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From Union to Constitution?
Debating the Future of the EU

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Debating the Future of the European Union: From Laeken to IGC 2004[1]

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Abstract

The decision in Nice to convene a new Intergovernmental Conference (IGC) in 2004 continues the European Union's (EU) process of 'permanent revolution'. Yet the contemporary debate on the future of the EU appears particularly important, as the EU stands confronted by the challenges of enlargement, globalisation and an increasingly sceptical public. However, tackling as it does issues related to objectives, competences, democracy and efficiency, simplification and strengthening, the so-called Convention established by the Laeken European Council in December 2001 is a radically different way of preparing treaty change. The author argues that the outcome will be neither an intergovernmental 'backlash' nor a push towards federal union, but rather a continued faith in the kind of incrementalism embodied by the tried and tested 'community method'.

Introduction

The European Union (EU) is one of the most remarkable innovations in modern world politics. The EU is involved in a range of policy areas - including the free movement of goods, services, capital and people; agriculture; environment; international trade; foreign and security policy; and justice and home affairs - to

name just a few. EU rules have an impact on most aspects of European political life: from the common currency (the euro) used by twelve of its fifteen member states, to the harmonisation of the odometers of two to three wheeled motor vehicles. Around 50 percent of all legislation which is approved in national parliaments is directly linked to European law. In the European Commission, the European Parliament, the Council of Ministers and the European Court of Justice (ECJ), the EU has strong supranational institutions with legislative, executive and judicial powers.

The past three decades have witnessed major changes in the membership of the European Community (EC). Four enlargements from 1973 to 1995 have increased the membership of the Community from six to fifteen. Thirteen more candidates are knocking on the EU door. By 2010 the EU might have up to 30 Member States. Far-reaching policy changes in four Intergovernmental Conferences (IGCs) from 1985 to 2000 have transformed the Community into the European Union, moving from a free trade area and customs union to a fully integrated single market on the way to achieving full Economic and Monetary Union (EMU) and a potentially robust foreign policy.

Accompanying these institutional and policy reforms has been an ongoing debate about the challenge of further integration and enlargement in an increasingly heterogeneous EU. In the acrimonious Nice negotiations in December 2000 the heads of state and government agreed that the next treaty change will take place in 2004. The roadmap for change was set out in the European Council of Laeken in December 2001. This article addresses three questions relating to the debate on the future of the European Union:

> *(1) Why are we debating the future of the EU?*
> *(2) Which questions should be tackled?*
> *(3) What can we expect from IGC 2004?*

1. Why Are We Debating the Future of the EU?

A Constant Process of Change
The European Union is in a constant process of change. For nearly two decades the Union has been either preparing, negotiating or ratifying a new treaty. In many ways the pace of change has been overwhelming. In fifteen years the EU has modified its basic treaties four times. The next treaty change is already in the

pipeline. No Western nation state has made four major changes to its constitu-
tion, including hundreds of amendments, within the span of fifteen years. By
way of comparison the US Constitution has been subject to less than thirty
amendments over 200 years.

The process of IGCs has become institutionalised. The Single European Act
established the foundations for the internal market. The Maastricht Treaty
brought with it Economic and Monetary Union (EMU), a Common Foreign and
Security Policy (CFSP) and co-operation in Justice and Home Affairs (JHA). The
Treaty of Amsterdam incorporated a range of new policies into the treaty and
transferred areas of justice and home affairs to the Community arena. However,
it proved unable to reach agreement on its original objective - the institutional
changes required for enlargement. The latest revision, the Nice Treaty, attempt-
ed to address this deficiency. Success was limited.

The Nice and Amsterdam treaties are symptoms of a broader problem. Whilst
the EU has taken on more member states and policy tasks, institutional devel-
opment has not followed. The key institutions and the decision-making structure
of the EU were originally created for six member states. The system has been
modified in subsequent IGCs, through for example an increase in the use of
qualified majority voting and the co-decision procedure with the European
Parliament. But it is questionable whether the changes are enough to take on
board ten or more new member states.

Debating the Future
In the past year and a half debating the future of the Union has become a pop-
ular sport among the political leaders of the EU. Kicked off by German Foreign
Minister Joschka Fischer in May 2000, virtually all heads of state and govern-
ment, of both member and candidate states, have outlined their visions for the
future of the EU.[3] In many ways it is a bit of a 'fig leaf' debate. Whenever the
member states do not want to talk about improvements which could be done
without treaty change, the debate turns to futuristic visions. Ironically Fischer's
call for a federation came in the midst of the Nice negotiations in which
Germany did not belong to the camp of states calling for radical reform.

The debate on the future of the Union is a legacy of the Nice Treaty. Keeping to
the IGC tradition of 'I'll quit smoking tomorrow' the heads of state and govern-
ment decided to convene a new IGC in 2004 to deal with the constitutional

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3   For references to contributions on the future of the EU see www.europa.eu.int/futurum.

issues which were not on the Nice agenda. According to the Nice Treaty IGC 2004 should deal with, among others:

(1) Legally binding fundamental rights
(2) Simplification of the treaties
(3) The role of national parliaments
(4) The delimitation of competences.

These issues might not sound very 'sexy', but they touch the very core of European integration. As will be highlighted in section two, these questions raise a multitude of sub-questions about the very nature of the European project. Should the EU, for example, have a constitution? If yes, what kind of constitution?

It Is Not a Debate Just for the Sake of Debating

The debate on the future of the EU is not an end in itself, nor is it simply the hobby of 'institutional junkies' involved in IGCs. The debate leading to IGC 2004 is important for at least three reasons:

(1) Enlargement
(2) Public opinion
(3) Globalisation.

Virtually no one has been able to grasp the quantitative and qualitative difference of the next round of enlargement. In the coming years the membership of the European Union will increase from fifteen to twenty-eight or perhaps more. The previous four enlargements have taken place in small steps, ranging from one to three new members at a time. The total of nine new members in fifty years should be seen against the potential prospect of ten new members in one 'big bang'. On a practical level one only has to imagine a Council meeting of twenty-five states, where each delegation takes five minutes to thank the Presidency for organizing the meeting and providing a document which can be considered a good basis for further work. The first round of banalities will not be finished before lunch.

Another important reason for debating the future is public scepticism in the European project. The member states of the Union decide collectively on issues which were traditionally in the national or regional domain. This combined with an increasingly complex decision-making structure has lead to general

disillusionment. Over the past year public opinion has taken a more violent form, the European Council of Göteborg being only one example. Paradoxically the EU is asked to increase its efforts in for example security and stability, whilst at the same time there is reluctance to transfer more competence to the supranational level.

The third reason for debating the future is globalisation. The paradox here is that some see the European Union as the solution to globalisation and others see it as the cause of it. Whichever approach is adopted the fundamental question is about the EU's role in the world. Will the EU ever be able to show leadership akin to that of the United States? Or will the EU continue as an economic giant and a political dwarf? Will the Union be able to have a common foreign and security policy? Or will EU foreign policy always be the sum of the different foreign policies of its member states?

2. Which Questions Should Be Tackled?

The Convention
In the European Council of Laeken (Brussels) on 14 December the heads of state and government agreed on a declaration on the future of the EU. The Laeken Declaration sets out the challenges of the EU, the mandate and working methods of the so-called Convention. The next Intergovernmental Conference will be prepared by a Convention, a body composed of representatives from the national governments, the national parliaments, the European Parliament and the Commission. In addition there will be a public forum (structured network) of civil society following and contributing to the debate.

The Convention is a radically different way of preparing treaty change. Previously the preparations have been made by a 'Group of Wise Men' or a 'Reflection Group', the former usually representative of the nostalgic visions of former (old) statesmen, and the latter only a mask for the beginning of the actual IGC negotiations. This 'top-down' approach has been changed to the 'bottom-up' approach of a Convention in which all the meetings are held in public, a refreshing change to the traditional negotiations behind closed doors.

At this stage in the debate it seems more important to pose the right questions, than to provide the answers. It is up to the Convention to start tackling the various issues on the table. At least five key, albeit very broad, questions can be

identified. The answers will depend on both practical and ideological approaches:

> *(1) What are the objectives of the EU?*
> *(2) What are the competences of the EU?*
> *(3) How can the EU be made more democratic and efficient?*
> *(4) How can the instruments of the EU be simplified?*
> *(5) How can the EU be strengthened both internally and externally?*

Objectives

The basic objectives of the EU – peace, prosperity, security and stability – have not changed over the years. They will remain the *raison d'être* of European integration, but should the EU have other objectives? Should it define a *finalité* (an end state) or should the EU continue on its path of step-by-step integration towards 'an ever closer Union', without a clear aim? Objectives are also linked to the basic nature of the Union. Should the EU be intergovernmental, federal or based on the community method (see below)?

Competences

The question of the delimitation of competences has been raised mainly by the German *Länder*, in an attempt to safeguard some of their basic competences against the German central government and the EU. Traditionally it has been argued that there are three categories of competences between the EU and its member states:

> *(1) Exclusive competence of the EU (for example trade and competition)*
> *(2) Mixed competence between the EU and the member states (for example environment)*
> *(3) Member state competence (for example harmonisation of education and culture).*

Reality is much more complex. Education is mainly in the national domain, yet the most successful EU programmes - *Socrates* and *Erasmus* – are important education policy on the EU level. At this stage it seems clear that there will not be a so-called catalogue of competences as a result of the next IGC. There might be a clearer understanding of who does what, but to expect that the competences can be set in stone is to misunderstand the flexible dynamics of the European project. In any case a division of competences between the EU and its member states is rather artificial because it is the member states that decide

which competences the EU should have anyway. The dynamic of the system is, however, guaranteed by the often progressive interpretation of EU competence by the European Court of Justice.

Democracy and Efficiency
The issues of democracy and efficiency open up a whole host of questions relating to the basic nature of the EU. Can democracy be reflected on the supranational, national and regional level, or is it just a prerogative of the nation state? The EU is not a state and thus it is very difficult to determine how to make it more democratic. The temptation to use traditional state models, such as federations, is great. These do not, however, accurately reflect the *sui generis* nature of the EU system (see below).

Efficiency is linked to democracy. The EU is often perceived as inefficient and unable to deliver. Much of the blame is put on the seemingly cumbersome decision-making structure of the EU. Though over 80 percent of all decisions relating to the internal market are decided by a qualified majority, many important areas - such as taxation, justice and home affairs, common foreign and security policy - still require unanimity. Is this sustainable in an enlarged Union or will it render decision-making virtually impossible?

Simplification
Over the past decades the EU has witnessed an explosion of decision-making instruments. European legislation was originally based on simple instruments of law, including regulations, directives, decisions and recommendations. A directive, for instance, was supposed to be binding as to the result to be achieved, but it was up to each member state to leave the national authorities the choice of form and method of implementation. Today, directives are so tightly defined that the room of manoeuvre for national authorities is virtually non-existent. Open coordination and bench-marking, among others, have been added to the already complicated arsenal of legislative instruments. The question for the Convention is: how can the existing instruments be simplified?

Another issue of simplification is linked to the basic treaties of the EU. The Union has four treaties, over 700 articles, over 50 protocols and over 100 declarations. As articles have been added to the treaties over the years, the relationship between importance and length has become inverse. Justice and home affairs, an area where the EU has limited competence, covers thirteen articles and seven pages. Competition, one of the most important areas of the EU, is defined in

two articles (excluding state aid) in slightly more than one page. The EU treaties will never replace Harry Potter on the best seller list, but a case can be made for simplifying the existing texts and making them more readable.

Internal and External Strength
The internal and external strength of the EU is derived from legal opportunity and political will. The European treaties give the member states the possibility to co-operate, but the will to do so is not always there. JHA and the CFSP are good examples of areas where rhetoric and reality do not always meet. In the post September 11 world the EU had the opportunity to strengthen co-operation in both justice and home affairs and common foreign and security policy. For instance, measures against terrorism were taken, but they were mainly an implementation of decisions taken at the Tampere European Council in October 1999. In the foreign policy field the EU has acted within its sphere of competence, which is limited. The lead has been taken by individual member states, such as the United Kingdom. The question left hanging is whether the European Union will one day be able to act as one in a similar international crisis.

3. What Can We Expect From IGC 2004?

Looking into the crystal ball is always dangerous, especially for a political scientist. Nevertheless, with the experience of two IGCs (Amsterdam and Nice) I will try to make a few predictions about the final outcome and form of the next treaty change. There is cause for being optimistic and realistic. Optimistic that the Convention will produce a final document, be it in the form of options, which will go far beyond anything which has previously been a basis for an IGC. Realistic that no matter what the Convention suggests, it is the IGC, i.e. a unanimous decision based on the specific interests of member states, which will produce the final treaty change. Member states are by nature conservative, and thus those expecting radical treaty changes will most probably be disappointed.

Three Strands of Development
In integration literature a multitude of models describe and analyse the nature of the European Union. Some argue that it is fruitless to try to fit the EU into a box. That may be the case, but it is often useful to try to categorise and make sense of the complex process of European integration, albeit with some simplified models. In trying to outline the outcome of IGC 2004 there are three possible strands of development. These models are by no means mutually exclusive.

On the contrary, the reality of the European Union will always be a mix of the three approaches:

> (1) Intergovernmental
> (2) Federal
> (3) Community.

Intergovernmental

An intergovernmental outcome of the next IGC would mean a repatriation of competences, a weakening of the institutional triangle between the Commission, the Council and the European Parliament, and a return to unanimous decision-making – in other words, an arrangement where decisions are mainly taken outside the current institutional framework. The system would not be transparent and not necessarily democratic and efficient. It could also potentially lead to a blockage of decision-making and a *directoire* of large states.

In looking at the five questions outlined in section two an intergovernmentalist would give the following answers. The *objective* is a Union of states, not a Union of peoples. The *competences* of the EU should be cut down to a bare minimum. *Democracy* is a prerogative of the member states only and the *efficiency* of the decision-making structure can be guaranteed by unanimity. *Simplification* is achieved by repatriating competences to the member states. And the *internal* and *external* strength of the EU is the sum of the interests of its member states.

An intergovernmental Union is highly unlikely to be the outcome of the next IGC. The experiences of the Nice negotiations and the need for efficiency in an enlarged Union will persuade the member states to stay clear of any purely intergovernmental models. However, this is not to say that the development of a common European defence, for instance, would be anything but intergovernmental. On the contrary, the defence field is an example of an area where intergovernmentalism has the potential to work, at least in the short term.

Federal

A federal Europe would mean a clearer division of competences, a decentralisation of power, a European constitution with a set of fundamental rights and an institutional structure with a bicameral parliament and an elected government. Arguably, a federal structure could be clearer and more transparent. At least in principle, federal regimes take decisions closer to their citizens on the basis of the principle of subsidiarity.

A federalist would answer the five fundamental questions in the following way. The *objective* is to have an institutional structure which takes into account the dual legitimacy of the EU as a Union of states and a Union of peoples. The *competences* between the EU and its states need clearer definition. *Democracy* can be reflected on the supranational, national and regional levels and *efficiency* can be increased through more majority voting. The system can be *simplified* by having a clear constitution. And strengthening the *internal* and *external* capacity of the EU is based on finding common solutions to common problems and speaking with one voice on the world scene.

Attractive though it may be, a completely federal Union is mere utopia in the foreseeable future. The member states are not willing to take a quantum leap to a federal state with its own treaty-making and its own budgetary powers. There is no political space or *demos* which would call for a bottom-up movement pushing for a European federation. Nevertheless, as the history of the European Union shows, there can be federalism without a federation. Examples of federative elements in the EU include the common currency and the European Central Bank.

Community
The final method is a mix between the two models outlined above. It is generally called the community method and is to a certain extent based on the current structure of the EU. The community method would mean a continuation of the current largely functional path of integration and a strengthening of the current institutional triangle.

Advocates of the community method would answer the five questions as follows. The primary *objective* is a Union of states and the secondary objective is a Union of peoples. The *competences* of the Union are defined in the basic treaties which are agreed in IGCs. There is no clear definition of competence because it would make the system too rigid and unable to cope with external and internal change. *Democracy* is mainly in the national domain, but is reinforced through supranational community institutions. *Effectiveness* is secured through majority voting and an independent Commission. The current treaties and instruments can be *simplified* without fundamental changes to the treaties. And the *internal* and *external* strength of the Union can be based on the current system whereby the domestic and foreign policies of the individual member states reinforce and strengthen the common EU policies.

The basic philosophy of the community method is that integration in one area leads to pressure to integrate in another. The Union has thus developed step-by-step from a free trade area to a customs union and further from an internal market to an economic and monetary union. The basic idea is that form follows function, not *vice versa* as the federalists would claim. It is a path which has been followed from the beginning of the community project in the 1950s. The community method will once again be predominant in the IGC for the simple reason that it is something that the member states can accept.

Conclusion

Some observers claim that European integration has come to a halt. This claim is false. Though institutional change has been lagging behind, policy change has been all the more robust: the single market, CFSP, JHA, the Euro and developments in defence policy are good examples of the changes the EU is undergoing. For some the change might seem slow. The reason is simple: the issues are at the core of national sovereignty.

The agenda for 2004 is by no means light. The European Union is traditionally able to negotiate only one thing at a time. However, in 2004 there might be three large questions on the table at once: the end of the ratification of the accession treaties, IGC 2004 and the beginning of negotiations on the financial framework for 2006 onwards. These three issues are closely interrelated and will form an important package.

The process should not, however, be taken for granted. Things do not always go as planned, as was the case with the Irish referendum on the Nice Treaty. What happens if there are major problems with the euro? What if there is a problem with the ratification of the accession agreements? What if the British vote against joining the single currency? What if IGC 2004 fails to do the necessary changes for enlargement? The Convention combined with the difference of the nature of the next IGC negotiations - with some twenty-five or more states sitting around the table - might well bring with it a qualitative change in the final outcome. The EU seems to make its most bold decisions with its back against the wall.

The reality of European integration is naturally more complex than the intergovernmental, federal and community models outlined above. The EU has always

been a combination of the three. The EU is much more than an international organisation, but less than a state. It is *sui generis*, an original way of organising relations between states; a system of multi-level-governance where the supra-national, national and regional co-exist.

The result of the next IGC will most probably reflect this complexity. The next IGC might decide to give the Union a legal personality, merge the current pillar structure and establish a European constitution, but it does not mean the creation of a European federal state. At the same time the next IGC could also decide to repatriate some of the EU's competences back to the national level, but it does not mean that the EU will have taken steps back to an intergovern-mental system. The next IGC might also strengthen the existing institutional triangle without anyone being able to make the claim that the community method is prevalent. The bottom line is that the EU has always developed incrementally, and there is no reason why this general trend would change in the coming years.

A Constitution for the European Union: A Comparative Political Science Perspective

Simon Hix[1]

Abstract

Starting from the assumption that the EU can be analysed as a comparative political system, Simon Hix draws on basic considerations of comparative constitutional design and discusses their relevance and suitability for the EU. In designing a constitution for a 'multi-ethnic, continental-scale political system' (Lijphart) two basic issues have to be addressed: the vertical design, i.e. the power relations between the centre and the states (allocation, separation/fusion of policy competences, resolution of competence disputes) and the horizontal dimension, i.e. the representation in and accountability of the central institutions (executive-legislative relations, organisation of representation and decision-making, selection of legislature and executive). Reaching the conclusion that the Treaty of Nice has led to a growing centralisation of policy competences and to increasingly fused majorities for selecting executive power and for enacting legislation, Hix stresses two major questions to be addressed by the newly launched 'Constitutional Convention': should there be fused/ centralised or separated/ judicialised institutions and should these institutions be majoritarian or allow for multiple-veto-players and divided government?

Introduction

What I am going to discuss builds on my broader research agenda relating to how to think about the European Union (EU) as a comparative political system.

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1 Dr Simon Hix is Reader in EU Politics and Policy in the Government Department at the London School of Economics and Political Science. The following are the proceedings of a guest lecture given at the College of Europe on 15 January 2002.

Last academic year I had the pleasure of being based in California, at the University of California, San Diego and at Stanford University. These two places have the two best departments, currently, in the United States for comparative constitutional design, with people like Arend Lijphart, Gary Cox, Kaare Strom, Barry Weingast, and so on. Talking to these people about comparative constitutional design led me to think about this issue in the EU. This of course is now a fundamental issue, given what is going on now in the Convention on the Future of Europe.

Although Lijphart has been in the States for thirty years, he still thinks about the issue of constitutional design in the EU – and how to design a constitution for what he calls a 'multi-ethnic, continental scale political system'. There are two different types of issues when designing such a system.

The first issue is the 'vertical design': the structure of power relations between the centre and the states. The second issue is the 'horizontal design': the organisation of representation in and accountability of the central institutions. These two things can be thought about distinctly, and in Lijphart's classic idea of how to organise democracies – there can be either majoritarian or consensus practices on either of these dimensions - they do not necessarily have to go together.

Within the vertical dimension there are three key issues. First, how should policy competences be allocated? How do you decide at what level of government things should be tackled; either at the centre or the states? There is a whole body of research in comparative federalism, particularly in the political economy and public choice literature which is trying to build a normative theory to say how policy competences should be allocated in a multi-level political system. Few people who study the EU know this literature. These ideas have been applied elsewhere, for example in Brazil, Australia, Russia and in the US and Canada. However, they have not, as yet, been applied to the EU. Second, is there a separation or fusion of competences? Should there be a clear separation, i.e. the centre does this, the periphery does this and so on, or should they be fused? This argument is common in the German literature – people like Fritz Scharpf have written about this. Third, how do you resolve competence conflict? This is the *Kompetenzkompetenz* question. Should it be done judicially, or should it be done politically?

On the horizontal side, the key issue is how many veto-players are you going to put in the policy process? This idea is from George Tsebelis. His major project on veto-players is coming out later this year in a book, which builds on his articles in the *British Journal of Political Science* and the *American Political Science Review*. There are four issues within this main heading. First, how do you organise the legislative-executive structure? Is it fused or separated – i.e. parliamentary or presidential? Second, how do you organise representation in the executive and the legislature? Third, what are the basic decision-making rules – majoritarian or consensual? Fourth, how do you select or elect the legislature and the executive? These are all issues that are now being discussed in the EU, but not in this way. I find it helps to make a clear distinction between these things, because the kind of choices that are made on each issue are not necessarily related to each other, and all will have a significant impact on policy outcomes.

