

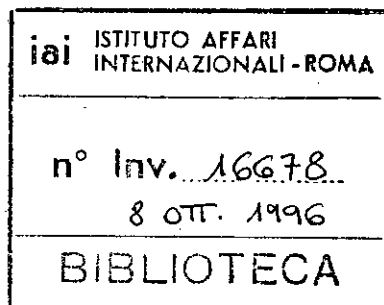
THE EUROPEAN UNION IN A CHANGING WORLD

3. ECSA world conference

European Community Studies Association (ECSA)

Bruxelles, 19-20/IX/1996

- a. Programme
- b. Programme corrigendum
- 1. "Politique extérieure et de sécurité: une priorité pour 1996-1997"/ Dusan Sidjanski
- 2. "United States and European security: US impact on European security towards 2000"/ Berthel Heurlin
- 3. "Economic security and the problem of cooperation in post-cold war Europe"/ Emil J. Kirchner
- 4. "The collective action of Transatlantic business: the Transatlantic business dialogue"/ Maria Green Cowles
- 5. "A propos des lois américaines Helms-Burton et D'Amato-Kennedy"/ Marie-Françoise Labouz
- 6. "Exploring a new paradigm for trade diplomacy: the US-EU mutual recognition agreements"/ Kalypso Nicolaïdis, Joelle Shmitz
- 7. "The domestic politics of US-EU relations"/ John Peterson
- 8. "Towards rival regionalism? US and EU regional economic integration policies and transatlantic economic relations"/ Jens Van Scherpenberg
- 9. "Europe's interrelations with North Africa in the new framework of Euro-Mediterranean partnership : a provisional assessment of the Barcelona concept"/ Annette Jünemann



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THIRD ECSA-WORLD CONFERENCE
TROISIÈME CONFÉRENCE ECSA-WORLD

**THE EUROPEAN UNION
IN A CHANGING WORLD**

***L'UNION EUROPÉENNE DANS UN
MONDE EN TRANSFORMATION***

BRUXELLES
19 - 20 SEPTEMBRE 1996

PROGRAMME

COMMISSION EUROPÉENNE
DG X - Information, Communication, Culture et Audiovisuel
"Information Universitaire"

ECSA-EUROPE and WORLD
European Community
Studies Association

Associations universitaires d'études européennes University Associations of European Studies

ECSA-EUROPE

European Community Studies Association
Association universitaire d'études des Communautés européennes

Présidence :

Prof. J. C. Gautron

Université Montesquieu
Bordeaux IV

Faculté de droit et des sciences économiques

C.R.D.E.

Avenue Léon Duguit

F - 33608 PESSAC

Tél.: 33-56 84 85 48

Fax: 33-56 84 83 86

ECSA-Europe

Secrétariat-général :

M. L. Di Fonzo

67, rue de Trèves

B - 1040 BRUXELLES

Tél.: 32-2-230.54.72

Fax: 32-2-230.56.08

Pays membres de la Communauté

Member States of the Community

BELGIQUE / BELGIE

ECSA - BELGIUM

Association belge d'étude des Communautés européennes
Belgische vereniging voor de studie van de Europese Integratie

