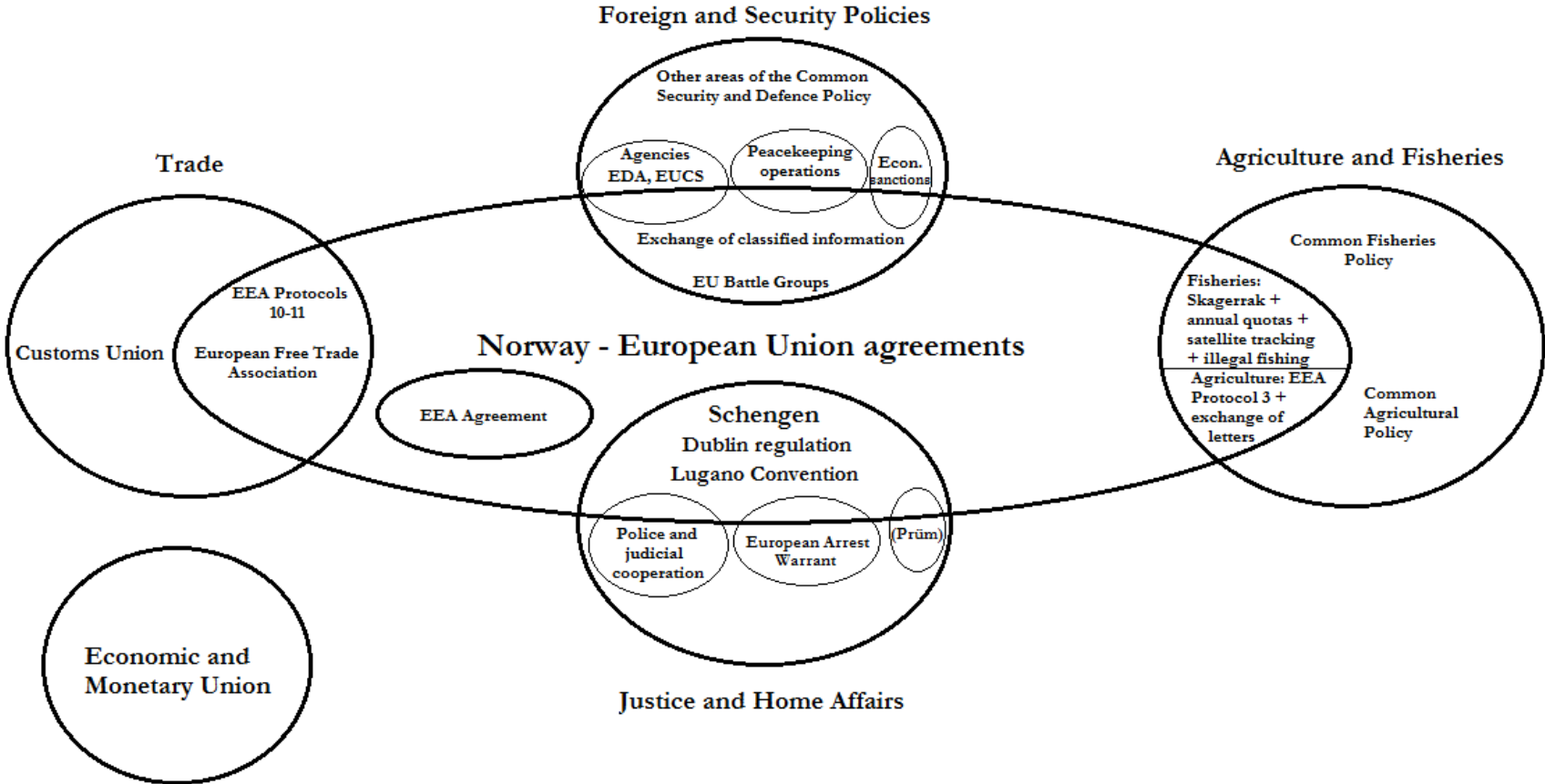


Figure 2 shows the complexity of the relationship Norway has with the EU outside the EEA agreement. While the EMU does not fall within the scope of any agreements, the Norwegian authorities decided to take part to other policies not covered within the scope of the EEA. These agreements are developed below.