Vertical Dimension

(1) Allocation of Policy Competences
The political economy literature points to two key issues to consider when designing how competences are allocated between the central institutions and the states.

First, what are the externalities of policy decisions at the lower level? An externality is: if you allocate competences to the lower level, does a decision by one state have an impact on what another state can do? Environment policy is a classic case. If one state has a highly deregulated environment policy its decisions are going to have an impact on the countries close to it – who will suffer from river pollution, air pollution and so on. Another area is product standards. If there is a single market, and one state has highly deregulated product standards, there will be a 'race to the bottom' in product standards. So, if there is a high externality in a policy area, this policy competence should be allocated to the centre. And, if there are no externalities then the policy competence should be allocated to the states.

Second, how much preference homogeneity is there between preferences at the state level? This is not how diverse are preferences within each member state, but rather what is the distance between the median voter position in each of the states in the system. If there is a high variation in the positions of the median voters in a given policy area, if this area is allocated to the centre, then there will

be major policy conflicts in the policy process, and outcomes will inevitably pitch one group of states against another – which would be very dangerous in a multi-ethnic polity. If there are highly homogenous preferences across the median voters of the states in a given policy area, then there is no problem in allocating this policy to the centre. For example, in environment policy, where everyone likes a clean environment, the median voter in every state is highly supportive of environmental regulation. So, if this policy competence is allocated to the centre, there will not be deep policy conflicts.

Applying these two criteria to the EU, there are several policy areas where there are high externalities of a policy decision: international trade, internal market regulation, environmental protection, product standards, food safety, monetary policy, and asylum policy. In most of these policy areas, there is also high preference-homogeneity – everyone likes clean food, everyone would like competition to be regulated, everyone likes high product standards, everyone likes a clean environment, everyone would like a stable currency, and so on. Of this list, only in competition policy and food safety could one argue that preferences are not fully homogeneous. In other words, on these issues, the EU constitution is fairly close to the ideal design. Only in the areas of asylum policy, food safety and competition policy could a case be made for even more powers for the EU. But, there are several areas where there are medium or low externalities, and where there is either low or medium preference homogeneity: for example, defence policy, foreign policy, agricultural subsidies, social regulation, and culture and education policies. Perhaps the two most interesting areas in this list are agricultural subsidies and social regulation. On agriculture, there are vastly different preferences between median voters about whether or not agriculture should be subsidised, and there are almost zero externalities of subsidising agriculture within certain limits. So, why have this at the EU level? On social policy, there is also a high level of preference diversity across the states, and there are low externalities of labour market regulation. This is why in most multi-level political systems, social regulation is not allocated to the centre, and a variety of social regulatory systems are allowed to exist across the different states. In fact, the EU is perhaps the most centralised of any multi-level polity in the area of social regulation. For example, there is no federal legislation in the US on the rights of part-time or temporary workers.

(2) Separation or Fusion of Policy Competences?
There are two options here. First, there is the classic US design of clear jurisdictional separation between the policy competences allocated to the centre and the

states. The advantages of this system are clear transparency and accountability. If there is a particular policy that comes out of the political system citizens know who is responsible for that policy. This model also produces a clear defence of states' rights. One could add into this design a 'states' rights clause', as in the US, which can then be invoked judicially. A problem, however, is that this model is almost impossible to apply in practice. All policy areas these days are inherently 'multi-level'. There is almost no policy area that could exclusively be allocated to the centre level or state level. All policies allocated to the centre need to be implemented at the local level, and all policies allocated to the state have some kind of externality that has to be dealt with at the central level. Also, this design tends to produce competence conflict: where states try to challenge policy decisions of the centre on the grounds that the policy area of the decisions are actually responsibilities of the states. These disputes happen all the time in the US, which has forced the US Supreme Court to rule on highly political issues.

The alternative would be jurisdictional fusion between the centre and the states, or what some people have called 'functional separation'. Instead of allocating one set of competences to the centre and another set to the states, a functional separation is established within each policy area. So, the centre is given the role of adopting framework decisions, and the states are then given the role of filling in the details and implementing the basic norms of the law. A framework decision is an incomplete contract, like an EU directive (or like directives used to be), where the states are responsible for completing the contract. The advantage of this model is that it makes practical application of the rules and the process of policy-making much simpler. There are problems, though: particularly the lack of transparency. Also, this model does tend to produce a drift to the centre, because states' rights are not clearly defined, and defensible before a court. As a result, what tends to happen with 'framework' laws is exactly what has happened with EU directives – that they become increasingly detailed and specific, and hence restrict the discretionary powers of the states.

Applying these logics, there is a strong case for sole EU jurisdiction in several areas: international trade, product standards, monetary policy, and competition policy. But, concurrent competences are better in a number of areas – such as environmental regulation, social regulation, agricultural subsidies, asylum policy, food-safety, and cross-border transport – where the centre would adopt framework decisions, and the states have a high degree of discretion in applying these rules. And, there is a clear case for exclusive national jurisdiction in a number of remaining areas – such as health care, social security, education and culture.

Basically, this is what we already have in the EU! In other words, the design of the EU seems pretty rational and logical if one thinks about it in comparative terms. Maybe the chapters in the Treaty on public health and culture could be deleted, and the powers of the centre and states in the areas of agricultural subsidies and social regulation could be rethought. But, the rest of the competence-allocation design seems relatively appropriate.

(3) Resolving Competence Disputes
The big question however becomes how to resolve competence disputes. The first option is to resolve conflicts through the courts – i.e. the US or German design. This involves giving the right to resolve competence conflicts to the judicial branch of government - to a 'supreme court'. In the EU, this would mean allowing the European Court of Justice (ECJ) to apply the principle of subsidiarity. The advantage of this model would be a clear separation of powers – which establishes another veto-player in the policy-making process. As a result, when the Council and Parliament make laws they would have to bear in mind the preferences of the Court. If the legislators think a competence-conflict could result from a decision, they have to consider which way the ECJ would rule – in favour of the centre, or in favour of the states?

An example of how this would work in the EU was the tobacco advertising case, where the ECJ ruled against the Council. Had there been perfect information, the Council would not have passed the directive. Several member states argued that the tobacco advertising directive should not have been adopted under the health and safety at work rules, which require a qualified-majority (QMV). Instead, it should have been adopted under the public health provisions, which require unanimity. In a sense, then, this was a competence-conflict issue, since unanimity essentially means that an issue is a states' competence, whereas QMV means that it is an EU competence. In this interpretation, the Court ruled that the Council had breached a competence of the states.

But, there still might be a drift to the centre under this design. Central courts generally have an interest in defending the central institutions against the states. Also, there tends to be weak legitimacy for these types of decisions. If the judiciary tends to defend the rights of the centre, this leads to the judicialisation of many policy issues. As a result, fundamentally political issues become judicial issues. This is exactly what has happened in the US and Germany, for example with questions like abortion.

An alternative option would be to resolve competence conflicts through a quasi-political process, as in the French and British constitution. In France, the Constitutional Council is what Alex Stone Sweet called a the 'third legislative chamber'. In the UK, judicial review decisions are made by the House of Lords. In effect, these are political supreme courts. This allows a 'political' decision to be made about a conflict between a principle in the constitution that sets out competences, and the rights of the legislative majority to be able to decide how policy is made. On the positive side, these decisions may be more legitimate than the decisions of independent courts, and these bodies may be more liable to protect states' rights – if, for example, it is the states who sit in this political body, rather than the judges of a central court. The problem, however, is that this design produces a fusion of judicial and legislative power. There would not be another veto-player, which would put another constraint on the legislative majority.

But, at the current stage of development of the EU, this is probably the best design. Despite the tobacco advertising ruling, the Court of Justice does not have the legitimacy that is required to rule on the highly-political competence conflict that would inevitably arise from a more clearly-defined EU constitution. Hence, a new kind of 'constitutional council' needs to be created, composed of representatives from national governments, national courts and the ECJ, which would have exclusive 'competence-competence'. (This is essentially Tony Blair's and The Economist's idea of a 'second chamber' for the EU).

Horizontal Dimension

(1) Executive-Legislative Relations
Turning to the horizontal dimension of institutional design, the first issue is the design of legislative-executive relations. Here, again, there are basically two options. The first is a classically 'fused' parliamentary model – which has been chosen throughout Europe at the domestic level. The basic principle of this system is 'mutual reliance': where the executive is accountable to a legislative majority, but the executive can dissolve the legislature. The executive also has a monopoly on legislative initiative. The main advantage of this system are 'efficient' legislative outcomes. What I mean by 'efficient' is that the parliamentary model tends to produce a close connection between electoral choices and policy outcomes. This is the argument of Powell, Lijphart, Cox and all the other scholars who have developed theoretical models and empirical evidence to

show a strong relationship between voter preferences and policy outcomes in parliamentary systems. This is because in parliamentary systems, the majority controls both branches of government, the electoral majority is able to implement and act on the promises it made to the electorate.

The problem, however, is that such fused systems inevitably lead to a 'dictatorship of the executive' against a weak parliament. The classic statement from a British backbencher, Austin Mitchell, when he retired a couple of years ago was that his life in parliament was like 'throwing paper aeroplanes at a bulldozer'. Parliaments across Europe are totally moribund, defunct institutions of a bygone age. They are weak political institutions because parliamentary government enables the executive to monopolise the legislature. As a result, scholars tend to be critical of this kind of majoritarian model in multi-ethnic systems, particularly where the ethnicities are territorially defined, because you do not have checks-and-balances against executive power. Lijphart argues that there are checks-and-balances in a parliamentary system if 'oversized-majorities' are required to govern. Similarly, Tsebelis argues that there is no difference between an oversized-majority parliamentary system and a separation-of-powers system. The question in both cases is how many veto-players are there in the policy process.

But, parliamentary systems also tend to produce centralised and redistributive policy outcomes. Think about the difference between Canada and the US. Canada: with a parliamentary government, and has a welfare state. The US: with a separation-of-powers system, and no welfare state. In Canada, in the 1940s, parliamentary government enabled the political majority to push through the legislation that led to the creation of a welfare state. In the US, Roosevelt tried to do the same with the New Deal programme. But, because of a presidential system, where many veto-players forced the design to be watered down, the resulting policies were limited.

In other words, if there are fused legislative and executive powers at the EU level, there would be a gradual centralisation of policy-making. Whether one thinks this is good or bad is another question. One might be in favour of a European-wide welfare state – in which case parliamentary government at the European level would be the best way of achieving this. Or, one might want the states to have their own welfare and tax policies, and hence want severe constraints on central power in Brussels.

The alternative model, then, would be a classic separation-of-power with independent selection of the executive and legislature, and fixed terms for the two institutions. This model tends to produce balanced political outcomes, because of 'divided government' – where policies have to be agreed by both sides of the political divide. This establishes powerful legislative assemblies which constrain the executive. For example, the US Congress is far more powerful than any national parliament in Europe. Similarly, in the current separation-of-powers set-up in the EU, the European Parliament has a significant impact on the legislative process.

But, separation-of-powers systems do institutionalise political conflict, and hence tend to produce policy stability. Where one political party controls the executive and the other controls the legislature, the result is institutionalised civil war and little policy agreement. As a result, Juan Linz was critical of the South American systems – which he argued collapsed because of presidentialism. Some people are also critical of 'divided government' in the US, and argue for a more majoritarian/unified system. This is particularly the case for the left, who would like more centralised government in Washington. The Republicans, in contrast, tend to defend the presidential model.

Also, with many veto-players - an executive, a lower house, an upper house, and a court – concentrated minority interests can often block policies which have over-whelming support. For example, the US gun lobby has been able to block federal gun control because of the separation-of-powers system. The gun lobby has been able to capture one or other branch of the legislature, and hence block change, against widespread support at the electoral level for more restrictions on guns.

In addition, Lijphart does not like presidentialism because he sees it as a 'winner-takes-all' majoritarian contest for the head of the executive – which is not a good idea for multi-ethnic systems. But, I think he is wrong, a majoritarian con-test for the head of the executive is balanced by the possibility of divided gov-ernment across the institutions. So, analytically, I would side with Tsebelis, in arguing that there is no difference between proportional-representation-parlia-mentarianism and divided government-presidentialism. Both have multiple veto players, which facilitate over-sized majorities and moderate policy outcomes.

(2) Organising Representation
Second question: how do you organise representation? This, I think, is one of the key questions in the EU. In a multi-ethnic system that is continental-scale,

designers must balance two principles: representation by population, and representation of states. There are two possible designs. One is a different structure of representation in each chamber. This is the classic, Madisonian, model of American democracy. Here, one chamber is based purely on population (i.e. the US Congress). In this chamber there is no over- or under-representation of any particular state or local community. The other chamber is based purely on states (i.e. in the Senate), where each state has the same votes – i.e. Rhode Island has two, California has two etc. One could argue that this is not really fair. But, this is the classic federal bargain – where policies can only pass if they secure a majority amongst the population and a majority amongst the states.

The advantage of this kind of system is that it is highly transparent. Citizens can easily see what goes on, whereas nobody can see what goes on under the obscure rules in the Nice Treaty – that require a qualified-majority of votes, plus a certain percent of population, plus a certain number of states.

An alternative model would be some form of mixed-representation of population and states in each chamber. This is effectively what we have in the EU at present (pre-Nice), and is the German design for the *Bundestag* and *Bundesrat* and the situation in the British House of Commons. Here, one chamber is mainly based on population, but there is some over-representation of small states. This is the case in the European Parliament, which is broadly based on population, but there is over-representation of the smaller states – hence, each voter in Luxembourg has more impact than each voter in Germany. The British House of Commons is the same, where Welsh and Scottish voters are over-represented compared to English voters. Then, to counter-balance this, in the other chamber, representation is broadly based on states, but with some extra representation for the big states. This was the idea behind the allocation of votes in the Council in the original Treaty of Rome, and is how representation is organised in the German *Bundesrat*.

But, what is worrying in the EU with the Nice Treaty is a move towards representation in both the Council and European Parliament being based predominantly on population. If you are a small state, this is rather worrying. I would not be surprised if several small states tried to block an outcome from the constitutional convention that institutionalises this development. In the Nice design, there is not only a high correlation between population and votes, but also a 'steep' relationship. This means that as population increases, the increase in votes in the Council also increases at a fast rate. If it were a 'shallow' relationship, representation would be as in the Bundesrat or the Treaty of Rome model

– where it is still based on population, but the relationship between population and seats is not strong. The other feature of the Nice design is that most new member states are under represented relative to the old member states. This is true for all states except Germany. But, this was a peculiar anomaly, because France insisted on parity with Germany in the Council.

In my opinion, the best solution for the EU would be to make a clear distinction between when the Council acts as executive and when it acts as a legislature, and then to design a different structure of representation for each situation. Because the Council is increasingly significant in a lot of areas of domestic executive powers, like Justice and Home Affairs, the larger member states have argued for increased influence over outcomes. But, this causes problems when the Council acts as a legislature. But, if a distinction can be made between executive and legislative roles in the Council, this concern of the larger states can be addressed. For example, when the Council is an executive, decision-making is dominated by a single chamber, and hence representation should be based mainly on population, but with some over-representation of smaller states (i.e. the Nice design), and with a large majority required to adopt decisions (e.g. 85 percent of votes). This would mean that big states have more influence generally on policy outcomes, but there would not be dictatorship of the majority population.

Then, when the Council is acting as a legislature, representation in the Council could be based essentially on states, with some extra-representation for the big states (i.e. the Rome design or the German *Bundesrat* design), with representation in the Parliament being the reverse: mainly based on population, with some extra-representation for small states (i.e. the current situation). An alternative design would be the classic federal model: where representation in the European Parliament would be based purely on population (i.e. with more seats for Germany and less for Luxembourg), and representation in the Council would be based purely on states: i.e. one-state-one-vote, and a simple majority for adopting legislation. In some ways, this is the best solution for both small and large states, in those areas where the Parliament and the Council have equal power. The outcome would be transparent, and no legislation could be based without a majority of both the EU population and the EU states.

(3) Decision-Making Rules
There has not been enough discussion in the EU about the fundamental difference between majority-rule and unanimity-rule. Analytically, they are two fundamentally different things.

The difference between moving something from unanimity to majority in the Treaty seems to be treated in the EU as simply a question of efficiency. It is not. Moving something from unanimity to majority is like moving a policy competence from the states to the centre. A classic case is the decision to use a qualified-majority for choosing the Commission President. This was decided at the last minute, as one of the 45 issues that the Commission proposed could be decided by majority rule. This is a crazy way of dealing with this issue. This move was a fundamental change from a quasi-presidential model – i.e. with different decision-rules for selecting the executive and adopting legislation – to a fusion of the executive and legislative majorities. Just as in a classic parliamentary system, the Commission President is chosen by the same majority that adopts legislation. This means that more states will lose, i.e. the states that vote against the Commission President are then likely to be on the losing side in the adoption of legislation. This will inevitably produce a 'government' and an 'opposition' in the Council, with some member states on the losing side permanently.

The advantages of majority rule are that there is an efficient connection between electoral choices and policy outcomes, and it is easier to change policy from the status quo. The problem, however, as Buchanan argued, is that majority rule inherently creates winners and losers – a redistributive outcome. Redistribution, here, means: some people win, some people lose, i.e. either money is taken from the loser and given to the winner, or the winners' social, economic and political values are favoured over the alternative values of the loser.

This is not a problem in a homogeneous polity, because the citizens on the losing side have rational expectations that some time in the future they will be on the winning side. Overall, majority rule works if through the space of a person's lifetime, they feel that they win 50 percent of the time, and lose 50 percent of the time.

The problem of majority rule is when a certain group of individuals have rational expectations that they will never be on the winning side. This is why majoritarianism in multi-ethnic polities does not work – as Lijphart pointed out. This is exactly the case in Scotland in Britain, where after a while of Conservative rule in Westminster in the 1980s, there were no Conservative MPs elected in Scotland. So, the Scottish majority was overwhelmingly in favour of Labour, yet was of the opinion that they would never be part of the ruling majority in Westminster. This consequently led to demands for devolution.

In the EU context, majoritarian rule will only work if these majorities cut across member states lines. So, any kind of majoritarian coalition based exclusively on the governments of the member states, either in the selection of the executive or in the legislative, would be illegitimate. The danger with majorities that cut across ethnic divisions is shown in that what Weiler calls the hypothetical *Anschluss* between Germany and Denmark: where Danish voters are told that the situation is democratic because they are represented in the *Bundestag*! What is needed are nationally cross-cutting, partisan majorities, that shift over time.

On the other hand, with 'consensus rule' - which is just Eurospeak for unanimity-rule or multiple veto-players – minority rights are protected against majority rule. Put another way, outcomes are 'pareto-efficient': there cannot be, by definition, anyone on the losing side. Policies can only be agreed if everyone agrees. No one is going to agree if they lose. So, there cannot be any redistribution.

But, there are problems with consensus rule, which we are very well aware of in the EU. Under consensus rule, the status quo is very difficult to change. This leads to a 'lock-in' of sub-optimal policy outcomes, e.g. in the area of agriculture. This was Scharpf's famous argument in 1988, which still applies now in the EU. What happens is that when policies are first adopted by unanimity rule, they are optimal. But, things change over time, which leads to different outcomes than those originally intended. But, these outcomes cannot be changed by unanimity rule, because it only takes one state that benefits from the new policy outcome to block any kind of policy change that would benefit the others.

Unanimity also strengthens the power of agents who have been delegated powers to agenda-set or implement. Garrett and Tsebelis argued this in a recent article in *International Organization*, where they show how under unanimity rule the European Court of Justice and the European Commission are much more powerful than they are with majority rule in the Council. This is because once powers have been delegate to the Commission or the Court of Justice - i.e. to the Court of Justice to implement, and to the Commission to agenda-set – the two institutions can take almost any action, with the knowledge that it is unlikely to be overruled in the Council.

Ideally, in the EU there needs to be a balance between majority rule and consensus rule, and there are two ways to do this.

One way would be Majone's idea: where a distinction is made between 'efficient' and 'redistributive' policies, i.e. he would say environmental regulation is inherently an efficient policy, it is not redistributive. And, on efficient policies, majority rule can be used, as outcomes will not be redistributive if everyone benefits anyway. Whereas with redistributive policies - i.e. spending policies or social policies – where there is clear heterogeneity of policy preferences, decisions should be made by consensus. This is just another way of saying: if there is homogeneity of policy preferences, there can be majority rule without deep policy conflicts; and if there are heterogeneous policy preferences, decisions should be made by consensus.

Alternatively, there could be a single decision rule that combines both majority and consensual ideas. This is essentially the direction the EU has been evolving, where there are different structures of representation in different institutions - i.e. parties and functional groups, territory and ethnic groups – and an over-sized-majority is required in both institutions to pass legislation (a qualified-majority in the Council and an absolute-majority in the European Parliament).

These are two ways of saying the same thing: that at the current stage of political development of the EU, policy that is going to punish either territorial or functional groups should not be made by a simple majority.

(4) Selection of the Legislature and Executive
Finally, the issue of how to select the legislature and executive. Some of the decisions made in this area will follow from the decisions made on the previous three questions on the horizontal design of institutions, i.e. whether it is a presidential or parliamentary system, if there is a separate contest for the Commission president, whether representation is by population or states, or whether decisions are by majority or consensus rule.

Nevertheless, the EU needs to decide how to select the Commission, select the Council, and elect the European Parliament. All three of these issues will be discussed in the Constitutional Convention.

Selection of the Commission
The status quo à la Nice is QMV in the European Council. As I discussed, this is a fundamental change, which most people do not realise. What this has done is turn the EU from a separated-powers system to a fused-powers system. The Commission was a quasi-independent executive body, it is now fused to the legislative majority.

Now people having realised what they have done, there are two basic proposals: either to elect the Commission by majority in the Parliament or to hold a direct election. The first of these proposals would push the EU even further down the parliamentary route, but this is favoured by the EP, and both candidates for the EP President - Pat Cox and David Martin. The second proposal would push the EU back to the presidential model, but making that model more competitive.

However, I think neither of these alternatives would work. Either the Nice status quo or election by the EP would be a fusion of executive and legislative majorities, which is not a good idea for the EU unless one favours highly centralised policy-making in Brussels, e.g. a European wide welfare state or a 'dictatorship' of Brussels. I do not think voters in Europe want this.

On direct election of the Commission President: who is going to vote for the Commission President? No-one votes in EP elections, so why would they vote for the Commission President?