Président: Prof. Michel DUMOULIN
c/o Université catholique de Louvain

Institut d'études européennes

1, Place des Doyens

B-1348 LOUVAIN-LA-NEUVE

Tél.: 32-10-47 4907/15

Fax: 32-10-47 25 79

DANMARK

DSFE - Dansk Selskab for Europastudier

Président: Prof. Hjalte

RASMUSSEN

c/o Copenhagen University

Retsvidenskabeligt Inst. A

Studiestraede 6

DK-1455 KØBENHAVN K

Tél.: 45-35-32 31 63

Fax: 45-35-32 32 05

DEUTSCHLAND

AEI - Arbeitskreis

Europäische Integration

Président: Prof. Rudolf HRBEK

c/o Frau Meike LEUBE

Bachstrasse 32

D - 53115 BONN

Tél.: 49-228-7290020

Fax: 49-228-69 84 37

ELLAS

EPEES - Greek Association for European Studies

Président: Prof. George

DEMOPOULOS

c/o Représentation de la

Commission en Grèce

Vassilissis Sofias 2

BP 11002

GR - ATHINAI 10674

Tél.: 30-1-725 10 00

Fax: 30-1-724 46 20

ESPAÑA

AUDESCO - Asociacion universitaria de estudios comunitarios

Président: Prof. Carlos MOLINA

DEL POZO

c/o CE-Oficina en Espana

Paseo de la Castellana, 46

E - 28001 MADRID

Tél.: 34-1-431 57 11

Fax: 34-1-576 03 87

FRANCE

CEDECE - Commission pour l'étude des Communautés européennes

Président: Prof. Jean-Claude MASUET

c/o Université de Paris I -

Panthéon Sorbonne

Centre Audiovisuel

12, place du Panthéon

F-75005 PARIS cédex 05

Tél.: 33-1-46 34 97 77

Fax: 33-1-46 34 97 76

IRELAND

ICES - Irish Committee for Contemporary European Studies

Président: Prof. Dermot KEOGH

Ms Carmel COYLE

Europe House

8 North Great George's Street

IRL - DUBLIN 1

Tél.: 353-1-874.67.56

Fax: 353-1-878.68.80

ITALIA

AUSE - Associazione Universitaria di Studi Europei

Président: Prof. Dario VELO

c/o Centro Studi sulle Comunità europee

Università di Pavia

Via San Felice, 5

I - 27100 PAVIA

Tél.: 39-382-50 63 39

Fax: 39-382-50 62 28

NEDERLAND

ISEI - Interdisciplinaire Studiegroep Europese Integratie

Président: Prof. Willem MOLLE

Drs Leo BIRZA

Ricouwstraat, 137

NL - 2585 HP DEN HAAG

Tél.: 31-70-350 8620

Fax: 31-70-358 7606

PORTUGAL

AREP - Associação interuniversitaria portuguesa de estudos de integração europeia

Président: Prof. Paolo PITTA E CUNHA

c/o Instituto Europeu

Faculdade de Direito

Universidade de Lisboa

Cidade universitária

P - 1699 LISBOA Codex

Tél.: 351-1-387 40 07

Fax: 351-1-387 23 49

SUOMI-FINLAND

FESA - Finnish European Studies Association

Président: Prof. Olli MAENPÄÄ

c/o Institute of International

Economic Law

University of Helsinki

P.O.B. 4 (Fabianinkatu 24)

SF - 00014 University of Helsinki

Tél.: 358-0-191.233.89

Fax: 358-0-191.233.90

UNITED KINGDOM

UACES - University Association for Contemporary European Studies

Président: Prof. Michael SMITH

Secr. Mrs. Susan Jones

c/o King's College

Strand G.E.

UK-LONDON WC2R 2LS

Tél.: 44-171-240 0206

Fax: 44-171-240 0206

BÂTIMENT DU PARLEMENT EUROPÉEN

Auditorium E01A02 et salles de réunion
ESPACE LÉOPOLD, rue Wiertz - Bruxelles

PROGRAMME

19 SEPTEMBRE 1996

PLENARY SESSION/SESSION PLÉNIÈRE

**09h30: OPENING OF THE CONFERENCE/
OUVERTURE DE LA CONFÉRENCE**

Mrs Colette FLESCHE - Director General DG X

09h40: WELCOME ADDRESS/DISOURS D'OUVERTURE

Mr Marcelino OREJA - Member of the European Commission
Prof. Malcolm ANDERSON - President ECSA-World

10h15: INTRODUCTORY REPORTS/DISOURS INTRODUCTIFS

Dr Hans-Dietrich GENSCHE - Former German Minister
of Foreign Affairs (*invited*)
"Greater Europe"

Mr Edgard PISANI, Président, Institut du Monde arabe - Paris
"L'Union européenne et le Sud"