2.1. The EEA agreement: a big step towards more integration

In April 1984, closer cooperation between the EFTA members and the European Economic Community [EEC] was set up with the Luxembourg Declaration (Lazowski, 2006). The notion of ‘Espace économique européen’ was discussed within the framework of this Declaration, building the premises of the future EEA. This project was characterised as “dynamic” and “homogeneous”, meaning that “the same legal rules should apply in all the participating countries and that the EES should develop in step with the Community” (Gstöhl, 2002, p. 149). The ratification of the Single European Act in 1986 pushed non-EEC countries for closer co-operation on economic issues.

On 17 January 1989, President of the European Commission Jacques Delors presented his work plan for the newly appointed Commission to the European Parliament, setting up the future of EFTA-EEC relations as one of the top priorities on the agenda (Lazowski, 2006). Delors’ goal, commonly known as the “1992 project”, was to extend the four freedoms (goods, services, capital and mobility) to EFTA Member States (Emerson *et al*, 2002). In other words, this would mean extending the Single European Market to EFTA members. This proposition was warmly welcomed by the EFTA countries and negotiations officially started on 20 June 1990 (Lazowski, 2006).

Negotiating the EEA was extremely difficult for the EFTA countries, as it meant giving up a bigger part of their sovereignty. However, after long discussions and tensions, the different parties accepted a final version of the EEA agreement in February 1992. In October, 130 MPs voted in favour and 35 against the agreement. Membership of the EEA was seen as a step closer to EC membership by the leading Labour Party, and had clear benefits for the country by opening up the EC market for its exports. Furthermore, as mentioned by Archer (2005, p. 57), “[i]t seems that the Labour leadership had originally hoped that the EEA would be brought from 1 January 1993 and, after a few years of ‘socialization’ in the single market the public would come more easily to accept full membership of [...] the EU”.

As mentioned above, the current EEA legislation covers about three quarters of the EU legislation. As of 2010, a total of 4182 legislative acts apply to Norway through the EEA, which demonstrates the complexity and the diversity of the agreement. However, several core policy

areas do not fall within the scope of the EEA agreement. The aim of the next sub-section is to analyse the relationship between Norway and the European Union in those specific areas.

2.2. Agreements in areas not included in the EEA

As shown in Figure 2, five policy areas fall outside the scope of the EEA agreement: Foreign and Security policies, Justice and Home Affairs, Trade, Agriculture and Fisheries, and the Economic and Monetary Union. In the case of former four areas, Norway has bilateral agreements with the European Union, which lead the country to be partially integrated in policies for which both parties have common objectives. The latter area, the EMU, is completely detached from the figure as Norway remains outside of the European Union. However, as Norway is a small open economy and 70 percent of its foreign trade is with members of the European Union, formal regular contacts exist between the European Central Bank and the Norwegian Central Bank (Norges Bank). These contacts are mostly arranged in order to ensure the macroeconomic stability and regulate inflation.

Foreign and Security policies

Norway's international cooperation in the field of security dates from the creation of NATO in 1949. In the early 1990s, the end of the Cold War and Norway's geographical position implied a redefinition of the international security policies for the country. While an Atlantic cooperation through NATO and close links with the United States were considered as the priorities in terms of foreign security policy, the emergence of a European Security and Defence Policy jeopardised the future role of NATO in Europe. Furthermore, since US commitment to the defence of Europe was questioned at the end of the Cold War, there were increasing concerns on being marginalised at the international level (Archer, 2005). As a result, Norway's political elites started to redefine their security policies and to progressively align themselves with the European Union. The first step towards integration in the European Security and Defence Policy took place in 1992, when Norway was invited to become an associate member of the Western European Union [WEU]. At that time, the relationship between the WEU and the upcoming European Union was still to be determined, but membership to this body was seen as a step in the right direction by Norwegian decision makers: this decreases the fear of marginalisation, without undermining Norway's top priority in terms of security (NATO) and without touching upon the sensitive issue of national sovereignty (Rieker, 2006). Furthermore, associate membership in the WEU allowed Norwegian authorities to represent their own interests in terms of security, as well as to have access to information on developments within the future CFSP. For all these reasons, Norway's relationship to the WEU was not contested by the most anti-EC parties represented in the Norwegian Parliament.