Having said that, I think there are two logical steps to think about. Step 1: the presidential model is better than the parliamentary model for the EU, since separated-powers is better than fused-powers. Step 2: how, then, should a separate selection of the Commission President be organised?

But, the old design of selecting the Commission President by a majority in the Council does not work. Although the Treaty states that the Commission President is chosen by 'the member states' it is not the member states who choose the President, but rather those parties that happen to be in government at the time of selecting the Commission President. A great example of this was the choice of Jacques Santer. John Major, the British Prime Minister, vetoed Jean-Luc Dehaene and Wim Kok, on the grounds that they were too pro-European, and managed to secure Jacques Santer. Tony Blair was then elected in the UK, and became heavily critical of Jacques Santer. But, wait a second UK. Was not Santer the choice of the UK? Tony Blair, as Prime Minister of Britain, should be accountable for this decision. That is what it says in the Treaty, but that is not how it works in practice.

The previous model of unanimity in the Council can hence be discarded. It does not produce accountability, allows capture by a particular member state, and would lead to slow decision-making in an EU of 20 or more member states.

We can also discard the idea of a direct election of the Commission President, as this would be unworkable in practice, since few people would bother voting.

Perhaps the best design would be an electoral college for selecting the Commission President, composed of national parliamentarians. This could work by giving each national parliament a certain number of 'electoral college votes', maybe the equivalent to the number of seats in the EP, and then letting the national parliaments all vote on the same day for the Commission President.

In this model, there would be a contest for the Commission President. National parliaments would be involved in selecting the executive of the EU in the same way they are involved in selecting the executive at the domestic level. The winning majority would not be based on national groups, but on cross-national partisan alliances. There would probably be a contest between a major centre-left and a major centre-right politician, who have some support in every state's parliament. And, the members of each national parliament who voted for the elected President would be accountable to their voters for their decision.

Another advantage of this model would be that it could be a gradual step towards direct election. Some member states, such as Italy or Belgium, who would be in favour of direct election, could introduce direct elections just in their states if their publics demanded it, instead of having their national parliaments vote. The result of several member states taking this decision would be a gradual evolution of a European-wide direct election of the Commission President, instead of it being imposed by the elites.

Selection of the Council
The status quo, here, is indirect election. This is a long 'principal-agent-chain': the citizens vote for a national parliament, the national parliament elects a Prime Minister, the Prime Minister chooses the members of his/her Cabinet, these Cabinet ministers choose the members of their administration, one of these officials sits in the *Comité des représentants permanents* (COREPER), who then take decisions in the Council. As a result, there is very little connection between voter choices and Council decisions.

A key proposal on the table is to change the Council into something like the German *Bundesrat*: a single Council, or a dominant General Affairs Council, composed of Deputy Prime Minsters or Europe Ministers, who would be clearly connected to a parliamentary majority. This would cut several links in the

existing principal-agent-chain. This would still be an indirect method of selecting the Council, but would not be as indirect as the status quo.

Two other options would be the US Senate pre-1922, and the US Senate post-1922. Most people do not realise that the US-Senate has not always been directly elected. Before the 1920s, the US Senate was composed of two representatives from each state, chosen by the Governors of the states – i.e. the heads of the executives. In the EU, this would mean that the Council would be composed of several members from each member state, chosen by the Prime Minister.

Christophe Crombez is in favour of this model. He suggests that if a state has ten votes in the Council, they would have ten members. Alternatively, a two-party coalition from states with ten votes in the Council could select two ministers to represent their member state, where one minister has six votes and the other has four votes.

The other model would be the current US-Senate design, with direct election of the one or more representatives for each state in the Council. Given what I have said about the difficulties of organising a direct election of the Commission President, I doubt whether direct election of the Council is feasible. Also, the member state governments are unlikely to allow this, as it would mean handing over a lot of decision-making power directly to the electorate.

Election of the European Parliament
I was pleasantly surprised to see that the Laeken Summit put this issue on the agenda of the Convention.

There are two issues when designing electoral systems for parliaments. First, there is the level of proportionality: should there be a very proportional representation of voters' choices, or should there be a bias towards the larger parties, to facilitate single-party majorities? This depends on district magnitude (single-member-simple-plurality, small multi-member or large multi-member districts), the counting rule (such as d'Hondt or Sainte-Lague), and the electoral threshold (nation-wide or European-wide).

Second, and perhaps more interesting from the point of view of current political science research on elections, is the question of who controls candidate selection in elections. Should candidate-selection be centralised (in the hands of

the national party executives), or decentralised (in the hands of regional or local parties)? Should there be an 'open' or 'closed' party list? Should there be a Europe-wide top-up list? This issue is probably more controversial. The proportionality issue has been resolved, in favour of a basically proportional design.

I can illustrate the importance of the issue of candidate selection on how MEPs behave by using evidence from my own research on voting in the EP. We looked at about one thousand votes from July 1999 to June 2000, and looked at whether or not in every single individual vote decision, an MEP voted with his/her national party, with his/her EP group, or defected from his/her national party, or defected from his/her EP group. Each 'n' in this study was a single MEP's vote decision. This produced almost 400,000 vote decisions.
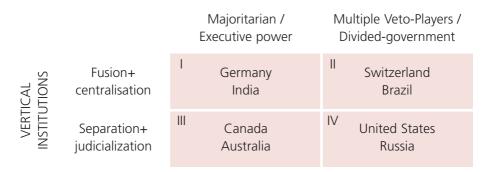
What we found was that two key factors determine defection rates in the EP: the ideological distance of an MEP's national party from the MEP's EP group, and whether the national party had centralised or decentralised candidate selection in EP elections. As the ideological distance between a national party and an EP party goes up, the probability of an MEP defecting from his/her EP group also goes up. Also, if an MEP is from an electoral system with a strong national party control (i.e. closed lists, small district magnitude, and centralised candidate selection), the MEP is much more likely to vote against his/her EP group. Conversely, if there is weak national party control, the MEP is more likely to vote with his/her EP group.

What these results show is that how an electoral system is designed is fundamentally important for the structure of representation in the EP. If the intention is to have strong European-wide political parties, what is needed are electoral rules that restrict the power of national parties over their MEPs. This would mean: (1) small multi-member districts rather than national districts, with for example four or five MEPs in each district; (2) vote allocation via single-transferable-vote or some other PR-counting method; (3) no electoral threshold; (4) and fully-open party-lists, as in Finland (rather than 'semi'-open, as in Belgium); (5) rules that force national parties to decentralise candidate selection; and (6) perhaps a five-percent European-wide top-up list. But, if the intention is weak EP parties and strong national parties in the EP, then we should stay with the status quo.

Conclusion: The Basic Choice for the EU

The basic constitutional choice for the EU is set out in Table 1.

Table 1. The basic constitutional choice for the EU

	HORIZONTAL INSTITUTIONS	
	Majoritarian / Executive power	Multiple Veto-Players / Divided-government
VERTICAL INSTITUTIONS — Fusion+ centralisation	I Germany India	II Switzerland Brazil
Separation+ judicialization	III Canada Australia	IV United States Russia

On the vertical side, the question is: should there be fused/centralised institutions, or separated/judicialised institutions? On the horizontal side, the question is: should there be majoritarian-institutions, which inherently will strengthen executive power and lead to more centralisation, or should there be separated multiple-veto-players, and divided government?

In the multi-level political systems that exist already, constitutional designs have made different choices in this two-by-two matrix – as the Table shows. With the Amsterdam and Nice Treaties, the EU has started to move from Box IV to Box I – i.e. with a growing centralisation of policy competences, and a fusion of the majorities for selecting executive power and enacting legislation. Whether or not a different design is better for the EU at its current stage of political development is up to the Constitutional Convention to decide.

Place à la Convention!

Philippe Lemaître[1]

Résumé

L'article célèbre l'engagement décisif des Etats membres pour la Convention. Les sirènes de l'européanisation, poussées par une vague de soutien de l'opinion publique et des récents demi-échecs, ont finalement vaincu les réticences de certains Etats. Jouissant de son statut spécifique, la Convention a donc les mains libres pour adresser les questions fondamentales et tracer les grandes lignes de l'avenir européen sans perdre de vue pour autant le besoin de consensus.

Valéry Giscard d'Estaing se montre, dit-on, satisfait du choix des personnalités désignées par les gouvernements, par la Commission, par le Parlement européen et par les Parlements nationaux, pour siéger à la Convention que le Conseil européen de Laeken l'a chargé de présider. De fait, la préférence a été très largement donnée aux « politiques » plutôt qu'aux techniciens, ce qui, s'agissant des gouvernements, illustre leur volonté de ne pas regarder l'opération comme un exercice plus ou moins académique - sans grande portée et sans grand risque - mais au contraire de participer très activement.

On a apparemment compris dans les capitales qu'il serait extrêmement difficile pour la Conférence intergouvernementale (CIG) prévue fin 2003 ou début 2004, d'escamoter les propositions présentées par la Convention. C'est dire que celle-ci va engager ses travaux fin mars sous les meilleurs auspices, mais, en même temps, qu'elle encourt d'entrée de jeu une très lourde responsabilité, sans droit

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à l'erreur. Il n'est pas exagéré d'affirmer que l'indispensable relance de la construction européenne à la veille de l'élargissement dépend désormais du courage et de l'imagination de l'équipe conduite par M.Giscard d'Estaing.

La situation ainsi créée est le reflet d'une évolution dont il faut se féliciter, même si ses raisons ne sont pas complètement limpides. A Nice en décembre 2000, conscients de l'insuffisance des résultats de leurs délibérations, les chefs d'état et de gouvernements des Quinze avaient fixé en 2004 un nouveau rendez-vous pour compléter l'effort de réforme nécessaire dans la perspective de l'élargissement. L'agenda, d'inspiration allemande, mettait l'accent sur la répartition des compétences entre les différents niveaux de pouvoir au sein de l'Union (avec le souci évident de freiner les transferts de pouvoir vers Bruxelles) et citait encore l'intégration dans le Traité de la Charte des droits fondamentaux, la simplification des Traités et le rôle à accorder aux Parlements nationaux. Soucieux de faire taire les critiques adressées à leur méthode de négociation purement diplomatique, coupée de l'opinion, les Quinze suggéraient que soit lancé dans chacun des Etats membres un vaste débat sur l'avenir de l'Europe et évoquait la possibilité de faire appel ensuite à une Convention du type de celle qui avait mis au point avec succès la Charte des droits fondamentaux.

Mais, concession à l'air du temps et à la nécessité de faire oublier un sur-place lamentable, ce projet de Convention était initialement conçu de façon minimaliste et soupçonneuse par plusieurs Etats membres, dont la Grande-Bretagne et la France. Peu avant le Conseil européen de Laeken, l'idée était encore de s'entendre sur un mandat et des méthodes de travail très strictement encadrés. Guy Verhofstadt, le premier ministre belge et président en exercice du Conseil européen ne l'entendait pas ainsi et la « déclaration » qu'il a finalement réussi à faire approuver donne carte blanche à la Convention. Les plus réticents à une telle ouverture -c'est là le miracle - ont laissé faire, n'ignorant pas pourtant la difficulté qu'il y aurait à contrôler une assemblée ainsi constituée. Confier la présidence à un homme de la stature et de l'ambition de Valéry Giscard d'Estaing ne faisait à l'évidence qu'aggraver le risque...

Une telle issue aussi heureuse qu'inattendue n'est pas le fruit du hasard. Elle ne s'explique pas non plus par une soudaine inertie des plus réticents à l'égard de l'exercice. On y verrait plutôt l'aboutissement d'une certaine maturation, la reconnaissance – tardive - de la gravité des échecs d'Amsterdam (1997) de Nice (2000), ainsi que de la détérioration du climat communautaire, illustrée par l'aigreur des discussions à Nice puis, ensuite, par le refus des Irlandais de ratifier le

Traité qui leur était soumis. Dans les pays où il était engagé, en particulier en France, le débat sur l'avenir de l'Europe montrait que l'intégration était populaire, qu'une large fraction de l'opinion souhaitait aller de l'avant. Des discussions ont eu lieu au sein des gouvernements et des arbitrages ont été rendus. On a constaté à Laeken qu'ils prenaient le pari de l'ouverture et de la confiance. Maintenant c'est à la Convention de jouer. Elle ne manque pas de matière pour nourrir sa réflexion : ces derniers mois le débat sur la façon de faire évoluer tant les politiques que les institutions se développe de façon féconde. Elle ne manque pas d'atouts non plus. Ainsi, contrairement au Conseil européen, plus ou moins tenu par des calendriers difficiles à articuler entre eux (celui de l'élargissement, différent de celui de l' « Agenda 2000 » et donc des échéances prévues pour arrêter une nouvelle programmation financière pour l'Union et pour revoir la politique agricole commune et les politiques structurelles), elle a la possibilité de jeter un regard unique sur l'avenir de l'Union. Le président Giscard d'Estaing a déjà indiqué (interview dans le journal « Le Monde ») son intention d'aborder les questions budgétaires. Comment en effet proposer des clés pour bâtir l'Europe de demain sans savoir comment elle sera financée et comment seront actualisées les principales politiques communes ? Les réactions embrouillées des Quinze aux toutes récentes propositions de la Commission ayant trait au financement de l'élargissement, c'est à dire à la prise en charge des politiques communes dans les pays adhérents de 2004 à 2006, témoignent du caractère hasardeux de la performance. C'est l'ensemble du schéma communautaire - institutions, financement, politiques- que la Convention a les moyens de mettre à plat.

Cette capacité, tout à fait inédite, de prendre du recul pour proposer une réforme d'ensemble, ne signifie évidemment pas que la tâche sera facile. Pour réussir une telle rénovation, la Convention devra d'abord éviter de se laisser emporter par des solutions que les gouvernements et les opinions ne pourraient pas prendre en compte. Les hommes qui composent le présidium de la Convention, et d'abord leur président, sont trop peu idéologues, trop conscients des réalités, pour qu'une telle dérive soit à redouter. Le temps est à l'imagination, pas à l'utopie.

Mais il lui faudra surtout surmonter les clivages passés de toute nature, le plus souvent fondés sur la méfiance, qui bien évidemment vont réapparaître en son sein. Qu'il s'agisse du fonctionnement de l'Union, ou du développement de ses politiques, ce ne sont pas des solutions toutes faites, clé en main qu'elle devra approuver. Cependant, pour répondre à l'attente de tous et permettre de sortir

d'une impasse incompatible avec un élargissement réussi, les orientations qu'elle proposera devront être précises et, si possible, unanimes ou au moins très largement majoritaires.

C'est un rôle presque secondaire qui, momentanément, sur ces questions centrales, est laissé aux gouvernements. Ils peuvent cependant aider, en contrepoint, en n'embrouillant pas davantage l'écheveau que la Convention va maintenant essayer de démêler. Pratiquement, cela pourrait vouloir dire en se ralliant sans trop y retoucher au compromis proposé par la Commission pour le financement de l'élargissement de 2004 à 2006 et en accordant un préjugé favorable aux propositions que la même Commission leur soumettra après les élections françaises, au terme de la « révision à mi-parcours » prévue par l'accord de Berlin de mars 1999, pour adapter la PAC. Un tel effort signifierait l'abandon de l'attitude systématiquement défensive adoptée par les Etats membres depuis les débats sur l' « Agenda 2000 ». La France et l'Allemagne, qui ont eu une responsabilité importante dans cette crispation, semblent l'avoir compris. Il faudrait qu'elles le confirment et que les autres gouvernements - notamment ceux des « petits » états membres, souvent coupables d'une pusillanimité destructrice - fassent de même.

Politics as Unusual:
NATO and the EU After 9-11

Peter Van Ham[1]

Abstract

The events of September 11th 2001, or *9-11*, have had a serious impact on both NATO and the European Union (EU). In this new 'age of terrorism', both organisations are attempting to define a role vis-à-vis a United States shopping for moral, political and legal support but reluctant to integrate European Allies into its military strategy. The wisdom of such US 'unilateralism à la carte' can be questioned, particularly in the light of NATO's continued need to redefine its role and relevance in the post-Cold War world. For the EU, the likelihood of a future collective defence clause appears enhanced by 9-11, while both the continued weakness of the Common Foreign and Security Policy (CFSP) and a US preference for bilateral relations gives further weight to pressures for a EU foreign policy *directoire* composed of France, Britain and Germany.

1. Introduction

After the atrocities of 11 September 2001, NATO and the European Union (EU) are engaged in a confrontation with international terrorism. This is not just a war, but a 'just war' against an unknown enemy whose only face and voice – the quintessential Islamic radical Osama bin Laden, who could have walked straight from the set of the latest James Bond movie – calls for a *jihad* of the faithful against the infidels. As in a real 007-film, the hijackers proved that you could bring the Western world to a standstill with little more than airplane

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cutlery as long as you are willing to die in the process. This is at least unsettling, and it certainly undermines established notions of 'security' and 'defence'.

It seems that the nameless post-Cold War era has finally found its label: The age of terrorism. Bin Laden wages his war to undermine the West's sense of purpose, just as the 9-11 strikes are intended to undermine its shared sense of security. These are exactly the two qualities which are said to form the basis of two of the West's key institutions, NATO and the EU. Both organizations aim to offer member states and their citizens security and prosperity based on cooperation, openness and a sense of belonging. NATO and the EU are often seen as Deutschian 'security communities'[2], and Samuel Huntington even refers to NATO as 'the security organization of western civilization.'[3] Although Huntington's clash-thesis is *en vogue*, there remains unease about its strategic implications and the air of Western superiority it exudes, despite the obligatory qualification that this is a fight against Islamic extremism, and not against the religion and culture as a whole.

This essay asks how NATO and the EU are affected by the 9-11 events and their aftermath. What role do these organisations play and how relevant and effective are their policies in the overall Western struggle with international terrorism? Has NATO finally found itself a new post-Cold War mission? What will be the consequences of America's new strategic priorities – shifting away from Europe and focusing on eradicating the 'Al-Qa'ida-network' – for the EU's plans to develop a more cohesive foreign, security and defence policy? How will, or may, NATO and the EU adapt to these new geostrategic realities?

2. NATO, Article 5 and the 10 Feet Tall Terrorist

'These terrorists are not 10 feet tall. They are not insuperable. They are not unvanquishable, but we are. We can win, and we certainly will win.'[4] This is NATO's Secretary-General Lord Robertson speaking, standing next to US President George W. Bush in the Rose Garden at the White House (on 10 October 2001). On this sunny autumn day, both men look solemn and determined, which they no doubt are. Of course, the world's most wanted terrorist,

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2   Karl W. Deutsch et al., *Political Community and the North Atlantic* (Princeton NJ: Princeton University Press, 1957).
3   Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (London: Touchstone Books, 1998), p. 161.
4   "NATO chief: 'We certainly will win war on terrorism'". To be found at http://www.Cnn.com/2001/US/10/10/ret.us.nato/index.html (11 October 2001).

Osama bin Laden, is not ten feet tall, but his movement (the Al-Qa'ida, or 'Foundation'), seems wider and more globally dispersed than other threats facing the West in the recent past.

Later that day, Lord Robertson addressed the US Atlantic Council explaining why NATO is – or at least should be – the key pillar of the coalition fighting for the 'civilized world.'[5] Robertson argued that as 'the world's largest and most effective permanent coalition, [NATO] will be central to the collective response of the international community to terrorism, both now and in the long-term.' He reminded his audience of NATO's unique capabilities ('the interoperability, joint training, compatible communications and logistic that flow from NATO's military structure'), and suggested that 'for the moment, NATO is the best – indeed the only – game in town.' The EU's European Security and Defence Policy (ESDP) is in its (too) early stages, Robertson claimed, whereas the United Nations (UN) and the Organization for Security and Co-operation in Europe (OSCE) lack the 'unique composition, strength, cohesion and speed of delivery of NATO.'

The discourse after 9-11 frames the Western challenge as a 'fight', 'battle' and 'struggle' against international terrorism. The West is 'under attack', or even 'under siege'. This terminology suggests that the West is at war, which makes it only logical to respond in a military fashion by using its tried-and-tested military Alliance. Six hours after the 'events', NATO invoked its Article 5 collective defence clause; the first time in the organisation's 52-years history. America's allies were keen to show their political and moral support, making it clear that the terrorist attack against the World Trade Center (WTC) and the Pentagon were not just strikes against the symbols of America's economic and military power, but also an assault on the open society which underpins Europe (and the West) as a whole. It was also clear that not invoking Article 5 - by refusing to accept the logic of collective defence against international terrorism of this apocalyptic kind - would (again) place question marks behind the continued relevance of NATO. The invocation of Article 5 was a first step in Europe's gesture politics to demonstrate their solidarity and resolve. In this way, 9-11 was a test of strength for the Alliance similar to NATO's 1999-Kosovo campaign.

The 'events' also again highlighted NATO's role as a security community based not only – or even mainly – on shared interests, but on shared values and a common approach to global governance. Gone were the often acrimonious and

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5   Remarks by NATO Secretary General Lord Robertson, "An attack on us all: NATO's response to terrorism", at the Atlantic Council of the United States, Washington DC, 10 October 2001.

argumentative debates among allies on ballistic missile defence and the Kyoto Protocol. European politicians and media read this common fight as a time for Europe to show its support for Washington and a possibility to 'repay' some of its historical debt to Americans who lost their lives in two World Wars. The sensitivity of this expression of loyalty to the US was illustrated by the displeasure with the Dutch call (at the North Atlantic Council meeting of 2 October) for more time to evaluate the evidence of the American delegation against Bin Laden. Although in itself a reasonable request (especially in the light of the seriousness of the case), it was seen as an unfortunate expression of fickleness.[6] Clearly, 9-11 has rallied allies around the imaginary Western flag. At least for the time being.

On that same 2 October North Atlantic Council (NAC) meeting, NATO allies were handed a list of facilitating and logistical support the US could use. Five days later (7 October), the US and the UK embarked upon a military campaign against Afghanistan, bombing the few military targets available. As a show of support, NATO allies decided to fly AWACs airborne early warning aircraft to the US to secure their airspace and free American radar planes for duty in and around Afghanistan. NATO also decided to deploy its Standing Naval Force Mediterranean (STANFORMED) to the Eastern Mediterranean. However, on that very same day, disturbing stories of two people killed in Florida by anthrax hit the TV-screens. Was it terrorism, or just a freak accident?[7] No matter what, the rapidly spreading anthrax-scare again painfully illustrated the new nature of the challenge. All of a sudden, deploying AWACs to fight terrorism seemed impracticable and a policy-mismatch comparable to fixing your PC with a hammer: good to vent your frustration, but in the end of little practical use.