12h30: LUNCH/DÉJEUNER (Parlement européen)

14h00-19h00: **WORKING GROUPS/GROUPES DE TRAVAIL 1 - 5**

**1. Europe and the World Economy:
competitiveness, competition, investment/
*L'Europe et l'économie mondiale:
compétitivité, concurrence, investissement***

Conveners: **Prof. Dieter BIEHL**, Universität Goethe, Germany
Prof. Soko TANAKA, Tohoku University, Japan

Prof. José Manuel Agüera Sirgo, Universidad de Leon, Spain
"Croissance et emploi. Un défi fondamental pour la construction de l'Union européenne"

Prof. András Inotai, Hungarian Academy of Sciences, Hungary
"Eastward Enlargement and the Future Role of Europe in the World Economy"

Dr Venilde Jeronimo, The Claremont Graduate School, USA
"Telecommunications and Competitiveness"

Prof. Sung-Hoon Park, Korea Institute for International Economic Policy, Korea
"The Current Status and Future Prospects of Regionalism and Multilateralism in the World Economy: A Case Study of Economic Relations between EU and APEC in the WTO Era"

Prof. Manuel Porto, Coimbra Law School, Portugal
"Intra-Industrial Trade and Competitiveness"

Prof. Dr. Hans-Jürgen Vosgerau, Universität Konstanz, Germany
"Towards an International Coordination of Competition Policies"

Prof. Hiroko Yamane, Ritsumeikan University, Japan
"Regulating the Global Market through Competition Policies"

2. Trade Relations/Relations commerciales

Conveners: **Prof. Dario VELO**, Università di Pavia, Italy
Prof. Marc MARESCAU, Universiteit Gent, Belgium

Prof. Thiebaut Flory, Université Paris-Val de Marne, France
"L'Union européenne et l'O.M.C. - Approche juridique"

Prof. Elzbieta Kawecka-Wyrzykowska, Warsaw School of Economics, Poland
"Prospects for Trade Developments between Central European Countries and the EU: Case of Poland"

Prof. Michael Keren, Hebrew University, Israel

"EU Trade with Eastern Europe: Can the Eastern Europeans Do without Exporting Steel and Textiles to the EU?"

Prof. Norio Komuro, Kobe University, Japan

"EU Antidumping Measures against Japanese Products"

Prof. Nohyoung Park, Korea University, Korea

"Perspective on the Korea-EU trade relations"

Dr Laura Resmini, Dr Alberto Brugnoli, Università L. Bocconi, Italy

"Textiles and Clothing Trade: Trends and Development after the Europe Agreements and the Uruguay Round"

Prof. Vladimir Shemiatenkov, Russian Academy of Sciences, Russia

"The Prospect of a Free Trade Area Between Russia and the EU: Imperatives and Paradoxes"

Prof. WU Xian, Chinese Academy of Social Sciences, China

"The Impacts of the Completion of the Internal Market upon the Exports of the Developing Countries"

3. Monetary Policy and Capital Markets/ *Politique monétaire et marché des capitaux*

Conveners: **Prof. Willem MOLLE**, University of Rotterdam, The Netherlands

Prof. Franco BRUNI, Università L. Bocconi, Italy

Prof. Nicholas Apergis, University of Macedonia, Greece

Prof. George Demopoulos, Athens University, Greece

"Macroeconomic Policy within a Monetary Union: Further Evidence from Cointegration Tests"

Prof. Dr. Fritz Breuss, Wirtschaftsuniversität, Wien, Austria

"The impact of EMU on External Trade Relations with CEECs"

Prof. Hugo M. Kaufmann, City University of New York, USA

"The EU's Monetary Policy in an International Context: Is EMU Premature?"