Studies on the EU referendum of November 1994 showed that security issues were considered as one of the most prevalent arguments for those who voted in favour of EU membership (Pettersen *et al*, 1996), but this did not constitute a decisive argument to tip the scales. However, following this rejection of EU membership, political elites kept on calling for closer cooperation with the EU in terms of security while retaining membership in the WEU as this institution was seen as a bridge between NATO and the EU. Accordingly, in 1995, Norway declared some of its forces available to the WEU for the Petersberg tasks, which cover various actions such as of crisis management, peacekeeping, humanitarian and rescue actions. Furthermore, cooperation between the WEU and NATO was extended in 1996: under the Berlin Agreement, NATO provided the creation of a “European Security and Defence Identity” within its structure, which is commonly seen as “NATO’s European Pillar” (Norges offentlige utredinger, 2012, p. 728).

In 1996-1997, further discussions on the integration of the WEU within the institutions of the European Union led to some controversy, as the Norwegian authorities wanted the WEU to remain independent in order to keep its role of bridge between the EU and NATO. It was finally decided to implement the Petersberg tasks within the Amsterdam Treaty, following an initiative from the Finnish and Swedish authorities. These tasks formed the basis of the Common Security and Defence Policy [CSDP], which replaced the former European Security and Defence Policy. Moreover, the Berlin Agreement was revised in 2002 under the name of “Berlin Plus”. Based on conclusions of NATO’s Washington summit in 1999, this new agreement clarified the relationship between NATO and the European Union, allowing the latter to draw on NATO owned military assets by engaging in crisis management and conducting its own peacekeeping operations (Reichard, 2006). As a result of those institutional changes, responsibilities and institutions of the WEU were progressively transferred to the European Union, eventually sweeping away the *raison d’être* of the Western European Union. In consequence, relations between Norway and the European Union in new policies covered by the CSDP had to be amended.

In 2001, Norway signed a bilateral agreement on support to the Council Joint Action 2001/555/CFSP⁶ on the establishment of a European Union Satellite Centre [EUSC] as an EU agency, replacing the former Western Union Satellite Centre. Norway is considered as a third state in the sense of Article 2.3 of the Joint Action, and is thus entitled to be involved in the Centre’s activities.

Through the Berlin Plus Agreement, the European Union is capable of conducting its own peacekeeping operations and crisis management policies, even if NATO refuses to act. As a

⁶ Amended by Council Joint Action 2006/998/CFSP.

NATO and WEU member (before its dissolution), Norway had the opportunity to take part to these policies and actions. The first EU-led military operation, named “Concordia”, took place in 2003 in the Former Yugoslav Republic of Macedonia and saw the involvement of Norwegian troops. One year later, the EU started the operation “Althea”, which took over NATO’s SFOR operation in Bosnia-Herzegovina, and in which Norway contributed until 2008. Following those two participations in EU peacekeeping operations, a general framework agreement was signed in 2004, which establishes criteria for future participation in military and civilian operations. The same year, Norway reinforced its cooperation with the EU by signing an agreement on security procedures for the exchange of classified information. In total, as of 2011, Norway took part to three military, seven civilians and two peace monitoring operations headed by the European Union (Norges offentlige utredinger, 2012).

The progressive implementation of the Common Security and Defence Policy in the European Union also implied a dilemma for the Norwegian authorities: should Norway fully take part to the CSDP, or should bilateral agreements on specific policies be the norm? The debate re-emerged when Norway was invited by the European Union to take part to the European Defence Agency [EDA]⁷. While the authorities showed strong interest in becoming a full member, “there was considerable disappointment when Norway failed to achieve full membership in the EU’s new defence agency” (Sjursen, 2012, p. 4). In 2006, as an alternative to full membership, Norway and the EDA concluded an Administrative Arrangement entailing Oslo to take part to some Agency’s activities and regimes, such as Research and Technology projects and the regime on Defence Procurement.

In 2005, the Norwegian authorities also voted in favour of full participation in EU Battle Groups, and more specifically in the Nordic Battle Group [NBG]. This agreement between Norway and the European Union stands out from the others as it gives Norway “the right” to participate. Furthermore, participation in the NBG was mostly seen as a step in the right direction by political elites, as it constitutes an important contribution to Nordic cooperation and is supported by the United Nations (Sjursen, 2012).