Since 9-11, the Bush administration established an impressive coalition of traditional (NATO) allies, friends and useful outsiders to strike at Al-Qa'ida's operations, undermine their political support basis and suppress their financial flows. But in their military campaign against Afghanistan, the US has preferred to go it alone, with only token involvement of British (and even a few French) commandos. Germany, Italy and Turkey have competed to offer troops and logistic support, but military planners in the Pentagon are loath to integrate Europeans in their military strategy. This is a paradoxical situation, since the US has for years pressed European allies to see NATO as an alliance with a significant task outside its treaty area.

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6   "NAVO-chef dwingt steun aan VS", *De Volkskrant*, 4 October 2001.
7   Although the origins of the anthrax deaths in the United States are still unknown, it is now sure that the anthrax-letters were either an act of domestic or international terrorism. However, no direct link between the anthrax-killings and Bin Laden has been established.

3. America's Alliance of One (and a Half)

The reasons for the US to keep this a military alliance of one (and a half) are easy to figure out. The US military is reluctant to fight another complicated and messy 'war by committee'. The 1991 Persian Gulf War and the 1999 Kosovo air war demonstrated that it is difficult to maintain a focussed military strategy through a unified system of command and control in a real alliance. The US now considers the nineteen-member NATO as a political and military supermarket where it can shop for moral, political and legal support. But the Alliance is not seen as the place to coordinate, let alone conduct, a consorted military campaign against global terrorism. Richard Haass, the US State Department's director for policy and planning, wrote earlier that his country should assume 'the role of international sheriff, one who forges coalitions by posses of states and others for specific tasks.'[8] This is what we see today. Observers who read the current US drive for broad support with 'like-minded' countries as a kind of Saulus/Paulus transformation will therefore be disappointed: the Bush team's earlier approach of 'unilateralism *à la carte*' remains basically unchanged.[9]

Although it may be understandable that NATO remains a sideshow to a US-led military strike against terrorism (especially since the attacks took place on US territory and against symbols of American power), there are also significant risks in underutilising and even sidelining European allies. For example, the 'events' can be seen as a unique opportunity to galvanize further French rapprochement towards NATO. President Chirac has been amongst the most vocal and passionate supporters of political and military support to the US. Moreover, France's military tradition seems well geared towards a tough and long battle in Afghanistan and beyond. But now French armed forces are mainly idly watching the spectacle unfold. And, even more importantly, France's political elite is doing the same, without feeling much 'ownership' of the US military strategy and their political goals. For countries like France – and, *ipso facto*, most continental Europeans – their *de facto* exclusion from the military fight against terrorism makes it easier to air criticism from the sidelines. What is more, while invoking NATO's Article 5 has not offered the US a political/military *carte blanche*, it certainly did raise expectations that the Alliance would become the main platform for a consorted Western approach (viz. the remark by Lord Robertson

8   Richard N. Haass, *The Reluctant Sheriff. The United States After the Cold War* (New York: Council on Foreign Relations Press, 1997), p. 6.
9   Jessica T. Mathews, "Estranged Partners", in: *Foreign Policy*, November/December 2001, and "Doubts over Bush's policy conversion", *Financial Times*, 12 November 2001.

quoted above).[10] The fact that this has not happened is both questionable and problematic.

But the difficulties with NATO's role are not only practical and atmospheric; they also seem structural in nature. NATO suffers from the so-called 'hammer-nail' conundrum, in the sense that it fits the task of 'fighting global terrorism' to the available tools, rather than first defining the problem at hand and then choosing the instruments it requires.[11] Over the last four months the world has witnessed a show of America's military strength against one of the most impoverished countries in the world. The military conquests of the Northern Alliance, the sudden fall of Kabul and the shrinking sanctuary of Bin Laden give the impression that the US campaign against terrorism may well be successful. But it will be easier to defeat a visible enemy like the Taliban than to 'win' the war against terrorism as such. Apart from retaliating and 'doing something', the military strikes in Afghanistan have not solved anything. On the contrary, they may well strengthen the resolve of many Islamic extremists willing to use force against the US, and most likely have increased their numbers. It is now already clear that the US bombardments on Afghan soil have led to more civilian casualties (at least 4,000) than the 9-11 terror acts (around 3,100). This will make it more difficult for the US to claim proportionality in its military response, and will complicate the widening of the anti-terrorism campaign.

The fight against terrorism cannot be 'won' in the traditional sense of victory; there will never be a ticker-tape parade on Fifth Avenue for these war heroes. At most, this challenge can be met by a wide and multi-dimensional approach comprising all available means of statecraft – from reinforced intelligence co-operation, police action and targeted operations to classical diplomacy -, of which military power is of lesser importance and unlikely to be effective in the long run. Since the EU prides itself as such a 'one-stop shop' (i.e. a strong and valuable institution which can in principle offer all these instruments of statecraft – including, since lately, modest military means), we may ask how the EU (and its main member states) has responded to these new geostrategic realities. Moreover, have America's new strategic priorities affected the EU's plans to develop a more cohesive foreign, security and defence policy?

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10 R. Nicholas Burns, the US ambassador to NATO, argued that 'it is difficult to imagine a future without the [NATO] alliance at the core of efforts to defend our civilization.' See Burns, "NATO is vital for the challenges of the new century", *International Herald Tribune*, 10-11 November 2001.

11 For a different view, see Philip H. Gordon, "NATO after 11 September", in: *Survival*, Vol. 43, No. 4 (Winter 2002), pp. 89-106.

4. EU: Supporting the Reluctant Sheriff

As to the latter question, Washington has lately followed a 'yes, but'-approach, encouraging the EU's geostrategic ambitions under the condition that the US remains fully involved, if not always in charge.[12] It is increasingly uncertain whether the US is prepared to polish up new Macedonian language laws, or to use its diplomatic and military clout to broker new deals in other slumbering Balkan disputes. The 'management' of European security may now be in the hands of Europeans themselves. This was also suggested by the EU itself, since a Joint Declaration two days after the terrorist attacks argued that the Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP) should be strengthened, 'ensuring that the Union is genuinely capable of speaking out clearly and doing so in one voice.'[13] As Belgian Prime Minister Verhofstadt argued, 'Washington is urging us to do more, not less, so that they can concentrate more resources for the battle against terrorism.'[14] But still, the main question is whether the EU and its member states will be able (and willing) to rise to this occasion.[15]

The EU has gone out of its way to support the US and has explicitly labelled the 9-11 attacks 'an assault on our open, democratic, tolerant and multicultural societies. (…) The European Union will co-operate with the United States in bringing to justice and punishing the perpetrators, sponsors and accomplices of such barbaric acts. On the basis of [UN] Security Council Resolution 1368, a riposte by the US is legitimate. The Member States of the Union are prepared to undertake such actions, each according to its means.'[16] In this case, 'each according to its means' implied that some countries were mobilising or offering troops, others providing intelligence or making available air bases. *De facto*, therefore, the EU invoked a quasi-'Article 5' collective defence clause which it still lacks *de jure*. (And that, it should be noted, in order to come to the assistance of a non-member state against a still unclear opponent). Although this quasi-Article 5 has not been codified due to the hesitance of the EU's non-allied members, this experience is likely to make it easier to introduce such a collective defence commitment in a future

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12 Stanley R. Sloan, *The United States and European Defence*, Chaillot Paper No. 39 (Paris: WEU Institute for Security Studies, April 2000).
13 "Joint Declaration by Heads of State and Government, President of the EP, President of the Commission and the High Representative for the CFSP", 14 September 2001.
14 Belgian Prime Minister Guy Verhofstadt at the Belgo-British Conference in London, 25 October 2001.
15 Edward Bannerman et al., *Europe After September 11th* (London, Centre for European Reform, December 2001). Also available in pdf-format at http://www.cer.org.uk/.
16 "Conclusions and Plan of Action of the Extraordinary Council Meeting on 21 September 2001", Press Release 140/01.

EU treaty. Austria's Chancellor Schüssel already argued that the 9-11 events have encouraged his country to seek membership of NATO, mainly since the Alliance 'is getting a totally new function' and 'will become a type of collective security union, which is in certain ways comparable to the OSCE.'[17]

The EU's Extraordinary European Council on 21 September resulted in fast decisions on a number of internal security issues, such as the EU-wide search and arrest warrant, new extradition procedures, agreement on data-sharing and a more prominent role of Europol (the EU's nascent law enforcement organisation) and Eurojust (the future European unit for cooperation between national prosecuting authorities).[18] The US has also requested (and generally received) assistance from the EU in police and judicial co-operation, in particular regarding regulations on extradition and police surveillance. Washington is also interested in more direct access to the EU's Schengen Information System (SIS). The European Commission introduced EU-wide standards to improve security for air travellers as well as emergency legislation to 'freeze' more than €100 million worth of assets of people suspected of terrorism. The Commission also tabled proposals for a common definition of terrorism and for a system of EU-wide penalties for terrorist offences. It proposed measures reinforcing the security features of the common visa and is exploring how existing EU legislation on asylum and financial markets can be made 'terrorism proof'. The EU further earmarked over €310 million to relieve the suffering of the Afghan people (and, as an immediate reaction, the Commission has released €5.5 million in emergency aid; an additional €6 million food aid has been released to World Food Programme).

Commission President Prodi suggested at the Ghent European Council of 18 October 2001, that 'recent events have shown the need for *more* – not less – action at the EU level.'[19] Following the attacks, the EU Troika visited Pakistan, Iran, Saudi Arabia, Egypt, and Syria as part of an effort by the Union to strengthen the international coalition against terrorism. At the Ghent Council, EU member states also decided that Europe should pay even closer attention to the dialogue with the Arab and Islamic worlds, rekindle the Middle East peace process, and reinforce the comatose Barcelona process. Further afield, the EU decided to review its policies on trade and co-operation with Pakistan, India and Iran as well as with Saudi Arabia and the Gulf States.

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17 "Vienna prepares to ditch neutrality", *The Guardian*, 5 November 2001.
18 See Joanna Apap, "Common European Instruments to Tackle Terrorism", CEPS Commentary, September 2001. To be found at http://www.ceps.be/Commentary/September01/terrorism.htm.
19 Speech of Romano Prodi, President of the European Commission, "Preparation of the Ghent European Council", Press Conference, 18 October 2001. (Emphasis in the original).

5. Waiting for Solana?

 But despite these good plans for consorted future EU policies, few member states have been waiting for the Union's heralded Mr. CFSP to forge a common European reaction in the foreign policy, security and defence field. Compared to the European Commission's active and rapid involvement in fighting international terrorism, Solana's role remained low-key. Behind the scenes Solana has been working hard on intra-Western coalition maintenance, and US Secretary of State Colin Powell reportedly dials 'Europe's' telephone number several times a week. Solana has also been going back and forth to the Middle East trying to avoid a further escalation of the Israeli-Palestinian confrontation. But it is the EU's big players – Germany, France and the UK – who continue to dominate the action and the media, making it clear that at times of serious crisis national responses still easily override the rhetoric of European solidarity and co-operation. European Commission President Prodi tried to put a nice face on the lack of a forceful CFSP, arguing that a 'common policy is not, of course, the same thing as a single policy uniformly adopted by every Member State. No: a common policy pools the different strengths of different individual countries, enabling them to pursue shared goals using shared instruments.'[20] In that sense the EU indeed follows a 'common policy', with every member state doing its thing and formulating its own historically informed answers. Strategic policy-lines have been coordinated and diplomatic consultations are on-going, but a clear expression of a potent and effective European CFSP it was not.

For the moment, this slipshod EU coordination of foreign, security and defence issues is tolerable since the policy parameters for member states remain narrow. In all EU countries, the atmosphere of loyalty puts enormous pressure on traditionally critical voices of US military actions (left-wing social democrats, socialists and greens) to toe the line of the new Bush doctrine: 'You're either for us, or against us' in the global anti-terrorism campaign. In their unrestrained backing of US political and military actions, German *Bundeskanzler* Schröder, French President Chirac and British Prime Minister Blair are in unison. Especially since the military campaign against the Taliban has proven successful, support for the US strategy comes naturally and seems assured.

Nevertheless, behind this front of solidarity, different voices and tones already make themselves heard within the European choir. And the longer the campaign against terrorism drags on, the more vocal these alternative and critical voices

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20 Speech of Romano Prodi, President of the European Commission to the European Parliament, "Time for real solidarity", 24 October 2001.

will inevitably become. Now that the image of a crumbling WTC is fading and being replaced by pictures of chaos in Kabul, the uneasiness that was mounting behind the scenes is becoming more outspoken and public.

The UK plays its archetypal role of 'transatlantic bridge' between 'Europe' (however defined) and the US with commitment, at times even with devotion. It is clear that the US only wants to work together with the UK in the military field; the trust and routine co-operation between both countries is unrivalled. Domestically, the opposition Conservative Party has offered its traditional full support for the US/UK military campaign, occasionally even asking for a tougher and clearer strategy to 'win the war' against terrorism.[21] A certain jingoist flavour is now spicing up British foreign policy. In this environment, the Labour government finds it difficult to keep its commitment to position itself 'at the heart of Europe'. Especially if criticism about US follow-up military actions from continental Europe grows, London will no doubt cling even more doggedly to its role of 'America's ambassador to the world', the honorary title given to Blair by British media.[22] Since 9-11, Blair has thrice criss-crossed the Middle East trying to maintain the regional anti-terror coalition. The rapid fall of Kabul on 13 November, now raises the question of how to stabilise Afghanistan and perhaps start searching for Bin Laden and his network in neighbouring countries if he is not captured 'on the spot'. The UK now leads the UN-mandated International Security Assistance Force (ISAF), which should assist in establishing a sense of peace and order under the new Aghan government.[23] But still, if the list of potential anti-terrorist targets grows longer (including countries like Somalia and Iraq, or even Iran), Britain's mission of transatlantic bridge-building will become very difficult.

In France, President Chirac has been equally visible and outspoken in his support for the US-led campaign, being the first allied leader to meet President Bush after the attacks (on 18 September). Domestically, his approval rate went from 57% to 74% between 9-11 and late-October, which certainly is helpful as he is facing two elections (for both presidency and parliament in May-June 2002). But this outspoken support also makes it difficult for him to hide his dissatisfaction with the US for not thankfully taking up his offers of military assistance. France wants to carry its weight as a permanent member of the UN Security Council and reinforce its self-made image as a global player of significance. More than a

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21 Iain Duncan Smith, "The Government must win back our hearts and minds", *Daily Telegraph*, 31 October 2001.

22 For example in *The Economist*, 20 October 2001. Although Mr. Blair has also been labelled the 'well-mannered butler to the American president.' See *The Economist*, 3 November 2001.

23 "Low-key role for peacekeepers", *The Guardian*, 19 December 2001.

month after the attacks (at the Ghent European Council), Chirac had to con-
clude that a possible French military participation alongside the US - beyond the
current contribution of *Mirage-IV* reconnaissance planes, spy planes, a listening
ship and a refuelling vessel – remains 'premature'. The problem is, however, that
the offer to join America's military campaign against terrorism is conditional
upon full French involvement in the military planning of the operations.24 This
is unlikely to happen.

Although still politically of minor importance, France also has to cope with vocal
and single-minded anti-US factions, some of them policy-makers and influential
intellectuals who are potentially capable of effectuating a shift of public opinion.
Former President Giscard d'Estaing already complained that the US obviously has
no need of a French contribution to the anti-terrorism campaign, whereas Jean
Baudrillard sarcastically branded this Anglo-American war as '[l]a guerre comme
prolongement de l'absence de politique par d'autres moyens.'[25] Especially - but
certainly not only - since France is not itself actively and fully militarily involved
in Afghanistan and beyond, the political basis of French support may prove to
be less solid than it is at present.

Immediately after 9-11, German *Bundeskanzler* Schröder has made the case that
this time mere verbal declarations of support for the US are not enough;
Germany should be prepared to be fully involved in the Western campaign
against international terrorism, even if this implies the possible use of German
armed forces outside Europe. On 7 November, Schröder announced that
Washington had made a detailed request for German military participation in
the Afghanistan-war. Schröder's list encompassed ABC-defence forces, *Fuchs*
reconnaissance vehicles, as well as naval units, flying hospitals and limited spe-
cial forces, with a total of 3,900 soldiers. When later that day, US Defence
Minister Rumsfeld denied that Washington had actually requested German
troops, Schröder was accused of being creative with the truth to convert scep-
tics of Germany's military participation in the anti-terrorism campaign.

Clearly, Schröder approach of 'unlimited solidarity' with the US has met with
criticism in his own party (SPD) and his Green coalition-partner. Several SPD MPs
raised doubt about the efficacy and morality of the Afghan war,[26] and Green

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24 Michaela Wiegel, "Chiracs Coup", *Süddeutsche Zeitung*, 8 November 2001.
25 Jean Baudrillard, "L'esprit du terrorisme", *Le Monde*, 3 November 2001.
26 Nico Fried and Philip Grassmann, "SPD-Abgeordnete kritisieren US-Militäreinsatz",
    Süddeutsche Zeitung, 2 November 2001. See also Michael Naumann, "So fremd wird uns
    Amerika. Trotz Solidarität mit dem geprüften Freund wachsen die Zweifel an seinen
    Kriegsmethoden in Afghanistan", *Die Zeit*, 31 October 2001.

policy-makers fear that their tacit support of the US-campaign will alienate them from their more pacifist electorate.

On 16 November, Schröder narrowly won a parliamentary vote of confidence on Germany's military engagement in the war (336 votes to 326), giving his government a political mandate to re-establish Germany as a full-grown Big Power in Europe, bearing responsibility and offering 'leadership' alongside France and the UK. This has not gone unnoticed. Several German commentators have mixed feelings about Berlin's eagerness on the argument that Schröder 'steigert die von ihm ohnehin propagierte "uneingeschränkte Solidarität" zu einer übereifrig-begierigen Solidarität des Endlich-dabei-sein-Wollens.'[27] But, they argue, in the mean time 'werden Vasallentum und der Verzicht auf Souveränität uns als Zeichen unserer "gewachsenen Verantwortung" verkauft.'[28] In January 2002, around 200 German troops were flown to assist the ISAF, with another 600 to follow later.

Internationally, Germany's coming of age in the security and defence field was already exemplified by its *menage à trois* with France and the UK prior to the Ghent Council of 18 October. During that short meeting between Schröder, Blair and Chirac, Europe's Big Three showed a glimpse of the future, indicating how a core group may offer leadership to an increasingly unmanageable, large (and diverse) group of member states. The impromptu London dinner organised by Mr Blair on 4 November to discuss American war plans with a selected number of EU leaders, has only stirred suspicions that the EU (and its smaller member states) is sidelined. Especially smaller member states take umbrage at being excluded when 'high politics' appears on the EU-menu.

But it is not only the pressure to make the EU more efficient and operational that calls for such a *directoire* of major players able to offer significant military assistance. This movement is now also reinforced by Washington's emphasis on bilateral relations with the EU's Big Three, rather than contacting and co-ordinating with Mr CFSP. Obviously, Washington still does not recognize the EU as a serious player in its own right in the security and defence field, a perception which might well – for the time being – be correct.

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27 Heribert Prantl, "Der Ernstfall", *Süddeutsche Zeitung*, 8 November 2001.
28 Franziska Augstein, "Teure Treue", *Süddeutsche Zeitung*, 15 November 2001.

6. Conclusions

The events of 9-11 have a serious impact on both NATO and the EU. The invocation of Article 5 has been a seachange for NATO, but the Alliance's peripheral role in the Anglo-American campaign (both politically and militarily), is questionable as well as problematic. Since this will be only the beginning of what will be a protracted and complex struggle, friction and even outright disagreement between the EU and US cannot be excluded. Compared with the relatively straightforward aims of the Kosovo-campaign – Serb forces out, Kosovo refugees returning home – the 'war against terrorism' is both multifarious and open-ended. But since this time NATO is not used as the privileged platform for Allied consultations and crisis-management, it will be all the more difficult to continue the myth that 'We are all Americans' now.[29]

The EU is now facing the serious task of both managing European security on its own, and being itself fully engaged in fighting international terrorism with all available means. The EU will also have to influence Washington policies in this long campaign, encouraging the US to re-engage itself in the Middle East peace process.[30] But at the same time, it may also be true that Washington will no longer be regarded as an objective, viable broker for a future Israeli-Arab peace accord. This could well be the most deplorable political collateral damage of the US anti-terrorism campaign. At the same time, this might offer the EU the opportunity to play a more active role in the Middle East, giving its CFSP some more profile and regaining some of the credibility it has lost after 9-11.[31]

It has become clear that a core group of Big Powers will increasingly offer leadership to any European CFSP and ESDP worthy of their acronyms. But this core-group leadership also puts pressure on the EU's cohesion, raising doubts about Europe's capability and willingness for unified action. As Dominique Moïsi argued, '[t]here is a re-nationalization of foreign policy, because it is a matter of different capabilities and

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29 Peter Struck, the Social Democratic leader in the German *Bundestag*, had declared 'Wir sind Amerikaner.' Quoted in Otto Graf Lambsdorff, "We are all Americans", *The Washington Post*, 24 September 2001.

30 "EU urges Powell to speed up delivery of Middle East plan", *Financial Times*, 12 November 2001.

31 Alfred Pijpers, "Alleen Europese Unie kan Arafat uit de droom helpen", *NRC Handelsblad*, 19 October 2001.

feelings of interest. This is a litmus test for Europe.'[32] It will certainly take more than 'loyalty' to make the West's anti-terrorism strategy coherent and effective. NATO and the EU may not be ideal for this job, but other credible institutions do not exist.

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32 Quoted in Peter Ford, "Common foreign policy still eludes unified Europe", *Christian Science Monitor*, 22 October 2001. Of course, foreign and security policy has always been dealt with on an intergovernmental basis within the EU, but the marginal role of Mr. Solana in the anti-terrorism campaign does illustrate the fragility of the EU's rhetoric of strengthening 'Europe's' voice in these fields in world affairs.

The EU-Russian Energy Dialogue: Towards Fully-Fledged EU Actorness

Tatiana Romanova[1]

Abstract

Growing energy dependence combined with an increasingly liberalized European energy market makes a common external energy policy vital for the European Union (EU). Limited community resources and the member states' reluctance to cede competences to the Community do, however, impede the process of policy formulation. Yet growing flows of foreign direct investment present a new and not fully exploited way of conducting an external energy policy and the Commission's role is becoming increasingly recognized by private actors. The author links the Energy Charter Treaty as well as the EU-Russian Energy Dialogue with these recent developments and analyses their potential effects on developing a fully-fledged EU actorness on the international scene.

1. Setting the Scene

The European Union (EU) is heavily dependent on imports of energy resources. This fact is fully recognised by one of the most important recent documents on the subject, *The Green Paper Towards a European Strategy for the Security of Energy Supply*[2]. According to this Paper, Community demand has grown at a rate of 1-2% per year since 1986, while the EU itself is home to merely 2%

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2   European Commission, *Green Paper Towards a European Strategy for the Security of Energy Supply*, COM (2000) 769 final, Brussels, November 2000.
    http://europa.eu.int/comm/energy_transport/en/lpi_lv_en1.html

of the world's natural resources - the equivalent of 20 years of consumption at the present rate.[3] By the year 2020, the dependence of the current EU-15 will have reached 90% for oil, 70% for gas, and 100% for coal.[4] Enlargement will not drastically change the pattern of the Union's energy dependence: oil dependence will grow to 86%, gas – to 71%.

In total, if no measures are taken, in the next 20 to 30 years 70% of the Union's energy requirements, as opposed to the current 50%, will have to be covered by imports.

These conclusions are reinforced by other studies such as the *Economic Foundations for Energy Policy*[5] and *the World Energy Outlook - 2001 Insights, Assessing Today's Supplies to Fuel Tomorrow's Growth*.[6] Consequently, the need arises to design a policy that will counterbalance these dangerous developments, since 'without an active energy policy, the European Union will not be able to free itself from its increasing energy dependence.'[7]

Currently there are two main approaches to the issue of energy security. The traditional way is to rely on own resources and to cut dependence on external resources to the minimum. With this goal, a country can promote the development of indigenous resources and renewable sources of energy on the supply side, and influence consumption patterns of industry and households on the demand side. Furthermore, large stocks can be created to offset short-term disruptions of supply. This approach will not however solve the problem of EU energy dependence. Even in the best possible scenario, the combination of demand and supply patterns could not guarantee energy independence for the Union.[8] Thus although important for energy security - and reflected in the European Commission's policies - this approach will not solve all the Community's energy problems. Self-sufficiency is impossible, as is the creation of large stocks of resources that are very expensive to build and maintain.

3   *ibid*, pp.12-16.
4   European Commission, *Green Paper, op. cit.*, p. 20.
5   European Community, *Economic Foundations for Energy Policy. Shared Analysis Project* (Luxembourg: EC, 1999). http://europa.eu.int/comm/energy/library/executive_sum.pdf.
6   OECD, *World Energy Outlook – 2001. Insights, Assessing Today's Supplies to Fuel Tomorrow's Growth* (Paris: OECD, October 2001).
7   European Commission, *Green Paper, op. cit.*, p.2
8   J. Stern, *Traditionalists Versus the New Economy: Competing Agendas for European Gas Markets to 2020*, Briefing Paper News Series No. 26 (London: The Royal Institute of International Affairs, November 2001).

Another recently developed way to ensure energy security is to promote the development of the world economy and investments of major suppliers in the energy sector to guarantee, with the help of the market, stability of energy flows. This should be complemented by diversification since 'the best guarantee of security of energy supply is clearly to maintain a diversity of energy sources and supplies.'[9]

The dilemma is, however, that there is on the one hand a clear need to ensure security of supply at the Community level given the existence of the Common market and, in particular, the recent liberalisation of gas and electricity markets. On the other hand, the Community does not have resources to invest in developing energy resources beyond the Community, nor does it have a Treaty mandate to act in this field. However, the possibility of Community action to ensure energy security according to the second approach is being triggered by the changing balance between the private and public sectors.[10]

One of the most striking developments of the last 50 years is the drastic increase in foreign direct investment (FDI) flows. According to a recent OECD study, world FDI flows in 1999 totalled $ 865 bn. In the last 17 years, FDI flows have multiplied by sixteen.[11] These figures demonstrate the importance of FDI in the current international environment and renders imperative its consideration when designing any policy with implications for international relations. It is in particular true of Europe, itself a large source of outward investments.

> '[Foreign economic relations (FEP)] dominated by trade is not appropriate for Europe in the 1990s. FEP must incorporate finance, money and investment if it is to be relevant as theory. A model of the interactions of the world political economy that focuses primarily on trade is likely to be based on a conception of an international, as opposed to a world or global, economy: that is, the model assumes exchange relations between national economies as the dominant framework.'[12]

Therefore, multiple growth of FDI flows should be taken into consideration when designing a strategy to counter energy dependency. In essence, external

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9   European Commission, *Green Paper, op.cit.*, p. 30.
10 See for details J. Mitchell, *Energy Supply Security: Changes in Concepts*, Présentation pour le Séminaire européen sur la Sécurité d'approvisionnment Energétique, Paris, Novembre 2000. http://www.riia.org.
11 United Nations, *World Investment Report 2000. Cross-Border Mergers and Acquisitions and Development* (New York/ Geneva: UNCTAD Publications, 2000), p.4.
12 R. Tooze, "Foreign Economic Policy in the New Europe: a Theoretical Audit of a Questionable Category", in: W. Carlsnaes/ S. Smith (eds.), *European Foreign Policy: the EC and Changing Perspectives in Europe* (London: Sage, 1994), p. 74.

energy policy can consist of analysing the existing situation, of drawing up priorities for an energy strategy and of influencing private actors to ensure that they comply with this strategy, thereby improving the security of the Community. International co-operation is a 'magic way out' of the situation of energy dependence provided the countries concerned manage to persuade their national companies – or companies they trust – to invest in the necessary regions in order to preserve the freedom of access and procurement of oil and gas.[13]

One should not, however, forget that FDIs are *private* investments. Therefore, in democratic systems they can only be influenced indirectly. Outward investments can be influenced by:

1. ensuring a number of legal conditions for FDI treatment (i.e. conditions set in bilateral investment treaties (BITs))[14],
2. creating a special fund insuring against non-commercial risks,
3. technical development of interesting projects from the security point of view,
4. special domestic - fiscal – regimes for companies investing abroad.

On several occasions the Commission's Green Paper hints at the probability of this mechanism but does not spell it out clearly enough. However, it is interesting to analyse a number of recent developments in energy policy in this light.

2. Analysing Current Realities: The Energy Charter and the EU-Russian Energy Dialogue

The importance of Russia as one of the main energy suppliers is self-evident. Russia is the main supplier of natural gas to Europe and ensures 42% of EU external needs in natural gas. Moreover, it is an exporter of oil and there is substantial potential for future trade in electricity. Therefore, it becomes essential for the EU to secure stakes in the Russian energy field. This task is under way.

Until now the practical implementation of this has undergone two stages:

1. the conclusion of the Energy Charter and Energy Charter Treaty (ECT)
2. the launch of the EU-Russian Energy Dialogue.

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13 See also K. Sodupe/ E. Benito, "Pan-European Co-operation: Opportunities, Limitations and Security of Supply to the EU", in: *Journal of Common Market Studies*, Vol. 39, No. 1, 2001, pp.165-77.
14 For a detailed analysis of the relations of the BITs to the international public law see M. Sornarajah, *The International Law on Foreign Investment* (Cambridge: Cambridge University Press, 1994).

The Energy Charter

In 1990 the then Dutch Prime Minister, Ruud Lubbers, proposed to his EC colleagues that a Charter be elaborated setting out common principles in the area of energy co-operation to which all European governments could subscribe. In fact the initial proposal was to establish a fourth Energy Community, that would transcend the borders of the then Community of 12 to include Russia and some of the other countries of the Commonwealth of Independent States (CIS). However, the USA was quite suspicious and sceptical of the idea and decided to join in to better influence the agenda. Eventually the process culminated in the signing of the European Energy Charter by all European states as well as the USA, Canada, Japan and Australia at The Hague in December 1991, as a political declaration of intent regarding international energy co-operation. However, the Charter's Signatories agreed that they needed to go further, by developing a legally-binding foundation for the energy sector. Thus the Energy Charter Treaty (ECT), 'the document that gives legal "flesh" to the bones of the original European Energy Charter',[15] was developed and signed in December 1994 after several years of negotiations. It entered into force in April 1998 with the EU member states, the European Communities as well as Russia as signatories.

Investment issues formed one of the pillars of the Energy Charter reflecting the fact that Western investments have become 'the focal element'[16] of policy towards the East. Investment provisions, as developed in the Treaty, are based on the fundamental principle of extending national treatment, or 'most-favoured nation treatment', to energy sector investors from other signatory states. Guarantee against nationalisation and expropriation and risks of civil conflicts in accordance with the formula of prompt, adequate and effective compensation is also included. Investors from the parties involved were also granted the right to employ the chief personnel of their choice, and their right to repatriate profit was secured.[17] Highly developed provisions were due to the alliance of governments willing to promote investments in the area on the one hand, and the desire of the oil and gas companies to make profits in the newly opened markets on the other.[18] Thus the investment field became one of chief importance

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15 R. Kemper, *Energy Security for Europe: The Role of the Energy Charter* (Brussels: Centre For European Policy Studies, May 2000). http://www.encharter.org.

16 A. Smith, "The 1994 Energy Charter Treaty: EU Foreign Policy in the Field of Energy", in: A. Cafruny/ P. Peters (eds.), *The Union and the World: the Political Economy of a Common European Foreign Policy* (The Hague: Kluwer Law International, 1998), p. 247.

17 See also CEPS, The Energy Charter Treaty: A Fresh Start for the East-West Energy Business? Four Discussed Papers by C. Bamberger, T. Waelde, P. Andrews-Speed and G. Luciani with an Introduction by Peter Schutterle, CEPS Business Policy Report No. 5 (Brussels: CEPS, 1997).

18 Interview with an ECT Secretariat Official.

for the Energy Charter.[19] We can identify legal guarantees of investments as the main instrument of FDI influence in the document.

The Community played an important role not only in the initiation of the process of the Charter conclusion but also in the negotiation of the concrete provisions.[20] The ECT was stipulated as one of the legal foundations for energy-sector co-operation and became a part of the *acquis communautaire*, with which all applicant states must comply before joining the EU.[21] Furthermore, the Charter was signed by all Member States of the Union and by the European Community itself and was thus being adopted as a mixed treaty.[22] Moreover, the fact that the EU acted as a bloc, thereby improving its collective influence in the field, provoked a certain concern on the part of the US. Already at the beginning of the 1990s the ECT investment provisions became one of the EU's responses to growing energy dependence.[23]

However, the initial momentum of the new organisation was very soon lost. Firstly, an overcrowding of actors hampered the daily functioning of the organisation. The ECT process is specific in that it is not a finished and 'still' document but one of constant and progressive development.[24] This continuous co-operation requires the permanent presence of officials.[25] The EU is represented by both a Commission official and by national officials. The Commission does not control the agenda and in most cases plays a minor role compared to that of the EU member states. Often the lack of coherence between EU member states and the Commission results in confusion and sometimes even complete chaos. This was particularly evident during negotiations on a Transit Protocol to the ECT, when talks were interrupted following the realisation by EU member states that the agreement they had reached would contradict internal EC legislation yet would at the same time be superior.

Secondly, the Energy Charter comprises only legal guarantees, typical for

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19 K. Sodupe/ E. Benito, *op. cit.* See also E. Paasivirta, "The Energy Charter Treaty", in: M. Koskenniemi (ed.), *International Law Aspects of the European Union* (The Hague/ Boston: Kluwer, 1998), p. 198.
20 J. Touscoz, "The Role of the European Union in the Framework of the Energy Charter Treaty", in: *European Foreign Affairs Review*, Vol. 2, No.1, 1997, pp. 23-32.
21 G. Luciani, "The Energy Charter: A View from the Oil and Gas Industry" in: CEPS, *op. cit.*
22 The official reason was that the Charter also had trade provisions and clauses on transit that fell within the Community's competence.
23 K. Sodupe/ E. Benito, *op.cit.*
24 See C. Bamberger, in: CEPS, *op.cit.*
25 J. Touscoz, op.cit., p. 24. Interviews with a Commission official. P. Schütterle, "Energy Charter Treaty Aims to Guarantee Energy Transit and Promote Competition Law and Order" in: Caspian Investor, July 1999, pp. 46-54.

bilateral investment treaties that were not sufficient for active promotion of EU investment in Russia.

Thirdly, considering the importance of energy in economic development and also geo-strategic aspects of its implementation area, the ECT's geopolitical nature is not absolutely clear.[26] The fact that it is open to everybody and that its scope of application is so large can be considered as positive. But, on the other hand, it does not give its participants any feeling of belonging to an 'exceptional club', which is of particular importance for Russia, and which prevents deeper co-operation.[27] Co-operation in the framework of the Charter remains complicated primarily because of the low probability of Russian ratification of the Charter.[28] Indeed, the majority of Russian diplomats appear to think that the Energy Charter is doomed in the long term. Unofficially, this opinion is supported in the corridors of the European Commission.

The EU-Russian Energy Dialogue
Due to the Energy Charter's ineffectiveness, the Green Paper on the security of energy supply was published. It focused the thoughts of policy-makers by combining different tendencies in the energy sphere. Vice-President of the Commission Loyola de Palacio stated in her speech presenting the Green Paper that:

> 'Confronted with both increasing external dependence and the urgency of the fight against climate change, the European Union cannot be complacent (…). We have to be aware of the efforts needed and try and define a real European strategy, more coherent and responsible: it means a wider energy supply (…).'[29]

Furthermore, the Green Paper recognised the need of the Community to conduct special dialogues with producer countries with a view to ensuring

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26 J. Touscoz, *op.cit.,* p.24.
27 A good example are the negotiations of the protocol on investments in 1998 that was planned to provide further guarantees for the pre-investment stage but was upset by involvement of too many actors, in particular by the USA. The conference lasted only 7 minutes and ever since the officials of the Energy Charter were cautious to come back to the issue.
28 *Gazprom,* the natural gas monopoly of Russia, remains the main opponent of the ECT because of the perceived losses that it might incur in terms of the opening of the pipeline network of Russia to Central Asian gas. The absence of the clause that the cost of transportation determines the price of the transit also diluted the support of the Russian oil companies. However, the principle drawback of the ECT is that it does not include atomic energy, which is well developed in Russia, and thus leads to the lack of both industrial and governmental support. Interview with an ECT Secretariat official.
29 European Commission, *The Commission Launches an Overall Debate on a Future European Energy Strategy with a Green Paper on the Energy Supply Security*, DN: IP/00/1368, Brussels, November 2000. http://europa.eu.int.

security of supply.[30] The preparation of the Green Paper coincided with an increased Russian assertiveness regarding energy policy following Vladimir Putin's coming to power.[31] This required a counterbalance on the Community side. The combination of these factors led the EU and Russia to the conclusion that the Energy Charter could not properly guarantee the security of EU energy supply and that there was a concomitant need for a 'more assertive common foreign energy policy'.[32] As a consequence, the EU-Russian Energy Dialogue was launched at the EU-Russia summit in October 2000.

> 'So far energy links have been limited to simple producer-consumer relations. A strong momentum has been generated by the Summit to develop a political partnership in this area, with the new significance given to energy security.'[33]

EU-Russian special co-operation in the energy sphere represented an even more assertive way of promoting energy security through the interrelation of private and public sectors. In fact, the dialogue's rationale is to promote European private direct investments in the Russian energy sector in exchange for a long-term partnership with Russia and for Russia guaranteeing the supply of energy resources to Europe. As Christian Cleutinx, head of the Unit on Coal and Oil of the Directorate General Transport and Energy (DG TREN) stated, '[t]he strategy towards Russia is a long-term strategy, aiming to facilitate investments in the energy sector in order to increase production (…). The EU aims to act as a facilitator for private sector operations.'[34]

The EU-Russian dialogue is planned to be far more practical than the Energy Charter mechanism. It goes into more detail and has the potential to be far more effective in this way. Currently negotiations are underway to improve product sharing agreements to guarantee proper treatment of foreign oil and gas companies in Russia. Discussion also concentrates on designing a quick mechanism for foreign entities' registration (a sort of a one-stop-shop) fast-track dispute-

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30 See European Commission, *Green Paper, op.cit.*, p. 87.
31 In particular the example of the Caspian oil and gas resources and the efforts of Russia to find the solution with the other countries contingent to the Sea might be cited as well as pressure on Georgia and Ukraine. See for the details D. Plum, *Russia's New Caspian Policy*, Program on New Approaches to Russian Security Policy Memo Series, Memo No. 162, October 2000. http://www.providence.edu/polisci/blum/index.html.
32 R. Linkohr, *Europe Needs a Foreign Energy Policy*, Speech delivered in Athens, June 2000. http://www.scadplus.org.
33 *EU-Russian Energy Dialogue*, Synthesis Report presented by Russian Vice-Prime Minister Victor Khristenko and European Commission Director-General François Lamoureux, September 2001. http://europa.eu.int/comm/energy_transport/en/lpi_en_3.html.
34 C. Cleutinx, *A Strategic Energy Partnership? EU-Russia Co-operation in the Supply of Energy*, CEPS Lunchtime Meeting, December 2000. http://www.ceps.be.

resolution procedure. Technical studies of existing pipelines as well as potential exploration projects are also being conducted. Finally, debates are in progress concerning the possibility of a fund in co-operation with the European Bank for Reconstruction and Development (EBRD), and the European Investment Bank (EIB), which would ensure EU investors in Russia against non-commercial risks.[35] According to a Commission presentation of the EU-Russian Energy Dialogue 'the EU will provide technical assistance and facilitate the mobilisation of investment.'[36] Thus the whole spectre of investment protection mechanisms is being used.

Furthermore, the dialogue marks a clear qualitative leap from the intergovernmental or mixed approach of the Energy Charter towards more communitarised co-ordinated action since it was a *Commission* initiative developed within DG TREN. The plan of co-operating with Russia to diversify sources and create the closest possible ties was even called 'the Prodi Plan'. The Commission, more specifically the Directorate B, Unit on Coal and Oil of DG TREN, also became responsible for the whole co-operation. Thus the policy of investment promotion – indeed a very broad one – is now being developed at the Community level.

Following the conclusion of the four thematic groups on the possible aspects of the EU-Russian Energy Dialogue and the presentation of the Synthesis Report to the EU-Russia summit in October 2001, the Dialogue is incorporated in the mixed structure of the Partnership and Co-operation Agreement, i.e. both the Commission and member states participate. However, the mechanism of two sole interlocutors (i.e. Khristenko and Lamoureux) was retained. Therefore to a large extent the Commission controls the agenda of partnership and is in the end the main actor in investment promotion despite the absence of Community competences in the sphere and the lack of clarity of the Commission mandate. The declared intentions of the Commission - and in particular of DG TREN - are to maintain the momentum in EU-Russian energy negotiations and to both secure and strengthen its central role, possibly by concluding a separate EU-Russian Energy Partnership treaty.

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35 This is highly plausible in the oil and gas sector. See, in particular, P. Andrews-Speed, "From the Theory to Practice: Seizing the Opportunities", in: CEPS, *op.cit.*

36 *EU-Russian Energy Dialogue, An Overview*, DG TREN of the European Commission, June 2001. http://europa.eu.int/comm/energy_transport/en/lpi_en_3.html.

3. Strategic Consequences

Most oil and gas companies trust in the Community's ability to influence FDI in the best possible way, thereby ensuring mutual benefits. In their reaction to the Green Paper federations representing the interests of the energy industry were quite explicit. According to the Organisation of Gas and Petroleum Producers,

> '[t]he EU can promote security of energy supply by (…) using international diplomacy to encourage appropriate investment conditions and to secure a range of new routes into Europe for diverse, additional sources of oil and gas. (…) The focus of effort should be fixed upon creating the right climate for investment and ease of distribution.'[37]

EUROGAS calls for the introduction of a similar dialogue with the Mediterranean countries and continues that

> '[i]t is in the interest of supply diversification and security that EU legislators help to maintain the right investment and regulatory climate, recognising for example an adequate return on existing and new assets to provide an economic basis for the maintenance and development of the network, and incentives to invest for the longer term in these regions where gas demand is expected to increase.'[38]

The Commission recognises the success of its co-operation with the industry and the interest of the industry in improving this alliance.[39]

Thus the industry equivocally answers one of the Green Paper's questions: Can the European Union accept an increase in its dependence on external energy sources without compromising its security of supply and European competitiveness? Yes it can, but in close co-operation with the industry, and only by recognising the main private actors, companies and business associations.

The energy sphere is the one that 'has literally made foreign and security policy

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37 European Commission, *Green Paper Towards A European Strategy For the Security Of Energy Supply, OGP/EUROPIA Comments, June 2001.*
http://www.ogp.org.uk/news/downloads/SOSreply.PDF.

38 EUROGAS, *Comments on the Green Paper on Security of Energy Supply.*
http://europa.eu.int/comm/energy_transport/livrevert/contributions/03/eurogas.PDF.

39 Recognised by *Document de Travail des Services de la Commission. Rapport d'avancement concernant les réactions au Livre Vert 'Vers une Stratégie européenne de sécurité d'approvisement énergétique, Décembre 2000-Fin Octobre 2001*, Bruxelles le 3.12.2001 SEC (2001) 1962, pp. 9, 16, 17.

for decades'[40] and stays at the heart of vital interests of any actor in the international arena. Developing a Community approach in the sphere through deployment of FDI promotion mechanisms and the gradual strengthening of Commission positions may have global strategic consequences for the EU.

The EU is striving both to find its role in the international arena and to define itself as an actor. Fundamentally the concept of 'actorness' needs to combine two components: firstly presence; secondly, ability to act rationally.