Finally, the last foreign and security policy in which Norway is involved deals with economic sanctions. Indeed, in recent years, Norway aligned itself on sanctions decided by the European Union, even though this issue was historically avoided by the Norwegian governments, which generally considered that sanctions must be based on the decisions of the Security Council of the United Nations (Norges offentlige utredinger, 2012). In 2001, the Storting voted in favour of the so-called “Sanction Act”, allowing Norway to align on economic sanctions against third-

⁷ The European Defence Agency was established by the Council Joint Action 2004/551/CFSP of 12 July 2004.

party States⁸. It was argued that this Act was a logical step towards more coherence with the CFSP. However, democratic concerns were raised in the Parliament, as economic sanctions decided by the European Union might not be officially translated in Norwegian (which is not an official language of the EU) and as this Act could avoid public debate that would normally precede adoption of such a decision. In response to those criticisms, the majority stated that the Sanction Act will not be used as a proxy law, except if emergency is needed in cases where the impact of the sanctions could be weakened over time. Since the adoption of this Act in 2001, Norway aligned itself on European decisions seven times: against Burma (2003), Belarus (2006), Iran (2007, sanctions expanded in 2011), Syria (2011, expanded in 2012) and Libya (2011).

Justice and Home Affairs

While foreign and security policies constitute a very complex area in terms of agreements between Norway and the European Union, the domain of Justice and Home Affairs also includes several sophisticated arrangements between the two parties. The biggest of these agreements is without any doubt the Schengen Agreement⁹.

Norwegian international cooperation in the area of Justice and Home Affairs dates from 1958, with the introduction of the Nordic Passport Union. Considered as the ancestor of the Schengen Area, this Union between Denmark (including the Faroe Islands), Finland, Iceland, Norway and Sweden removed internal border checks for citizens of these countries. In practice, this means that Nordic citizens can work and reside in any Nordic state without the need of a work and/or residence permit.

Shortly after the ratification of the EEA agreement, and following the rejection of EU membership via referendum in 1994, the Norwegian authorities (jointly with Iceland) expressed their willingness to join the Schengen area, which was implemented in 1985 and was going to be enlarged to the three Nordic EU member States in 1996 (Denmark and the new 1995 members, Finland and Sweden). The main reason raised by Norway and Iceland to join the Schengen area was that it would secure the future of Nordic cooperation (Archer, 2005). However, Norway and Iceland's non-membership in the European Union raised a legal issue, as Article 140(1) of the Schengen Convention stipulated that "[a]ny Member State of the European Communities may become a Party to this Convention". Following political pressure from Denmark, Finland and Sweden who wanted to secure the future of Nordic cooperation, this article was amended and a bilateral agreement was found between Iceland and Norway on the one hand, and the European

⁸ In 1997, provisions of the Amsterdam Treaty gave the opportunity to the EU to adopt economic sanctions against third-party States. These sanctions are binding to Member States. For more information on economic sanctions, see Smith, 2001.

⁹ It is important to remind that the Schengen Agreement was originally signed outside the EC legal framework. This agreement has been incorporated into European Union law under the Amsterdam Treaty (Leuffen *et al*, 2013)

authorities on the other hand. Norway and Iceland effectively opted into the Schengen agreement on 19 December 1996¹⁰, jointly with the three other Nordic states. In 1999 under the Amsterdam Treaty, Schengen became a full part of the EU legislation under the “JHA pillar”: this led to a renegotiation of the bilateral agreement for the two non-member states, which was ratified by both national parliaments in the course of 1999. Finally, on 25 March 2001, the five Nordic states began full participation in the Schengen scheme. Within the framework of the Schengen agreement, Norway also participates in components such as the Schengen Information System [SIS] and the FRONTEX agency.

The Schengen agreement is unique for Norway. Indeed, as a non-member of the European Union, the authorities do not have a say in the decision-making process of EU policies. However, under the Schengen Agreement, Norway and Iceland have access to EU decision-making structures and can influence decisions taken in this field. As explained by Archer (2005, p.187), “Norway is part of this system, with a voice but without a vote”.

Schengen does not constitute the only JHA policy in which Norway is fully integrated. Indeed, the position of Norwegian authorities on aspects related to freedom, security and justice are closely related, meaning that it was in the interest of Norway to extend its cooperation with the European Union in JHA policies that do not fall within the scopes of Schengen and of the EEA agreement.