The concept of presence was introduced first by Allen and Smith[41] in order to define a European role on the world scene that could not qualify as the role of a fully-fledged international actor. Presence signifies:

> 'a feature or a quality of arenas, of issue-areas or of networks of activity, and it operates to influence the actions and expectations of participants. It can be associated with tangible institutions and groupings, but it can also be expressed in essentially intangible ways, which are nonetheless powerful.'[42]

It can also be perceived as a 'passive' or 'potential' actorness – the necessary foundation for fully-fledged actorness.[43] With regard to the economic presence of the EC in the world, Allen and Smith define the following elements that constitute presence: the availability of resources, and the ability to process the resources efficiently. In sum, these decisively determine the entity's capacity to act in the world economy. Another approach to presence might be the one adopted by Sjöstedt. He argues that to be considered as such, an actor first needs to be 'discernible from its environment' and enjoy a 'minimum degree of internal cohesiveness.'[44] However, autonomy is a necessary but not in itself sufficient prerequisite for actorness - it is merely a 'passive constituency'. To become a fully-fledged actor, a constituency needs to be capable of carrying out reasonable actions[45], i.e. it needs to be able to identify policy priorities and formulate coherent policies, to negotiate with the other actors in the international system, and to utilise policy instruments. In contrast to its passive component, this would constitute an active element of EU actorness.

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40 B. Richardson, *Geopolitics of Energy into the 21st Century*, March 2001. http://www.csis.org/cei.html.
41 See, for example, D. Allen/ M. Smith "Western Europe's Presence in the Contemporary International Arena", in: *Review of International Studies*, Vol. 16, No. 1, 1990, pp. 19-37.
42 *ibid*, p. 21.
43 See also O.R. Young, "The Actors in World Politics", in: J. Rosenau, V. Davis, M. East (eds.), *The Analysis of International Politics* (New York: Free Press, 1972).
44 G. Sjöstedt, *The External Role of the European Community* (Farnborough: Saxon House, 1977).
45 For the actor capability criteria see *ibid*.

In today's world, both the coherence in the FDI sphere and the ability to influence FDI decisively defines contemporary actorness. To answer the question of the EU's actorness in this sphere is rather difficult but it cannot be denied that there exists a clear potential for improving the EU's role in this sphere.

The EU's presence in the world investment structure is substantial. Together with the US and Japan it is one of the three biggest sources and destinations of investment in the world. In 1999 it accounted for $425 billion of outflow FDIs - approximately one half of the world figure that year.[46] Moreover, the EU continues to strengthen its position as the largest investor. It can be argued, therefore, that the EU is very much present in the sphere of FDI and is likely to further develop and improve this presence.

According to the treaty provisions however, the European Commission does not have a competence in this sphere as

> 'there are several economic instruments that are not controlled exclusively by the Community. The Member States can still grant export credits, promote investments (…) as long as the provisions of their agreements do not vindicate the Community's Common Commercial Policy. They can tax and freeze foreign assets.'[47]

The main problem is that the Treaty establishing the European Community (TEC)'s provisions were not considerably changed during the last revisions to answer the demands of the new global economic structure. During the negotiations for the Maastricht Treaty the Commission proposed to replace the notion of a Common Commercial Policy (CCP) with that of a 'common policy on external relations, comprising in particular economic and trade measures in respect of services, capital, intellectual property, investment, establishment and competition.'[48] However, the member states were not willing to confer more power on the Community and therefore the Commission failed. Furthermore, the Court's opinion 1/94 ECR[49] on the competence of the Community to conclude the

46 United Nations, *op.cit.*, p. 30.
47 K.E. Smith, "The Instruments of European Union Foreign Policy", in: Robert Schuman Centre (ed.), *Paradoxes of European Foreign Policy*, European University Institute Working Paper No. 97/68 (Florence: European University Institute, 1997).
48 See H.W. Micklitz/ S. Weatherill, *European Economic Law* (Dartmouth: Ashgate, 1997), p.381; Y. Devuyst, *"The European Union's Common Commercial Policy and the Treaty on European Union: An Overview of the Negotiations"*, in: *World Competition*, Vol. 15, No. 1, 1992, pp. 67-80.
49 European Court of Justice, *Avis 1/94 du 15 nov. 1994 concernant la compétence de la Communauté pour conclure des accords internationaux en matière de services et de propriété intellectuelle.* http://www.celex.org.

Agreement establishing the World Trade Organisation underlined the impossibility of an extended interpretation of the CCP provisions. The subsequent Amsterdam and (not yet ratified) Nice revisions of the TEC did not bring any substantial difference in terms of investment.[50]

> '[T]rade in goods is only one aspect of global economy, and one, which has declined in relative significance since the establishment of the Community. In these other areas – services, investment and monetary affairs – the burgeoning presence of the EU has not yet been reflected in the creation of an equivalent capacity to act as a single player.'[51]

The Commission's current involvement in the energy sphere is both spontaneous and non-institutionalised, relying on a re-interpretation of the TEC provisions and on ad-hoc developments. However, the extent of the Commission's involvement and of the multiple instruments used to promote FDI in the energy field cannot be denied and therefore represent substantial potential with respect to improving contemporary EU actorness. Furthermore, energy remains at the core of sovereign interests, being an essential condition for the survival and progressive development of any state and thus normally involves a certain amount of national control and 'interference'.

The Commission is reasonably clear about where current developments are going. Loyola de Palacio, Vice-President of the Commission stated:

> 'Until recently, European integration had been a largely economic process. From now on it will be an increasingly political process (…). Now international markets are opening up and a single European energy market is emerging. Europe must learn to anticipate and manage these changes and position itself as a global leader from which it can help set the global agenda.'[52]

Member states are reluctant to cede national control in this area.[53] But changes are under way and it would appear almost impossible to reverse their course.

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50 H.G. Krenzler/ C. Pitschas, "Progress and should be Stagnation?: The Common Commercial Policy After Nice", in: *European Foreign Affairs Review*, Vol. 6, No. 3, 2001, pp. 291-313.
51 C. Bretherton/ J. Vogler, *The European Union as a Global Actor* (London: Routledge, 1999), p. 46.
52 L. de Palacio, *The EU Energy Policy in Transition: Transforming Objectives into Market Realities,* Speech /01/568, London 22 November 2001.
    http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/01/568.
53 For more details see P.C. Schmitter, "Imagining the Future of the Euro-Polity with the Help of New Concepts", in: G. Marks et al. (eds.), *Governance in the European Union* (London: Sage, 1996), pp.121-150; L. Hancher, *EU Energy Policy*, Oslo Report 4/1998 (Oslo: Norwegian School of Management, 1998); S. Andersen, *EU Energy Policy: Interest*

So,

> '[p]erhaps history will repeat itself in some respect – as we know from historical experience in the context of the European Union – a strategy based on "one limited but decisive point" can be "the first concrete foundation" for wide scale legal integration.'[54]

To conclude, the success of influence on FDIs in the energy sphere at the Community level might spillover to other spheres and might eventually result in the development of a fully fledged instrument of EU foreign policy, turning the EU into a veritable contemporary actor on the international arena.

Interaction and Supranational Authority, Arena Working Papers No. 00/5, 2000. http://www.arena.uio.no/publications/wp00_5htm.
54 E. Paasivirta, *op.cit.*, p. 214.

Europe's Fuzzy Boundaries

Anne Haglund[1] and Daniel Silander[2]

Abstract

In the context of globalisation and cross-border transformations, this article identifies three forms of fuzziness that together seem to characterise the modern European order. First, the institutional fuzziness among those institutions and agencies within nation-states and those within the European Union (EU) in its system of multi-level governance. Second, the fuzziness of the territorial boundaries between the EU and its neighbouring countries in the continuous process of enlargement. Third and finally, the fuzziness of EU policy-making as regards the member-states' commitment to various policy areas as well as the Union's policy-export to neighbouring countries.

1. Introduction

Modern European politics have been dominated by questions of inclusion both of member states as well as of policies, and of how far the European Union may develop; in other words, where the natural stopping point of European integration is. What geographically constitutes Europe as a region is as diffuse a question as that of what Europe's future institutional structures will look like. This article establishes a linkage between the process of globalisation on the one hand and the fuzzy character of the EU's multi level system of governance on

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the other. Globalisation has come to be characterised as a multidimensional phe-
nomenon that has intensified the meeting of states and citizens; economically in
the exchange of products and money, technologically in the exchange of infor-
mation and innovations, politically in the exchanges of ideas and strategies and
physically in the exchanges of meetings and diplomatic relations etc.[3]
Globalisation has been defined as,

> 'first and foremost, a stretching of social, political and economic activities across fron-
> tiers such that events, decisions and activities in one region of the world can come to
> have significance for individuals and communities in distant regions of the globe (...).
> Beyond this, globalisation implies that connections across frontiers are not just
> occasional or random, but rather are regularised such that there is a detectable inten-
> sification (…)'.[4]

The impact of globalisation on the organisation of political affairs has concerned
almost all scholars of globalisation. Held has stressed how 'political communities
are in the process of being transformed' and how 'economic globalisation is
bringing a "denationalization" of economies.'[5] Rosenau has argued that '[w]hat
distinguishes globalising processes is that they are not hindered or prevented by
territorial or jurisdictional barriers.'[6] Axtmann also stresses that '[e]xterritorial
global forces both invade the political space of the nation-state and because of
their exterritoriality, are operating outside the controlling reach of the nation-
state.'[7]

In this article, we identify three forms of fuzziness that together characterise the
modern European order. First, we look at the institutional fuzziness that seems
to exist among nation-states and the European Union. This discussion highlights
the fuzziness of the *institutional power* of national agencies within member

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3   Ian Clark, *Globalization and Fragmentation: International Relations in the Twentieth
    Century*, (Oxford: Oxford University Press, 1997); Jan A. Scholte, *'The Globalization of World
    Politics', in: The Globalization of World Politics – an Introduction to International Relations*
    (Oxford: Oxford University Press, 1997); Kjell Goldmann et al., *Politikens internationalisering*
    (Lund: Studentlitteratur, 1999); David Held, 'The Changing Contours of Political Community
    – Rethinking Democracy in the Context of Globalization', in: Barry Holden (ed.), *Global
    Democracy: Key Debates* (London and New York: Routledge, 1999).
4   David Held et al., *Global Transformations – Politics, Economics and Culture* (London: Polity
    Press, 1999), p.15.
5   *ibid*. p. 3, 17.
6   James N. Rosenau, 'The Complexities and Contradictions of Globalization', in: *World Politics
    1998/1999* (Cambridge: Cambridge University Press, 1998), pp.15-16. James N. Rosenau,
    'The Complexities and Contradictions of Globalization', *Current History*, Vol. 96, No. 613,
    November 1997.
7   Roland Axtmann, *Liberal Democracy into the Twenty-First Century – Globalization,
    Integration and the Nation-State* (Manchester: Manchester University Press, 1996), p.131.

states and equally of those related to the EU in European affairs. The EU's multi-level system of governance constitutes the most advanced form of regionalisation in the overarching process of globalisation. Second, we analyse the fuzziness of the *territorial borders* between the EU and its neighbouring countries. We examine the fuzziness of Europe's geographical borders in a context where the Union has become a major magnet for non-EU European countries. Third and finally, this article assesses the fuzziness of EU *policy-making* as regards the member states' commitment to various policy areas as well as the Union's policy-export to neighbouring countries. We are convinced that the fuzziness of the European order is a product of ongoing cross-border transformations. Such fuzziness consists of intensified and far-reaching European relations among member and non-member-states, sub-state and supra-state entities where the institutional, geographical and policy-oriented landscape has become characterised by increasing flexibility. Such a development in which there would no longer be a close fit between on the one hand a clearly delimited territory and on the other governance and authority would yield a different Union from the one we are familiar with today.

2. Fuzzy Institutional Structures

Institutional fuzziness results from the changing patterns of authority in the developing multi-level character of the EU system of governance, i.e. the complexities involved as regards a clear demarcation of authority and decision-making competences among both national as well as EU institutions in a context of competing and complementing authorities.

2.1 The Westphalia System of States
The last centuries of European political affairs have consisted of reorganising the Westphalia order of Europe. The birth of the modern European space of single states can be dated to the institutionalisation of the Peace of Westphalia of 1648 and the ensuing order. Until the state-system emerged, power had been decentralised in different sources (city-states and empires) and political affairs were in many cases non-territorial (such as in city-leagues). In medieval Europe, political authority was over-lapping and territorial authority was not in any way exclusive; there was no single source of power and no clear demarcation of how power was distributed in the society. The struggle for sovereignty, in identified territorial units, was fought against other decentralised and non-territorial entities such as the church, kings, lords, emperors and towns etc. Multiple systems of rule coexisted; centralised monarchies in Western Europe, city-states in Italy and

city-leagues in Germany. The emerging single state further complicated political affairs by constituting another organising entity besides already existing ones. Over a period of 400 years, the organisation of political affairs in Europe developed from being constituted by small and diversified forms of organisation into larger more homogenous ones.[8]

2.2 The Post-Westphalia System of Multiple Institutions

The 20th century phenomenon of globalisation can be seen as a major change in political affairs similar to that of late medieval times. In one aspect, the globalisation of cross-border problems and changes has triggered the development of supranational institutions. In this context, Held discusses the idea of global democracy or cosmopolitan democracy as a supranational political structure.[9] As globalisation undermines the sovereignty of the nation-states, new institutional arrangements are necessary. Scholte argues that over the last decades numerous competences have moved upwards to suprastate authorities.[10] The major symbol for this tendency is the expanding power of global entities such as the United Nations, but also the increasing numbers of regional arrangements in the world, of which the EU is the most powerful. The EU actually symbolises the institutional ability to hold states to account in various fields and over traditional territorial demarcations. This regional organisation has obtained increased initiatives and influence with approximately 20,000 regulatory measures.[11]

In another aspect, and according to Castells, the strongly related transnationalisation to globalisation of European affairs also includes the development of non-territorial networks.[12] These transnational networks have been most visible in the economic field, but have also come to exist in other fields. New transnational movements have constructed campaigns and activities as methods to lobby which have had an impact on the policy-making process in Europe. According to Gidlund and Jerneck, transnational entities have developed 'double-edged

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8   Christer Jönsson, Sven Tägil and Gunnar Törnqvist, *Organizing European Space* (London: Sage, 2000); Gerard Delanty, *Europa: idé, identitet, verklighet* (Göteborg: Daidalos, 1997); Daniel Silander et al., 'Reorganising European Space in a Transforming World Order', in: *Political Change in the European Union* (Lodz: Lodz University Press, 2001).

9   David Held, Democracy and the Global Order (Cambridge: Polity Press, 1995); David Held, 'The Changing Contours of Political Community – Rethinking Democracy in the Context of Globalization', in: Held et al., *op.cit.*

10   *ibid.*

11   *ibid.* p.23.

12   Manueel Castells, *The Rise of the Network Society: The Information Age: Economy, Society and Culture*, Vol. 1, (Oxford: Blackwells, 1996), pp.376-428. See also Robert O. Keohane/ Joseph S. Nye Jr., *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown, 1977).

diplomacy' in their attempts to gain influence domestically as well as internationally.[13] By this strategy, these transnational movements are acting in different arenas at the same time in order to influence national governments and EU institutions. Lobby groups, such as interest associations, interest organisations, business firms and individual lobbyist representatives of regional or local councils, within industry, agriculture, trade unions, education, culture, social services or environment have mushroomed and enhanced the development of a multilevel European political system.[14]

However, as globalisation has come to create one shared social space, nation-states have also been forced to become more active in the global arena. Goldmann has pointed out how global societal change and problems are interwoven with cross-border decisions and implementations.[15] Laffan summarises this perspective on European integration as 'internationalisation' rather than globalisation.[16] Moravcsik also stresses that the EU project has developed in accordance with national interests.[17] The driving force behind European integration has been specific commercial interests within the most powerful states. Over recent decades, each state has developed strategies to uphold domestic interests proclaimed by powerful constituents. For instance, the deepening of integration among member states in the 1970s was foremost a symbol of fear that economic recession would undermine the established Common Agricultural Policy (CAP), which consumed more than half of the Union's budget. The transfer of power to the EU's institutions has therefore been the result of a long-term process of interest identification, strategy-making and international bargaining where the final stage of transferring sovereignty occurred only when it enhanced national interests.

> 'In a world in which governments are, broadly speaking, rational and instrumental, integration can be seen as a process in which they define a series of underlying objectives or preferences, bargain to substantive agreements concerning cooperation. And finally select appropriate international institutions in which to embed them'.[18]

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13 Janerik Gidlund/ Magnus Jerneck, *Local and Regional Governance in Europe: Evidence from Nordic Regions* (Cheltenham: Edward Elgar, 2000), p.25.
14 Svein S. Andersson/ Kjell A. Eliassen, 'Complex Policy-Making: Lobbying the EC', in: Andersson and Eliasson (eds), *Making Policy in Europe – the Europeification of National Policy-Making* (London: Sage Publications, 1993), pp. 35-36.
15 Kjell Goldmann et al., *op.cit.*
16 Brigid Laffan, 'The European Union: a Distinctive Model of Internationalization', in: *Journal of European Public Policy*, Vol. 5, No. 2, 1998, p.235.
17 Andrew Moravcsik, *The Choice for Europe – Social Purpose and State Power from Messina to Maastricht*, (London: UCL Press Limited, 1998).
18 *ibid.* p. 5.

The regionalisation of Europe has come to symbolise co-operation between entities on a macro and micro level where regional arrangements connect states and transnational actors to a network of decision-making, institution-building and problem-solving activities. The multi-level governance of Europe includes shared authority among entities – national, transnational and supranational – and where direct connections have been fostered. Nation-states continue to be important actors in the policy-making processes, but they are not the only ones. The variety of actors at several different levels makes the EU's system of multi-level governance very complex. Regional projects are today more and more enhanced by a number of actors such as institutions, organisations and movements.

The EU's gradual institutional expansion within the European continent, makes it more difficult to clearly define the institutional boundaries of the EU multi-level system of governance. The EU has become a supranational, international and transnational form of governance, transforming the Post-Westphalian European order into a multilevel order of governance. This results in an increased fuzziness of the EU's institutional structures, further enhanced by the ongoing widening dimension in the geographical enlargement of the Union.

3. Fuzzy Geographical Boundaries

The progress of European integration has through history been characterised by a need to balance the demands of widening and deepening: enlargement of membership and a consequently more diverse Union has been a catalyst for institutional reforms and the creation, institutionalisation or *communautarisation* of new (or the reform of existing) policy areas. Institutional and fundamental reforms are achieved through frequent intergovernmental conferences (IGCs) leading to the establishment of new treaties that either establish totally new structures for the Community or that revise and reform previous ones. Smaller reforms occur through day-to-day policy-making and interaction between EU institutions. Through the Union's recurrent enlargement rounds, its external geographical borders tend to move and become fuzzier. The EU seems to be in a constant process of changing the character of its external borders; hard borders towards neighbouring countries are becoming softer through the enlargement process, whilst the candidate countries' borders towards non-EU members tend to become harder. The globalisation of European affairs has made geographical boundaries more complex than before.

3.1 Enlargements of the European Union

All EU enlargements have led to both political deepening and institutional reforms, and thus affect both functional and political spillover. The first enlargement round in 1973 to include the United Kingdom (UK), Ireland and Denmark, ran in parallel to institutional deepening through the introduction of the European Council and direct elections to the European Parliament. In addition, the Community agreed on common policies in new areas such as the European Regional Development Fund (ERDF), the environment and technology, the creation of a more coherent development policy, as well as deeper co-operation in foreign affairs through European Political Co-operation (EPC). This can be seen as functional spillover induced by enlargement and shows the simultaneous processes of deepening and widening. Following the second and third enlargements towards Greece in 1981, and Portugal and Spain in 1986, integration deepened further through the introduction of the Structural Funds, the enlargements directly coinciding with an agreement on the Single European Act in 1986. Thus, both political and institutional deepening followed widening. A further example of the connection between deepening and widening is the Community decision that considerable deepening would take place in 1991-1992 through the Maastricht Treaty before widening later, in 1995, to include Austria, Finland and Sweden. The last enlargement generated functional spillover into new areas such as transport, social affairs, the environment, transparency etc. The Treaty of Amsterdam included some reform proposals from the new member states and adjusted the Union to its increased member-scope.[19]

The fall of communism has enabled accession negotiations for a fifth enlargement round to be opened with twelve of the thirteen candidate countries in central, eastern and south eastern Europe. Since Turkey does not yet fulfil the political Copenhagen criteria, it does not participate in the accession negotiations. The current enlargement process will also lead to both institutional reforms and political deepening. There has been widespread concern that enlargement to perhaps nearly thirty states will put an intolerable strain on the political and administrative capacity of the EU's institutions to act effectively, due to the

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19 See also Lee Miles, John Redmond and Rene Schwok, 'Integration Theory and the Enlargement of the European Union', in: Carolyn Rhodes/ Sonia Mazey *(eds.), The State of the European Union: Building a European Polity?* Vol. 3, (London: Lynne Rienner Publishers, 1995), pp. 183-185; Pierre-Henri Laurent, 'Widening Europe: The Dilemmas of Community Success', in: *Annals of the American Academy of Political & Social Science*, Vol. 531, 1994; John Redmond/ Glenda G. Rosenthal *(ed.), The Expanding European Union: Past, Present, Future* (London: Lynne Rienner Publishers, 1998); Helen Wallace, 'EU Enlargement: A Neglected Subject', in: Maria Green Cowles and Michael Smith *(eds.), The State of the European Union: Risks, Reform, Resistance, and Revival*, Vol. 5, (Oxford: Oxford University Press, 2000).

number of applicants and the increased diversity their accession will bring. Consequently, the enlargement process is explicitly linked to institutional reforms. The lack of institutional reforms in the Amsterdam Treaty meant that this became the main aim of the Treaty of Nice (2000), which resulted in substantial (although far from perfect) institutional reforms. Its eventual ratification should remove the main obstacles for a possible enlargement. However, the most important reforms concerning the future structure of an enlarged Union remain to be achieved, and will be discussed at a new IGC in 2004. The EU is also reforming its policy areas in view of enlargement through, for instance, its Agenda 2000 initiative. Enlargement negotiations do not however always lead to an actual enlargement and to deeper integration (spillover). Friis argues that non-enlargement (spillover blockage) and enlargement but less integration (spillback) is just as likely (and tends to increase along with the number of member states), since the present members have to be satisfied with the enlargement negotiation outcome; they often act to protect their present advantages. New accessions may render existing EU policies inoperable and difficult to reform. Large states could pose significant problems for existing policies such as agriculture and structural funds and thus might constrain any promotion of deeper political and economic integration. A re-nationalisation of certain policy areas might potentially be needed if substantial reforms are difficult to implement.[20]

3.2 Potential Membership Candidates

In April 2001, the first among the Union's Stabilisation and Association Agreements (SAA) were signed with the Former Yugoslav Republic of Macedonia (FYROM) and Croatia. They will give the countries concerned fully liberalised access to EU markets, financial support and political co-operation with the Union. However, the most important element is that they extend the prospect of membership to five more countries: Albania, Bosnia-Herzegovina, Croatia, FYROM and the Federal Republic of Yugoslavia. It was felt that the prospect of EU membership was the most efficient way to stabilise the region in the long term, and to govern beyond its scope of members.[21] The countries are

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20 Lykke Friis, '…And Then They Were 15: The EU's EFTA-Enlargement Negotiations', *Cooperation and Conflict*, Vol. 33, No. 1, 1998, pp. 81-91. See also Richard Polácek, 'Le débat élargissement-approfondissement dans la perspective de l'élargissement de l'Union européenne aux PECO: L'avenir de l'Europe: Élargir et approfondir', in: *Revue du Marché commun et de l'Union européenne*, No. 425, 1998, p.117; Jim Cloos, 'Nice: Une étape obligée', in: *Revue du Marché commun et de l'Union européenne*, No. 444, Janvier 2001, p10.

21 See further Lykke Friis and Anna Murphy, 'Turbo-Charged Negotiations: the EU and the Stability Pact for South Eastern Europe', in: *Journal of European Public Policy*, Vol. 7, No. 5, 2000, pp. 767-776; Lykke Friis and Anna Murphy, 'Enlargement: A Complex Juggling Act', in: *The State of the European Union: Risks, Reform, Resistance, and Revival*, Vol. 5, (Oxford:

now seen as 'potential candidates for EU membership'.[22] The current development in the Western Balkans is thus determinant for their future membership perspectives.

The relationships with Russia and Ukraine are also fundamental to the future of the continent. Although Ukraine has made no formal EU application, it might present one in the near future. The Partnership and Co-operation Agreements, Common Strategies, as well as the Northern Dimension Initiative, are important instruments in the EU's future relations with Russia and Ukraine. Good relations with other European former Soviet republics, such as Belarus and Moldova, are also important in an enlargement context, especially since these countries can arguably be seen as more 'European' than the current candidate country of Turkey.[23] Being 'European' is the basic condition for a country in order to be able to apply for membership. However, candidates also need to fulfil the Copenhagen political and economic criteria and to adopt the entire *acquis communautaire* before they are allowed to join.

Finally, the remaining European Free Trade Area (EFTA) countries are also important to mention. The Norwegians might soon finally decide to vote in favour of accession. A change in the attitudes of Switzerland and Iceland is also possible in the near future. Hence, whilst EU accession is not currently on their political agenda, this could nevertheless quickly change, as it did for Austria, Finland and Sweden. According to these considerations, a future pan-European EU could consist of 25 to 35 member-states; a majority of existing European states. Through the EU's continuous enlargement rounds, its external geographical borders tend to move and become fuzzier.

4. Fuzzy Commitments in the Union's Policy-Areas

The simultaneous processes of political and institutional deepening, and territorial widening of the Union in a context of cross-border transformations make it more difficult to clearly define the boundaries of the EU system of governance.

Oxford University Press, 2000), pp. 200-201; Romano Prodi, 'Romano Prodi's Investiture Speech before the European Parliament defines Guidelines Mainly Concerning Applicant Countries and the EU's Role in Structural Reform', *Europe Documents*, English edition, No. 2155. 22, 1999, p. 2.

22 European Council, 2000§67, p. 71.

23 See Taras Kuzio, 'The EU and Ukraine: A Troubled Relationship', in: J. Gower and J. Redmond (eds), *Enlarging the European Union – The Way Forward* (Hants: Ashgate Publishing, 2000), p. 160; Helen Wallace, *op. cit.*, p.149; Lykke Friis and Anna Murphy, *op. cit.*, p. 186.

Flexible integration and the internal asymmetry between member states with insiders not accepting equal obligations, coupled with several gradations of associate membership and an EU policy-export, have created a Union with flexible and changing internal and external boundaries.

4.1 Member States' Policy Participation

The widening and deepening pressures have stimulated a debate as to how far models of differentiated/flexible integration may be appropriate in order to allow a deepened level of integration whilst keeping all the members satisfied in an increasingly heterogeneous Union. The Treaty of Amsterdam institutionalised differentiation for the first time through the notion of 'closer co-operation'. The prospect of differentiation among member states increases the fuzziness of the Union's *internal* boundaries, i.e. the commitment of members to the EU's different policy-areas.

Two features in the Treaty of Amsterdam make provision for the future development of the EU in a form that makes the competences of the EU institutions not uniformly applicable throughout the system and that permits (or may even require) different levels of participation by different member states; a form of *functional asymmetry*.[24] First, the chapter on 'closer co-operation' aims at a more differentiated mode of integration and to reconcile heterogeneity within a larger and more diverse Union; to balance the processes of widening and deepening. Enhanced co-operation allows different groupings of member states with common projects, commitments and solidarity to carry on co-operation in certain policy areas, without the participation of all. Member states may assume different statuses, obligations and responsibilities within the EU. This is the case as regards the third phase of the Economic and Moretary Union (EMU) and for the Schengen participation. However, both these two opt-outs were decided before the Treaty of Amsterdam. The application of the principle was foreseen for the first and third pillars. The Treaty of Nice facilitated the use of the principle and opened up its application also for the second pillar, excluding projects with military implications. It is now also more difficult for a country to veto such initiatives.

A second aspect of asymmetry in the Treaty of Amsterdam is its Article F.1 (now Article 7 TEU). Under this article, a member that persistently violates the basic principles of the Union - liberty, democracy and respect for human rights - may be sanctioned by a unanimous vote of the other members. This may deprive the

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24 See also discussion in Peter Leslie, 'Abuses of Asymmetry: Privilege and Exclusion', in: Karlheinz Neunreither and Antje Wiener *(eds.), European Integration after Amsterdam* (Oxford: Oxford University Press, 2000), pp.192-197.

offending state of certain rights of membership, including the right to vote in the Council, which leads to a differentiation among the member states. This aspect was strengthened with the Treaty of Nice.

Hence, closer co-operation is a way of capturing diversity in the integration process. This means that internal institutional EU borders among the member states tend to become more flexible. Formal recognition of functional asymmetry in the Union may arise in several ways: *First*, because some of the participating states have gained an exemption from certain rules applying to the rest - the UK from the Social Protocol prior to the Amsterdam Treaty; the Schengen Agreement which excludes the UK, Ireland and Denmark, whilst however including the non-EU members of Iceland and Norway; the Danish military exemption in CFSP issues etc. *Second*, because some have opted out of (or have never opted into) certain aspects of the Union, for example the UK and Denmark opt-out from the third phase of EMU, and the others have agreed to this. Or, *third*, because – as with the EMU convergence criteria – some states do not meet the conditions for participating in some aspects of the integration process, such as the non-participation of Greece for a couple of years in the third phase of the EMU. There is also the case of *imposed asymmetry*, which is the practice of limiting participation in certain sectors of the EU, or in the EU altogether, based on certain criteria. Candidate countries need to fulfil the accession criteria established by the EU members, and they also need to fulfil the EMU convergence criteria in order to participate in the Eurozone, which also is the case for the three 'Euro outsiders'. This imposed asymmetry might entail a differentiation among different classes of membership, denying some states admission to certain aspects of the Union. It is also important to recall that the accession criteria impose limits on the degree of candidates' diversity that is acceptable to present members; only temporary derogations are allowed - no permanent opt outs.

4.2 The Union's Policy-Export to Neighbouring Countries
An export of Union policies is taking place to neighbouring countries as a growing number of EU policies are being adopted in non-member countries. This seems to produce an expansion of the EU's multi-level system of governance beyond the membership border, and more *indistinct and fuzzy external EU boundaries*. This phenomenon is due to the process of enlargement and the accession criteria the candidate countries need to fulfil, through the conditions, principles and norms included in its different forms of agreements with countries seeking favourable trade or co-operation relations, as well as through voluntary national adaptations in non-member countries to the European integration process.

The EU is gradually extending its Internal Market to neighbouring states through different association agreements.[25] The strongest agreements are those with the EFTA countries - the European Economic Area (EEA) agreements - which bring the three EFTA states Iceland, Liechtenstein and Norway within the EU's Internal Market; Switzerland being the exception.[26] The EEA countries participate in the Internal Market to the same extent as member states do; some might even transpose EC laws into national legislation before the formal member states. Moreover, co-operation has increased in related areas, such as environmental protection, social affairs, consumer protection, research and development, enterprise policy etc. This can be seen as a kind of 'external spillover', in that an integration spillover takes place also outside the scope of formal EU members. Some of them (Norway and Iceland) further participate fully in the Union's Schengen co-operation due to the Nordic Passport Union, which not even all the formal EU members do. The pressure to adapt to European integration also starts to spillover into areas of 'high politics'. There are non-EU European countries that are NATO members, whilst this is not the case for all EU members. In addition, both EFTA and candidate countries voluntarily often join the EU's common positions in Common Foreign and Security Polity (CFSP) matters. In certain sectors, the EEA countries can be seen almost as full participants in the EU.

The Central and Eastern European candidate countries are also closely associated with the EU through the Europe Agreements and the EU pre-accession strategy through which they are linked closer to the Internal Market via the gradual establishment of a Free Trade Area. Since they need to adopt the Union acquis in its entirety, as well as fulfilling the membership criteria in a form of *enforced external spillover*, together with the broad scope of the Europe Agreements, this means that many of the Union's policies are adopted in these countries prior to membership. The enlargement process is transforming the nature of the Union's external borders, and thus also relations between states. The 'hard' external border between the EU and the candidate countries become a 'softer' internal one; whilst the borders between the new member states and their neighbours to the east are becoming 'harder'.[27]

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25 Association requires adaptation to the EU. There are three basic forms of association agreements: *customs union-based* (Greece, Turkey, Cyprus); *free trade area-based* (Malta, Cyprus, Europe Agreements); and *internal market-based* (EEA). Some can be seen as a stepping-stone to EU membership, others as a membership alternative. See David Phinnemore, *Association: Stepping Stone or Alternative to EU membership?* (Sheffield, Continuum, 1999)
26 Switzerland transposes EC legislation on a voluntary basis and in an informal way, while the EEA countries are subject to EC legislation, participate in the joint institutions, contribute financially and face legal supervision.
27 See Thomas Christiansen, Fabio Petito and Ben Tonra, 'Fuzzy Politics Around Fuzzy Borders: The European Union's "Near Abroad" ', in: *Co-operation and Conflict*, Vol. 35, No. 4,

Twelve so-called Mediterranean non-member countries participate in the Euro-Mediterranean Partnership (the Barcelona process). This aims at creating a Euro-Mediterranean Free Trade Area by 2010 and the potential Association Agreements are important for securing stability in Europe. Also these countries are approaching the Union's Internal Market, and therefore need to adopt some related Union policies, such as the EU's competition policy. However, since the majority of these countries do not fulfil the basic criterion of being 'European', relations with them will probably be somewhat less complex than those with European neighbours. There are also Partnership and Co-operation Agreements with former Soviet states and developing Stabilisation and Association Agreements with countries in the Western Balkans including associated conditions that the countries need to follow.

Neighbouring countries unilaterally align their domestic structures, legislation and institutions to the Union regime and imitate EU rules, in order to facilitate EU market access for their products. Here, one might argue that the line between membership and non-membership is linked to the choice between contractual obligations and imitative alignment by non-members to the EU regime. There seems to be a division between reactive and active external spillover amongst non-members towards European integration: (a) *Reactive external spillover* means that since these countries are reluctant to participate in the EU as formal members, they might be critical towards the supranational elements and are reacting to the Union's growing influence by trying to protect their external trade and economies from its potential negative effects. The EFTA countries belong to this category. (b) *Active external spillover* means that these non-members actively seek eventual membership and are willing to accept the EU's long-term goals at almost any cost. The thirteen candidate countries belong to this category.[28]

The linkage a country has to the EU strongly affects its domestic institutions and policies; formal membership is not the most important variable determining the extent of national institutional adaptation to the process of European integration. With the aim of reducing their costs of non-integration (uncertainty as regards EU market access and non-participation in EU decision-making) and increasing their influence on European integration, non-members adapt their political and administrative systems in more or less similar ways to member

December 2000, pp. 389-391; Michael Smith, 'Negotiating New Europes: the Roles of the European Union', in: *Journal of European Public Policy*, Vol. 7, No. 5, 2000, pp. 807-815, 821; Ole Elgström and Christer Jönsson, 'Negotiation in the European Union: Bargaining or Problem-Solving?', in: *Journal of European Public Policy*, Vol. 7, No. 5, pp. 684-701.
28 See also Miles, Redmond and Schwok, *op. cit.*, pp.189-190.

states. The more institutionalised, the deeper the participation and the more formal the relationship with the EU is for the non-member, the lower the level of uncertainty and vulnerability. The Union's influence plays a larger role for candidate countries than for other non-members. As membership is on the agenda, candidate countries need to behave according to EU norms in order to gain the necessary support from EU-members. As non-members have to adopt EU regulations but cannot participate in its decision-making, their loss of sovereignty is sometimes similar to that of the member states.[29]

5. Concluding Remarks

The process of globalisation and the pan-European unification process that started in the beginning of the 1990s have transformed the traditional European landscape of institutions, geographical boundaries and policy-making strategies. The integration of Europe is an ongoing process and has become more complicated and fuzzy than ever before in modern Europe. In this article, we have identified three forms of increased fuzziness in the European Community and how the European landscape as such has changed dramatically compared to its ancestor of the Westphalian order of sovereign nation-states. Today, in a post-Westphalian order, the EU might adjust its governance system to this fuzziness by developing the concept of a more flexible Union. This would permit different and perhaps over-lapping institutional and judicial structures, as well as different degrees of commitment and kinds of membership.

29 Hans Mouritzen, *External Danger and Democracy – Old Lessons and New European Challenges*, (Aldershot: Dartmouth, 1997), pp.12-25 and pp.148-151; Nikolaj Petersen, 'National Strategies in the Integration Dilemma: An Adaptation Approach', in: *Journal of Common Market Studies*, Vol. 36, No. 1, 1998, pp. 37-46.

Book Reviews

Kalypso Nicolaidis and Robert Howse (eds.), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union*, Oxford: Oxford University Press, 2001, 537pp., £19.99 pb.

This book presents an overarching and balanced picture of the issues related to the concept of federalism within the European Union (Eu) and its implication for an ever-closer global order. *The Federal Vision* features also a helpful comparison of the EU and US federal settings; the 'devolution debate in the United States … [vs.] the subsidiarity debate in the European Union' (p.1) as the editors point out in their introduction. Federalism is presented as an answer to the multiple questions that arise from the continuous globalisation process and its implication for legitimacy in multi-layer systems of government. The book is made up of contributions by established scholars of different academic disciplines and this helps to take the federal debate beyond the state to a higher international or even global level. In doing so it addresses crucial challenges such as the issues of citizenship, legitimacy and statehood.

The first section contains two chapters by Daniel Elazar and Joseph H.H. Weiler. Elazar makes a crucial point: *federalism is anti-hierarchical* and this is opposed to the hierarchical principle of subsidiarity. He argues that federalism in the EU should be about establishing a multi-centred power mosaic and not a hierarchical power-pyramid, as the subsidiarity principle would imply. Weiler focuses on constitutional settings and argues that the Union already has a constitutional order: 'Europe has charted its own brand of constitutional federalism. It works. Why fix it?' (p.70).

The second section is more technical, describing the historical development and current state of federalism on both sides of the Atlantic. The highlight of this section is clearly Andrew Moravcsik's chapter *Federalism in the European Union: Rhetoric and Reality*. As a leading intergovernmentalist, Moravcsik argues that the EU remains an international organisation led by sovereign national governments. According to him, EU institutions do not act in an independent sphere; they do not stimulate integration in their own supranational interest but they are moving only as far as they are permitted by the consensual interest of the Member States.

In the third section, George Berman argues against the idea that federalism and constitutionalism imply an ever-growing supranational European government. Constitutionalising the treaties would allocate and therefore limit the powers of the different levels of government within the EU (including the supranational one). All in all this section is a very good starting point for entering the debate on the legal dimensions of federalism, raising numerous issues and encouraging thinking 'outside the box'.

The fourth section puts the analytical focus on the relationship of different levels of government and how legitimacy can be sustained in the EU and the US. Vivien Schmidt argues convincingly that the EU is already a quasi-federal system and that its institutional development has a different impact on Member States depending on their respective constitutional setting. The EU may lack a common identity, but the essay asks how crucial that is for the future development of the Union in finding practical and practicable solutions.

The final section, together with Elazar's opening chapter, contains the core of *The Federal Vision*. Sujit Choundhry's chapter addresses one problem identified by Schmidt earlier on, by concluding that multilingual federal democracies such as Belgium, Switzerland and Canada are proof that stable federal states can 'emerge and endure in situations not dissimilar to that facing Europe' (p.402). Kalypso Nicolaidis points at the possibility of a 'federal vision beyond the state' (p.441) meaning the future establishment of a federal world order which is, however, still based on nation-states as the essential building blocks.

In a valuable Appendix, George Bermann and Kalypso Nicolaidis suggest some basic principles for the allocation of competences between different levels of government in the US and the EU. Far from basic, this sophisticated analysis merits close consideration as it offers several insights into vexing issues before the EU

Constitutional Convention at the time of writing. It addresses how to manage exclusive and concurrent authority as well as the question of residual authority, and asks whether procedures and structures actually used in practice may offer ways to blunten the harsher opposition of legally defined levels of competence.

The Federal Vision offers a comparative overview and an in-depth analysis of issues concerning federalism and its future in the European Union, the United States and even in a more global framework. The book offers solutions to problems which national states may face, yet will not be able to be solved in a unilateral or indeed unitary manner. It suggests that federalism may prove to be a remedy if it is not perceived as a hierarchical mechanism of governance but rather as a way of structuring different powers and competences that are unevenly distributed. *The Federal Vision* deals with political, legal and regulatory aspects of federalism and offers solutions to issues such as legitimacy, peoplehood and sovereignty. As Delors and Nye point out in the preface, '*[The Federal Vision]* can be read both as a text on federalism, and as an (…) effort to understand some of the most important issues that will affect our lives as democracies in the age of information and globalisation' (p.xvii).

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Marlene Wind, *Sovereignty and European Integration. Towards a Post-Hobbesian Order,* Basingstoke and New York: Palgrave, 2001, 241 pp., £45.00 / $68.00 hb.

The political debate about how Europe should be organised was launched by Joschka Fischer's now infamous 'Humboldt' speech, and quickly blossomed with follow-up contributions by Schröder, Chirac, Blair, Jospin and others. A central issue in this debate is the establishment of a formal European constitution. Discussions over a European constitution are not new, dating back to the period of the Community's inception. However, in the relatively short period since 1950, the Community has undergone a unique process whereby rather limited co-operation in coal and steel has 'turned Europe into a semi-federation with citizens as right-holders under a supranational treaty' (p. xiii). Based on a sociological argument that sees institutions and institutional processes as extremely

powerful and difficult to control, Marlene Wind tries to give an answer to the question of 'how it could happen that well-established nation-states with powerful constitutions all of a sudden saw themselves as subordinate to this larger whole' (p. xiii). The aim of the book is 'first and foremost to make non-lawyers studying European politics aware of the crucial role that law has played' (p. xiii) in this transformation process.

In the first part of the book Wind explains her choice of theoretical framework for analysing this European constitutional transformation. In common with most scholars, Wind starts out with a description of the 'nature of the European beast' (p. 21). The concept of sovereignty, described from three viewpoints (classical international relations theory, intergovernmentalism and neo-functionalism) is the guiding theme of the book. The classical idea that sovereignty is indivisible is closely linked to the development of the European state-system. What follows is a debate on the 'constitutionalisation' of the European Union (EU). Two opposing conceptions of institutions within the broader political and social sciences are discussed: rational choice institutionalism and sociological institutionalism or constructivism. Wind's main critique of the first notion is that Europe is not organised in a 'tidy two-step manner' (p. 51) with the general underlying assumption that the state or government is able to function as a controlling gatekeeper between the national and international level. She argues that 'the speed and density of daily politics makes it impossible for governments to keep track of policy making'. The constructivist framework is, according to Wind, more useful and credible 'for analysing the unanticipated developments of the EU's constitutional structure' (p. 75). By using Anthony Giddens' theory of 'structuration', Wind explains that, according to constructivists, states may think that they know what they are doing when delegating small amounts of power to supranational institutions. However, what once seemed like reasonable transfers may end up having so many unanticipated consequences that it becomes impossible to detect or even comprehend their original rationale. Therefore the integration process cannot be seen as 'a result of discrete governmental choices' (p. 189).

The 'more fundamental question of how a transformation of power comes about in the first place and what consequences this may have for our concept of sovereignty, as well as for legal and political theory more generally' (p. 81) is the starting point of the book's more empirical second section with a solid analysis of how the Community's legal system in practice has developed from decentralised treaty law into what Wind calls a 'semi hierarchical constitutional system' (p. 82).

In the final chapter Wind comes back to the description of the 'nature of the European beast'. She tends to describe the European Union as a 'polycentric community' with power situated in many centres rather than just one. Nation-states will no longer be sovereign in the traditional understanding, and individual citizens will be in a position to appeal to international courts and authorities if their rights are violated. If, Wind argues, 'the Community of today is understood in this manner, Europe is not *becoming* Post-Hobbesian – it has been so for quite some time, thanks to the European Court of Justice' (p. 193).

Of course scholars from the intergovernmental, but also form the neo-functionalist school, will criticise Wind's theory. One can of course seriously question the argument that the transformation process is mostly based on unintended consequences - rational governmental decisions have arguably played their role as well. On the other hand one can also question the argument that the transformation process really owes so much to the European Court of Justice, with intergovernmentalist scholars particularly likely to disagree. Joseph Weiler describes Wind, in a foreword to the book, as 'the latest entrant to [the] gallery' (p.xi), a gallery which consist of, amongst others, Haas and Deutsch, Lindberg and Scheingold and Moravcsik, Wessels and Garret - scholars known and praised for their contributions to the debate on European integration. However, the book gives a rather poor prescription of Europe's future and particularly of the ECJ's role in this future. Although admittedly the descriptive sections are solid, innovative and instructive, social scientists will lament the absence of a prescriptive analysis. This makes Weiler's remark all the more questionable since all other scholars in the 'hall of fame' have delivered a key contribution to the debate on Europe's future. It is a pity that this book lacks such a contribution.