Regarding police and judicial cooperation, Norway and the European Union signed a series of bilateral agreements on the recognition of several institutions. The first agreement deals with the European Police Office [EUROPOL], and was signed in 2001. Appearing under the Maastricht Treaty, EUROPOL became fully operational in 1999, and its main purpose is to fight against international organised crime. As EUROPOL is an EU agency, only member States of the European Union are formal members. However, in order to facilitate cooperation in the fight against organised crime, it seems logical to Norwegian authorities to sign a cooperation agreement on EUROPOL. The same happened in 2005 with the EU’s Judicial Cooperation Unit [EUROJUST], which is the EU agency established in 2002 and deals with judicial cooperation in criminal matters. The fields covered by EUROJUST are mostly the fight against terrorism and criminal organisations, crime in a broader sense, fraud, corruption, money laundering and environmental crime (Norges offentlige utredninger, 2012). Norway’s relation with EUROPOL and EUROJUST falls within the competence of the Ministry of Justice, and is formalised with the presence of permanent liaison officer and prosecutor in The Hague. Both EUROPOL and EUROJUST are considered as key agencies in the fight against international crime, and thus

¹⁰ Whilst the national parliaments still had to vote on their countries’ participation to Schengen.

Norwegian cooperation was broadly accepted by the various political parties represented in the Norwegian Parliament (Archer, 2005).

Norway also has an agreement with the European Union on police education. The European Police College [CEPOL], created in 2000 and established as an EU agency in 2005 by Council Decision 2005/681/JHA, aims at bringing together “senior police officers across Europe with the aim to encourage cross-border cooperation in the fight against crime and maintenance of public security and law and order” (CEPOL, 2012). The Norwegian Police Academy signed an agreement with CEPOL in 2006, and is considered as an associated member. In practice, this means that Norwegian police forces are allowed to take part to CEPOL courses, seminars and events (Norges offentlige utredinger, 2012).

Several EU conventions falling within the scope of Justice and Home Affairs were also signed by the Norwegian authorities: the Dublin convention (replaced by the Dublin regulation in 2003), the Lugano and the Prüm conventions. The Dublin convention came into force in 1997 and was ratified by Norway in 2001. The purpose covered by its extended version, the Dublin regulation signed in 2003, is to coordinate actions between States regarding applications for asylum seekers; the Lugano convention, implemented in Norwegian law in 2003 and 2009, deals with cooperation on judgements in civil and commercial matters; finally, the Prüm Convention (also named “Schengen III”) ratified in 2009 deals with the exchange of information between States to fight against terrorism. The latter Convention is the subject of a bilateral agreement signed in 2010 between Norway and the EU on certain provisions, but this agreement not yet entered into force by 2011.

In addition, Norway signed an agreement on the European Arrest Warrant [EAW]. This policy, which was signed in 2002 within the European Union following the terrorist attacks of New York in 2001, aimed at streamlining arrests and extraditions within the European Union. This framework replaced several provisions of the Schengen Convention. Whereas the Norwegian and Icelandic authorities considered that the EAW was a continuation of the Schengen agreements, the EU did not agree and negotiations on this issue started in 2002, to finally reach an agreement on the surrender procedure in 2006¹¹ (Norges offentlige utredinger, 2012). In other words, the EAW agreement is not fully implemented in Norway, but the country participates in its surrender procedure. However, it should be noted that Nordic States cooperate on this issue through the Nordic Arrest Warrant, which has been implemented in 2007.

As demonstrated in this sub-section, as it is the case regarding foreign and security policies, Norway and the European Union have a complex relationship within the area of Justice

¹¹ This agreement, however, was only ratified by the Norwegian Parliament in 2011.

and Home Affairs. Schengen constitute the biggest agreement in this field, especially since Norway takes part to the decision-making system. However, other agreements such as participation in EUROPOL and EUROJUST shall not be underestimated, as these demonstrate the willingness of both parties to cooperate on police and judicial grounds.

Trade

As a non-member state of the European Union, Norway does not take part to the Customs Union. However, Norway is involved in European customs cooperation within the framework of the EEA agreement, under Protocols 10 and 11 (Norges offentlige utredning, 2012). The reason why Customs Union was not included in the EEA agreement was that this notion was considered as controversial among several negotiating states. However, Norway has some agreements on trade with the European Union through EFTA.

The idea of creating a European Free Trade Association was suggested by Britain in July 1956 as part of the negotiations on future trade relations between Western European countries within the Organisation for European Economic Co-operation. The creation of a body less binding than the (then) European Economic Community was welcomed positively by the Nordic States (Ingebritsen, 1998). The Stockholm Convention, establishing EFTA, was signed in 1960 by seven countries¹², including Norway. The free trade association excluded agriculture and most of fisheries out of its competences, but included Norwegian mackerel (Archer, 2005). In 1972/1973, following the first enlargement of the EEC¹³ and the negative result of a referendum in Norway on EEC accession, negotiations started between the remaining EFTA countries and the members of the European Community, in order to strengthen the links between the two associations (Lazowski, 2006). Following these negotiations, a series of bilateral trade agreements between the remaining EFTA countries (including Norway) and the EEC came into force in 1973 (EFTA, 2010). These agreements, relatively similar in structure and contents, opened a new era in the relationship between the two associations by harmonising their trade relations in industrial and agricultural products.

In a nutshell, whereas the EEA agreement grants Norway an access to the European Single Market, the EFTA sets up rules for bilateral trade between the country and the European Union. Trade relations with third States is also set up by the EFTA Free Trade Relations.

Agriculture and fisheries

Those two domains constitute an important part of the European project, through the Common Agricultural Policy [CAP] and the Common Fisheries Policy [CFP]. Due to the

¹² The seven founding countries were : Britain, Sweden, Norway, Denmark, Austria, Switzerland and Portugal.

¹³ In 1972, Denmark, Britain and Ireland were able to join the EEC following a change in the French Presidency. For more information on the outcome of the Norwegian referendum, see Archer, 2005, pp. 45-47.

importance of agriculture and fisheries within national economies, these policies were not implemented within the EEA agreement¹⁴ nor within EFTA. However, several bilateral agreements were signed between Norway and the European Union. Regarding fisheries, the following agreements stand (Norges offentlige utredinger, 2012):

- The Skagerrak Agreement, initially signed by Norway, Denmark and Sweden in 1966 and regarding fishing quotas in the Skagerrak and Kattegak straits, has been taken over by the European Commission;
- Annual quotas agreements (“Agreed Minutes”) based on the bilateral agreement of 1980, dealing with common stocks in the North Sea, Norwegian fishing to the West of the British Isles, by Greenland and EU fishing in the Norwegian Economic Zone in the Barents Sea. Close cooperation on resource management has been gradually extended to new areas;
- Agreement signed in 2000 on mutual satellite tracking;
- Agreement signed in 2009 on illegal, unreported and unregulated fishing.

Regarding agricultural policies, in the absence of a free trade agreement, several bilateral agreements are signed by both parties. Furthermore, Article 19(2) of the Agreement on the European Economic Area stipulates that “[t]he Contracting Parties undertake to continue their efforts with a view to achieving progressive liberalization of agricultural trade”. In other words, the EEA agreement aims at creating an agricultural free trade area. In this direction, a bilateral agreement in the form of an exchange of letters on additional trade preferences in agricultural products came into force in 2011 (Norway mission to the EU, 2011). Furthermore, Protocol 3 of the EEA agreement¹⁵ regulates trade of processed agricultural products. To conclude, the domains of agriculture and fisheries mostly remain a national competence, but several trade agreements on specific (or regional) issues stand between Norway and the European Union.

As demonstrated in this section, Norway’s relation with the European Union is relatively complex. Besides being part of the EEA, Norway cooperates with the European Union in other key areas. A recent Norwegian report stated that Norway’s cooperation is more important than most citizens realise, and about three quarters of the European legislation has been implemented into national law as of 2011 (Norges offentlige utredinger, 2012). The non-member status of Norway means that they do not take part to the decision-making system (except in the case of Schengen, where the country has a ‘voice’ but no ‘vote’). Furthermore, within the framework of

¹⁴ However, it shall be noted that some provisions on veterinary and phytosanitary matters, presented in Annex 1 of the EEA agreement and implemented in 1998, regulate key factors in fisheries and agriculture.