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Mark Kleinman, *A European Welfare State? European Union Social Policy in Context,* Basingstoke: Palgrave, 2002, 246 pp., £15.99 pb.

Written from the point of view of a critical supporter of European integration, Mark Kleinman's new book is about the three-way relationship between

European social policy, the social policies of member states and the process of European integration. Even though the integration process is essentially about achieving political goals through successful economic policies, the social aspects of integration should not be forgotten. Therefore, in order to understand the European social policy, an analysis of the process of economic integration is necessary. 'Does increased economic and perhaps political integration imply a European welfare state? Are welfare states in Europe becoming more similar to each other? Can national welfare states continue to be effective in an economically integrated Europe and in the context of globalisation? Will welfare in the future become a European rather than a national responsibility?' The book explores these questions and tries to provide answers in relation to the context of the process of European integration and to the development, diversity and challenges of national welfare states in Europe.

The author looks first at the concept of social policy, adopting a rather Anglo-Saxon definition in line with that of Leibfried and Pierson, who define social policy as all activities that modify market outcomes, including policies on industrial relations, education and vocational training, the family and social security. From there, he examines the different types of welfare states in Europe and considers to what extent a single European social model can be said to be emerging.

Subsequently, he looks at issues such as the impact that globalisation in general, and European economic integration in particular, is having on the ability of governments to meet their citizens' welfare needs. Core chapters analyse how the role of the European Union (Eu) in social policy has grown in recent decades (using the European Commission's 1994 White Paper as a reference point) and how social policy is formulated in the EU. From there, key issues are explored: *Why is European unemployment so high? How can governments reduce poverty and promote social inclusion? Is there any substance to the concept of European citizenship?* Finally, the author draws some conclusions and considers the implications, applying principles from economic, social and political analysis. The book provides a unique assessment of the state of welfare policy in Europe and demonstrates clearly the crucial impact of economic integration on the scope and aims of European Union social policy.

A critical point that might be raised is that perhaps the challenge of enlargement should have been accentuated more. In a Europe of twenty-eight countries, the diversity in demographics and social models will increase the pressure for reform in order for the EU to become the most competitive and dynamic economy in the

world and produce results rather than mere empty rhetoric. How can tax incentives and labour regulation, among others, be reformed in order to ensure sufficient flexibility to promote employment generation within a social model that that has to fit so many countries? How can business work with its employees and government to assist in this process and what changes should it seek from its partners in this process? These questions represent some issues the book could have addressed in much more detail in order to suggest the diversity of welfare systems that perhaps cannot be reduced to the four models the author proposes (Conservative-corporatist, Social-democratic, Mediterranean and Anglo-Saxon).

More generally, it must be said however that the book's concepts are clearly defined. The author's ideas are very well developed, his style clear and convincing. The footnotes and references provide important additional information, clarifying or extending points made in the body of the text. The easy-to-follow argumentation makes the book a suitable training text for postgraduate students in the social policy field. By helping the reader to understand the key issues and complexities of European social policy and welfare through strong analysis and explanation against the contextual background of the wider political economy of social policy, this book will also prove useful as a reference guide for specialists in the field of social policy.

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Alec Stone Sweet, Wayne Sandholtz and Neil Fligstein (eds.), *The Institutionalization of Europe,* Oxford: Oxford University Press, 2001, 273 pp., £17.99 pb.

With *The Institutionalization of Europe*, Alec Stone Sweet, Wayne Sandholtz and Neil Fligstein present their second collection of neo-institutionalist interpretations of the European integration process. After their attempt in *European Integration and Supranational Governance* to deliver a theoretical alternative to Andrew Moravcsik's neo-liberal intergovernmentalist explanation of how the EU evolved, they now concentrate on the logics behind the development and the consolidation of the so-called 'European political space'.

Methodologically the volume follows the pattern established in the first collection: articles from a wide range of institutionalist backgrounds with very different empirical interests are compiled under the heading of a common, yet rather loose theoretical framework.

This framework, or 'a priori orientations' (p.18) as the authors call it, is presented in the introductory chapter, *The Institutionalization of European Space* (pp. 1-28). Here the three editors establish the categories and terms to guide the analyses of the volume's contributors. The authors' main thrust is that neither rational-choice nor sociological institutionalism give a sufficient account of how institutions have developed and of how new institutions are created. Instead they argue to combine findings of the different schools in order to reach a more complete understanding of Europe's institutional developments.

Their dynamic account of institutional development focuses on three constituent elements on the different levels of any institutional setting: rules or rule systems on the macro level, organisations (groups of individuals) on the meso level and actors who operate on the individual level. Special importance is thereby given to the micro-level where institutional behaviour and development is shaped by individuals. To explain individual action the authors present three models derived from different institutionalist schools: the logic of rationalist benefit maximisation, the incremental logic of appropriateness and the sociological model of skilled social actors and norm entrepreneurs. Individual action towards institutional development and innovation can be triggered by two distinct mechanisms: either shocks external to the institutional setting that influence preferences as well as cultural frames or endogenous developments within and between certain organisations.

This actor-centred approach is embedded in a general emphasis on path dependency as the underlying logic of institutional development. The authors therefore predict that in the future the European political space will be characterised by further institutionalisation and a strengthening of the supranational level rather than by de-institutionalisation.

The empirical analyses following Stone Sweet/Sandholtz/Fligstein's theoretical introduction are wide-ranging as far as their institutionalist backgrounds and their empirical interests are concerned. On the macro level, Fligstein/Stone Sweet analyse the institutionalisation of the Rome Treaty and Mazey/Richardson deal with general trends in interest group representation. Case studies on the micro level cover policies such as migration (Turnball/Sandholtz) or gender equality

(Cichowski). Single institutions like the European Central Bank are discussed (McNamara) as well as abstract principles including the 'overt' and 'covert' institutionalization in Europe (Héritier).

In their accounts the authors use the terms and categories outlined in the introductory chapter in an eclectic way: whereas each of the chapters highlights some of the framework's key elements such as 'skilled actors', 'endogenous developments' or 'exogenous shocks', none follows the framework in full.

This eclecticism, although recognised by the editors themselves, is one shortcoming of the book: it remains a collection of approaches rather than a coherent contribution to the theoretical debate supported by empirical evidence. Even if some 'a priori orientations' such as the importance of actors or the necessity of moving beyond the borders of one institutionalist approach are regarded as a starting point, this is not revolutionarily new. Other scholars like Renate Mayntz and Fritz Scharpf have already gone to some length in this direction with their concept of 'actor-centred institutionalism'. However, the volume deserves credit for adding further empirical evidence to the claim that the different institutionalist schools are complementary rather than mutually exclusive.

Another source of criticism is the editors' attempt to present the volume as building on their initial project yet as going beyond it with a new theoretical focus. The distinction made between emergence and evolvement of the European political space seems, however, artificial and is not even sustained by the authors themselves in their concluding chapter. Therefore it remains unclear what really distinguishes the two volumes theoretically when even the neo-functionalism–liberal-intergovernmentalism debate of the first collection is taken up again. Nevertheless, *The Institutionalization of Europe* is a fine collection of current institutionalist approaches to analysing the European Union. At the same time it is valuable reading for scholars with an empirical interest in developments in the different policy areas discussed. Whether the volume contributes in itself to developing institutionalist theory further or even reconciles different institutionalist camps remains questionable.

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Ronald Tiersky (ed.), *Euro-Skepticism: A Reader,* Oxford: Rowman & Littlefield, 2001, 316 pp., £25 pb.

As the editor of this collection of papers, speeches and interviews points out, students of the European Union (EU) often overlook the subject of Euro-scepticism. In many 'Europhile' academic communities, opposition to European integration is often not addressed, or at best is shrugged off as reactionary. A short review of this accessible text reveals the reality behind the hyperbole of 'ever closer union'; the fact that a considerable number of EU citizens clearly do not share this ideology. The second most striking observation is that the term 'Euro-scepticism' is simply a catch-all term for opposition to the project of 'Europe', this being the institutional apparatus of the EU and its policy ambitions. In fact, there are a great variety of motives for those regularly grouped together under the rubric of 'sceptics'. The term has been used to describe opposition from academic circles, political viewpoints from left to right, as well as a general feeling of conservatism and attachment to the nation-state amongst the people. It varies from moderate criticism of the democratic deficit in Brussels-based institutions to racism and xenophobia. The extent and variety of this opposition must be better understood if we are to properly conceive the process of European integration today.

The lesson of history is a common theme amongst different strands of Euro-scepticism. It is therefore useful that Tiersky has compiled this collection in a rough chronology, starting with French republicanism, and ending with accounts of opposition to the recent project of monetary union. 'Classic' Euro-scepticism can be characterised as the desire to preserve state sovereignty in general terms. Unlike modern fears over loss of fiscal control in the eurozone, the 'sovereigntists' were more concerned about losing the ability to decide their own future. The two main historical figures are Charles De Gaulle and Margaret Thatcher, both leaders of former colonial powers that were feeling the effects of their empire hangovers. The perceived rapid change from the coloniser to the colonised had a big effect on the political psychology of these nation-states. De Gaulle's defining moment in relation to the community was the *chaise vide* crisis, when French objections to growing supranational pretensions, in particular the increasing power of the Commission, resulted in the absence of French ministers in the Council and the near collapse of the institutions. Thatcher had many tussles with the Commission too, in particular with its ideologically opposed and integrationist president Jacques Delors. Her speech to the College of Europe, Bruges in 1988 was one of the most significant speeches to dampen

the fires of federalism on the Continent. Not only did she oppose the increasing transfer of competence to the community as advocated by Mitterand, Kohl and Delors, but she set out her own intergovernmental vision of Europe: 'Working more closely together does not require power to be centralised in Brussels or decisions to be taken by an appointed bureaucracy' (p. 107). Although Thatcher had her personal quarrels and 'hand-bagging' incidents with the Commission, the criticism that decisions are taken by unelected officials far away is shared by many. Given the geographical scope of the EU, the power-centre can seem very distant, especially to the peripheries. In a chapter entitled *Why the Norwegians said No*, a slogan quoted in rural areas of Norway is aptly noted: 'It's a long way to Oslo, but much longer to Brussels' (p. 120).

In addition to the political backlash to European integration in the Member States, academics have used theories of social science to raise questions about a supranational EU. John Mearsheimer's article *Back to the Future: Instability after the Cold War* is a realist account of European security at the end of bi-polarity. He argued that the European Community (EC) had been able to co-operate so well since 1945 primarily due to the common Soviet threat. Writing in 1990 he predicted that the passing of the Cold War and a new multi-polar Europe would increase tensions amongst the Member States of the then EC. 'In sum', he concluded, 'there are good reasons for looking with skepticism upon the claim that peace can be maintained in a multi-polar Europe on the basis of a more powerful EC' (p. 159).

Over ten years after the article was published, further integration has shown that realism underestimates the power of 'low politics' in the form of economic gain and ideology. Despite Mearsheimer being wide of the mark with his prediction, the inclusion of this well-known article reminds us of our conflictual history, demanding substantial evidence for us to confirm a lasting peace in Western Europe. Perhaps that evidence has come in the form of the Euro. Surely the interdependence that a single monetary system creates will make conflict among the participating states impossible. However, critics of the Euro, such as Michael Portillo, argue that the loss of national autonomy to a central bank will cause dissatisfaction amongst the citizens who cannot democratically elect those responsible for major economic decisions. Portillo suggests that this dissatisfaction may encourage hyper-nationalism. Articles on Jean Marie Le Pen's *Front National* and Jörg Haider's *Freedom Party* clearly show the dangers of these right wing extremist followings. Whether one agrees with Portillo's argument or not, it is important that we recognise the side of Europe that is highly fearful of any threat to its ethnicity and regional culture.

In sum, this volume of Euro-sceptic writings illustrates the depth of opposition to the EU, and acts as a warning to those who ignore these feelings when mapping out the future 'Europe'. As a book, it documents a wide range of sceptical political and academic viewpoints about the EU and is therefore highly useful as a reference tool for students of European integration.

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Klaus Eder and Bernhard Giesen (eds.), *European Citizenship, National Legacies and Transnational Projects,* Oxford University Press, 2001, 276 pp., £40.00 hb.

European citizenship is moving swiftly to the centre of the European integration debate. This book, a follow-up to the 1995-1996 Forum on Citizenship in Florence, is devoted to the key question of whether there exists common ground on which to build European citizenship.

The book focuses on this issue by following four analytical threads: The historical legacy of European nations; current projects for developing social and political citizenship; reflections on the creation of a European public space, and the building of a collective identity as a symbolic boundary marker. It then closes on the theoretical puzzle that arises from these approaches: defining a post-national citizenship and discerning a European citizen from a 'denizen'.

The book's main emphasis lies in the search for collective European bonds which break away from historical ones. It also offers a patchwork of reflections on the changing conceptualisation of European citizenship and collective identity. The contributors have clearly attempted to address the debate from its core: They have identified its parameters and built a solid repertory of fundamental questions from which any study on the topic should start.

The editors open the way by mapping out the three dimensions of the citizen's debate: the issue of trans-national political control, its effect on the Europeanisation process of society and the uncomfortable question of boundaries to collective identities. Different conceptions of citizenship are then

outlined. The task of labelling European citizenship is finally boiled down to the question of collective identity - the driving theme of the book.

While the main theme is observed throughout the collection, the editors' conceptual approach is, however, not followed by the subsequent contributions. The reader must be prepared to be thrown into a different conceptual playing field for each chapter. As challenging as this might appear, it successfully draws attention to the great complexity of a subject in the infancy of its study.

The first of the book's four parts draws on historical national legacies. Gosewinkel criticises the recurrent amalgamation of the universal normative definition of citizenship to its historical developments. She offers a historical comparative review of national legacies of belonging shaping different citizenships. Whilst models converge in post-war Europe, the complete lack of a European sense of belonging begs the question of whether it still has value in today's organisational framework. Giesen concentrates on the paradox between the universality of citizenship's normative concept and its inherent sense of exclusion in practice. Giesen also argues through the comparative cases of France and Germany that national identities are in essence fluid. One may regret this first section's narrow empirical grounding which tends to focus only on Germany and Western European countries. A wider scope of case studies taking Eastern European countries into account, specifically concerning civil society, would have been intriguing.

Part II presents projects of European citizenship and questions their added value to the EU-polity. Von Beyme addresses social citizenship in Europe and calls for a *de minima* model, as a product of consensus of each national tradition of citizenship. The central question addressed is whether the 'four waves of legitimacy' - the legal state, the national state, the democratic state and the welfare state - can be successfully trans-nationalised. He also assesses European citizenship *in nuce* against the challenges of integration. Schmitter evaluates the scope of citizenship necessary to the European Union. He tests the definition of perfect membership against current European citizenship. The highlights of this article are most probably Schmitter's 'democratic proposals' some of which have even been adopted since. Streeck reintroduces the political dimension of the debate. He opposes Weiler's idea of a post-state citizen, arguing that state and citizenship are interdependent. He also questions citizenship's expansion to a European framework. His intriguing contribution calls for further debate on the state-citizenship relationship. The great input of the second part of the book is thus to

question a fundamental concern of European citizenship, that of 'Why bother?' - a concern which is often by-passed in current debates.

The third part concentrates on participation in the public space. Here, current conceptual settings are questioned. Soyal's approach is particularly original, taking the current hot topic of minorities as the basis of her hypothesis. The altered nature of present boundaries of participation is highlighted, calling for modification of conceptualisation fields accordingly. Cosa also supports conceptual resetting, stressing a synthesis of the interplay between historical legacies and normative arguments. He proposes a republican approach to European citizenship-building. The sustainability of the state and democratic dependence on the nation state are questioned. In this third part, emphasis is put on the necessity to rethink citizenship's conceptual grounds. It is an effective eye opener to the task that lies ahead for eurologues!

The last section concentrates on the feasibility of constructing a collective identity. Lepsius advocates the common minimal cultural bond to benchmark future European identity: The European Union is defined as a '"segmentary communitarisation" of economic-political control functions' (p. 219). For his part, Eder defends the idea that the construction of a European collective identity is a fluid 'plésbiscite de tous les jours' (p. 238), and supports a *de minima* approach to it. Thus here, the clear lack of conceptual consensus between contributors highlights the obscurity of the European collective identity debate.

Finally, the conclusions concentrate on social integration beyond political frameworks insisting on its need to correlate with the building of a collective identity.

In sum, by unfolding the social dimension of European citizenship, this collection reveals the complexity and extent of the debate and conceptualises the tasks that lie ahead. Its great merit is to provide a full plethora of essential questions arising from current sketches of European citizenship. It is an invitation to further study rather than an attempt to answer.

Sarah Greenwood
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News from the College of Europe

**Keynote Speeches, Conferences,
Guest Lectures and Seminars
in the Academic Year 2001/2002**

Keynote Speeches

- **Aleksander Kwasniewski**
  President of the Republic of Poland
  Europe: Our Common Responsibility
  College of Europe, Bruges, 2 October 2001
  http://www.coleurop.be/about/speeches.htm#kwasniewski

- **Guy Verhofstadt**
  Prime Minister of Belgium
  The New World Order Since 11 September
  College of Europe, Natolin, 23 October 2001
  http://www.coleurop.be/about/speechesc.htm

- **Romano Prodi**
  President of the European Commission
  *An Enlarged and More United Europe, a Global Player: Challenges
  and Opportunities in the New Century*
  College of Europe, Bruges, 12 November 2001
  http://www.coleurop.be/pdf/Prodi_EN.pdf

- **Costas Simitis**
  Premier Ministre de la République Hellénique
  L'Avenir de l'Europe et la Politique de la Cohésion Economique et Sociale
  College of Europe, Bruges, 31 Janvier 2002
  http://www.coleurop.be/about/speeches.htm

International Conferences

- **The Impact of International Humanitarian Law on Current Security Policy Trends**
  In co-operation with the International Committee of the Red Cross (ICRC)
  Behind closed doors
  26 – 27 October 2001
  http://www.coleurop.be/collegium/COL21.pdf

- **Integrated Security in Europe, a Democratic Perspective**
  In co-operation with The European Institute for Law Enforcement Co-operation (EULEC) and under the authority of the Belgian Presidency of the EU
  14 – 17 November 2001
  http://www.eulec.org
  http://www.coleurop.be/collegium/COL22.pdf

Guest Lectures

- **A Constitution for the European Union – A Comparative Political Science Perspective**
  Dr Simon Hix, Reader in EU Politics and Policy, London School of Economics and Political Science
  15 January 2002, 9:30

- **Enquête sur le développement culturel en Communauté française de Belgique**
  Mr M. Guerin
  Responsable du Nouvel Observatoire des Politiques Culturelles de la Communauté Wallonie-Bruxelles
  19 Février 2002, 16:00

- **Terrorism – A New Challenge for the Alliance?**
  Lieutenant General Dr. Klaus Olshausen
  German Military Representative to NATO and the EU Military Committee
  26 February 2002, 19:30

- *CFSP and Crisis Management*
  Stefan Lehne
  Head of Division, Policy Planning and Early Warning Unit, Council of
  the European Union
  28 February 2002, 10:00

- *A New Terrorist Threat to Europe?*
  Jürgen Storbeck
  Director, EUROPOL
  4 March 2002, 13:30

- *Brugge 2002, European Capital of Culture: A Presentation and
  Evaluation of the Difficulties Encountered*
  Hugo de Greef
  Director of *Brugge 2002*
  5 March 2002, 20:00

- *Sustainable Development*
  Egil Myklebust
  Chairman of the Board of *Norsk Hydro*
  Discussion introduced by Rector Piet Akkermans
  6 March 2002, 20:00

- *The Media and European Integration*
  Dr Fritz Groothues
  Former Controller, Strategy and Public Affairs, BBC World Service
  21 March 2002, 20:00

- *The Canadian Model of Public Administration: Between Europe
  and the US*
  Jill La Rose
  Director General, Resourcing Policy and Legislation, Public Service
  Commission of Canada
  12 April 2002, 17:00

Seminars and Workshops

- **Seminars for Recently Recruited EU Civil Servants**
  24 – 29 September 2001
  22 – 26 October 2001
  26 – 30 November 2001
  21 – 25 January 2002
  25 February – 1 March 2002
  22 – 26 April 2002
  24 – 28 June 2002

- **Canada-EU Familiarisation Visit of Canadian Journalists and Journalism Students**
  Round Table on the 'Evolving Role of the EU on the World Stage'
  28 February 2002, 17:00

- **Le Conflit Israélo-Palestinien: développements récents et perspectives**
  Conférence rassemblant Mr Bichara Khader, Professeur à l'UCL et directeur du CERMAC et Mme Simone Susskind, Présidente de *Actions in the Mediterranean*, modérée par Prof. M. Köhler, Commission Européenne
  12 Mars 2002, 20:15

- **Seminar on EC Competition Law for Civil Servants of the Turkish Competition Authority**
  Behind closed doors
  7 April - 4 May 2002

- **Effective Lobbying – A Practical Guide**
  Weekend Seminar with Russell McCleave Patten, Director, Hill & Knowlton, Brussels
  19 and 20 April 2002

- **Workshop on Enlargement**
  In co-operation with The European Federation Pharmaceutical Industries Associations (EFPIA)
  26 June 2002

College of Europe Summer Schools

- ***8th Summer Academy of European Business Law***
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  the Madariaga Foundation
  30 June – 3 July 2002
  www.aea-eal.org and www.madariaga.coleurop.be

- ***Sankt-Gallen University Master Programme of European
  and International Business Law***
  In co-operation with the Universität St. Gallen – Hochschule für
  Wirtschafts-, Rechts- und Sozialwissenschaften (HSG), Switzerland
  Behind closed doors
  7 – 13 July 2002
  http://www.weiterbildung.unisg.ch

- ***Annual Postgraduate Course for Railway Staff***
  Competitiveness of the European Railways
  Behind closed doors
  01 – 14 July 2002
  http://www.coleurop.be/seminars.htm

- ***EU Seminar for South-Eastern Europe (EUSSEE)***
  In co-operation with the American University in Bulgaria, Blagoevgrad
  8 – 19 July 2002
  www.aubg.bg/dbtext/text.php?i=286

- ***Dubrovnik Diplomatic Summer School***
  In co-operation with the Diplomatic Academy of the Ministry of
  Foreign Affairs of Croatia
  3 weeks in August 2002
  www.mvp.hr/ceidtn/010815_ddss.html

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