¹⁵ This Protocol does not apply to Liechtenstein, but to Iceland and Norway.

the EEA but also of bilateral agreements, Norway participates in several EU programmes and agencies. In a nutshell, despite not being a member of the European Union, Norway collaborates very closely with the EU as they share common interests in several areas, and this collaboration progressively evolved through a very complex system of relations, as demonstrated in Figure 2. In some policy areas (such as Justice and Home Affairs for instance), Norway is even more integrated than some EU member states, which opted out of specific policies. This whole Norway-EU relationship thus contains aspects of both internal and external differentiated integration.

3. Why Differentiated Integration?

The relationship between Norway and the European Union as a case of differentiated integration is a direct consequence of the 1994 referendum results, when the Norwegian population rejected full membership with a majority of 52.2 per cent voting against. However, this referendum does not explain why the Norwegian governments opted for such a close cooperation with Brussels, especially after 1994.

Table 2. List of Norwegian cabinets and their attitude towards European integration, 1989-2012

| Dates | Cabinet | Party/Parties | Government's share of MPs | Attitude towards European integration, per policy areas | | | | | | |
|-----------------------------------|-----------------------|---|---------------------------|---|-----|------------|-----|----------|--------|-------|
| | | | | EU membership | EEA | CFSP/ CSDP | JHA | CAP/ CFP | EMU | Trade |
| 16 October 1989 – 3 November 1990 | Syse | Conservative Party Christian Democratic Party Centre Party | 37% | o | o | N/A | N/A | N/A | N/A | o |
| 3 November 1990 – 25 October 1996 | Brundtland III and IV | Labour Party | 38% (1990) 41% (1993) | ++ / o (post-referendum) | ++ | - | ++ | ++ / o | ++ / o | + |
| 25 October 1996 – 17 October 1997 | Jagland | Labour Party | 41% | o | ++ | - | ++ | ++ / o | ++ / o | + |
| 17 October 1997 – 17 March 2000 | Bondevik I | Christian Democratic Party Centre Party Liberal Party | 25% | -- | ++ | - | + | -- | -- | + |
| 17 March 2000 – 19 October 2001 | Stoltenberg I | Labour Party | 39% | - | ++ | - | ++ | - | - | + |
| 19 October 2001 – 17 October 2005 | Bondevik II | Conservative Party Christian Democratic Party Liberal Party | 37% | -- | ++ | + | ++ | -- | -- | + |
| 17 October 2005 – | Stoltenberg II | Labour Party Socialist Left Party Centre Party | 52% (2005) 50% (2009) | -- | ++ | + | ++ | -- | -- | + |

Table 2 summarises the composition of governments and their positions regarding several aspects of European integration from the early 1990s (when debates over the EU membership started) to 2013. This table shows some variations in governmental positions regarding European issues, especially on foreign and security policies; nevertheless, in other policy areas as well as on EU membership, there seems to be some consistency in governmental positions following the referendum held in 1994. Nevertheless, the Norwegian political landscape has been strongly affected by the membership issue. For instance, in the early 1990s, the right-wing Syse cabinet (consisting of a coalition between the pro-EU Conservative Party and the Eurosceptic Christian Democratic and Centre parties) collapsed following discussions over the EEA agreement. Whereas the Centre Party defended the right for Norway to be exempted from EC regulations in order to favour Norwegian investors over foreign businessmen, this was rejected by the European Commission on the grounds that it would undermine the basis of the Single Market. As outlined by Archer (2005, p. 56): “[f]or the Centre Party, a foreign take-over of Norwegian resources was also unacceptable and a betrayal of national policies going back to the early days of independence”. The party then resigned from the government, which then fell from office. Since then and especially following the 1994 referendum, many governmental agreements included a ‘suicide clause’ or ‘gag rules’ over the issue of EU membership (Fossum, 2010) in order to avoid such scenario to happen again. It can thus be argued that these clauses aim to improve government stability.

This section briefly examines potential reasons that shaped governmental positions on *differentiated* European integration. Four variables have been selected within the framework of this paper: Nordic cooperation; corporatism; the composition of the Parliament; and the composition and type of government. Whereas some of those reasons have already been outlined in the literature, some others deserve more attention and could lead to further studies.

Nordic cooperation: On many occasions, it has been proven that Nordic cooperation affects governmental positions on European integration. This is particularly the case in policies related to the fields of Justice and Home Affairs (Schengen) and defence (Nordic Battle Group): governmental positions on these policies were mostly driven by Norway’s relationship with its Nordic neighbours. This was also the case when the state applied for membership, following the examples of Sweden and Finland in order to avoid being “left behind” in the EEA agreement. Moreover, Nordic collaboration has been stated in all government declarations and constitutes the main priority of all parties in terms of international agreements, except in the case of the Conservative Party (Høyre), which prefers European integration above regional cooperation.

The importance of corporatism: According to Ingebritsen (1998, p. 10), a sectoral approach illustrates “how and why European integration mattered differently to each of the Nordic States”: for instance, Sweden joined the European Union because the capital-intensive manufacturing sector lobbied in favour of EU membership, while Norway did not join because its agriculture and fisheries would have been threatened by such a membership, and the oil sector guarantees Norway a future outside the EU. This sectoral analysis points up interesting insights in order to explain differentiated integration and variation in the Nordic states. However, several criticisms have been presented, inter alia, by Gstöhl (2005, p. 38), according to who “in Norway [...] the interests tied to the most important industry, oil and gas, were inconsequential in the membership issue, while marginal sectors such as fishing and farming mattered”. Besides the issue of membership, it can be expected that economic sectors lobby to shape the relationship between Norway and the European Union in specific policy fields, such as agriculture and fisheries.

The composition of the Parliament: In a country with a strong tradition of minority governments, the composition of the Norwegian Parliament affects governmental positions on European integration. Indeed, a government that is not sure of having enough support over a splitting EU-related issue might avoid putting this issue on top of the agenda. This was demonstrated on two occasions: under Bondevik I, when the new coalition was mostly opposed to the Schengen agreement but acknowledged that a majority of MPs voted in favour during the previous legislature; and under Stoltenberg I, when tentative attempts were made by the Labour Party to reactivate the membership issue. To a smaller extent as their build-up took many years, the vote over the EEA agreement and discussions over participation in the EU Battle Group also confirm this trend. Accordingly, the role of the Storting in shaping governmental positions regarding European integration cannot be underestimated.

The composition and type of the government: Norway experienced three different types of government throughout the period analysed: minority one-party government; minority coalition government; and majority coalition government (see Table 2). Under the three Labour-led minority one-party cabinets, the governmental position mostly reflected the party’s views towards European integration: pro-membership (Brundtland III and IV) and, following the outcome of the 1994 referendum, pro-integration through existing agreements and negotiations over closer cooperation in the field of foreign and security policy (Jagland and Stoltenberg I). The minority coalition governments (Syse, Bondevik I and II), similarly to the only majority coalition government (Stoltenberg II), took milder positions towards European integration, due to strong opposing views between parties within the coalitions. In those cases, either the government opted for a status quo, basing Norway’s relationship with the EU on existing agreements

(Bondevik II and Stoltenberg II), or the parties agreed to disagree, putting the *raison d'être* of the coalition at risk. This is, to some extent, a direct consequence of the consensual nature of Norwegian politics.

4. Conclusions

This paper demonstrated Norway's strong ties with the European Union, despite not being a member. The range of agreements between both parties covers almost each policy areas, besides the Economic and Monetary Union, as outlined in Figure 2. By describing these agreements and the evolution of the Norway-EU relationship, this paper also showed how this relationship constitutes a relevant example of both internal and external differentiation. Furthermore, it offered a brief description of several variables potentially shaping governmental positions regarding European integration.

While the current range of agreements between Norway and the European Union cover about 75 per cent of the whole EU legislation and offered the opportunity for Norwegian governments to join policy areas of their choice, this particular case of differentiated integration raises some major concerns, especially in terms of democratic accountability. Indeed, Norway does not have a say in the European decision-making process, and this type of agreement has been nicknamed 'fax democracy' by Norwegian civil servants (Eliassen and Sitter, 2003). The current situation as well as the evolution of the relationship with the European Union since 1994 did not lead to major divisions within government coalitions, even despite the presence of two Eurosceptic parties in the current government coalition. As EU membership became a non-issue since 1994 within government coalitions and as such alternative has been rather unpopular for the past decades, it can be argued that Norway's relationship with the European Union is not seen as a temporary solution; nevertheless, this does not mean that future Norwegian governments will not try to deepen this relationship and seek new bilateral agreements which might serve national interests, similarly to other non-member states (e.g. Switzerland).

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