Prof. Paolo Pitta e Cunha, Universidade de Lisboa, Portugal

"Differentiation and External Monetary Policy of the EU"

Prof. Ramon Tamames Gomez, Universidad Autonoma de Madrid, Spain

"The European Monetary Revolution and the World Currency. A Prophecy"

Prof. Niels Thygesen, University of Copenhagen, Denmark

"The Future Role of the Single European Currency in the International Monetary System"

4. Challenges and Instruments of Foreign and Security Policy/ *Défis et instruments de la politique extérieure et de sécurité*

Conveners: **Prof. Roy GINSBERG**, Skidmore College, USA
Prof. John ROPER, Chatham House, United Kingdom

Dr Robert M. Cutler, Laval University, Canada

"The EU's CSFP as an 'Issue Area': Its Policy Process in Comparative Perspective"

Prof. Bertel Heurlin, University of Copenhagen, Denmark

"The Role of the United States in European Security"

Prof. Emil J. Kirchner, University of Essex, United Kingdom

"Economic Security and the Problem of Cooperation in Post-Cold War Europe"

Dr Stephan Kux, Universität Basel, Switzerland

"The EU and the 'European Security Model': Stabilizing a Changing Continent"

Prof. Dr. Reimund Seidelmann, Universität Jena, Germany

"Problems and Perspectives of Europe's Security Architecture"

Prof. Dusan Sidjanski, Université de Genève, Suisse

"La théorie de l'intégration à l'épreuve des conflits extérieurs"

Prof. Constantin Stephanou, Pantheon University, Greece

"La communautarisation de la PESC"

5. Europe and International Migrations/ *L'Europe et les migrations internationales*

Conveners: **Prof. Jean-Claude MASCLÉ**, Université Paris I, France
Dr. Andrzej STEPNIAK, Uniwersytet Gdansk, Poland

Ms Sarah Spencer, Institute for Public Policy Research, United Kingdom

"Tackling the root cause of forced migration: the role of the EU"

Ms Penny Henson, University of Birmingham, United Kingdom

"Domestic Politics and Europeanization in the German Migration Debate: Competing or Complementary Pressures?"

Prof. Pedro Perez Hortiguela, Spain

"Migration d'Afrique vers l'Union européenne: Déséquilibres"

Prof. Zofia Sokolewicz, Warsaw University Centre for Europe, Poland

"Host-Guest Syndrome: Civil Society facing the phenomenon of migration"

Prof. Pétros N. Stangos, University of Macedonia, Greece

"La 'communautarisation' de la politique de l'immigration au sein de l'Union européenne: état actuel et perspectives"

Dr Catherine Wihtol de Wenden, Centre d'Études et de Recherches Inter., France

"Les obstacles à une politique communautaire de l'immigration"

19 SEPTEMBRE 1996

20h30: **DINNER/DÎNER**

Présidé par **Mme Colette FLESC**, Directeur Général DG X,
avec un exposé par **M. Emile NOEL**
sur "La Conférence Intergouvernementale 1996: la situation actuelle"

Hôtel Métropole, place De Brouckère 31 - 1000 Bruxelles

**6. The EU and Central and Eastern Europe (including NIS)/
*L'UE et l'Europe de l'Est (y compris CEI)***

Conveners: **Prof. Ferenc MADL**, Eotvos Lorand University, Hungary
Prof. Peter MULLER-GRAFF, Universität Heidelberg, Germany

Prof. Yuri Borko, Russian Academy of Sciences, Russia
"Russia and the EU in the XXIst Century: Four Possible Scenarios of Relations"

Dr Françoise de la Serre, Centre d'Etudes et de Recherches Internationales, France
"L'élargissement de l'UE aux pays de l'Europe centrale: quelle différenciation?"

Ms Antoaneta Dimitrova, University of Limerick, Ireland
"The Role of the EU in the Process of Democratic Transition and Consolidation in Central and Eastern Europe"

Prof. Dencho Georgiev, Bulgarian Academy of Sciences, Bulgaria
"The Implications of the Results of the Uruguay Round for the Relationship of the European Union with the Associated Countries of Central and Eastern Europe"

Prof. Janne H. Matlary, Oslo University, Norway
"The Impact of International Institutions: The EU's Role Towards the Visegrad-region in Environmental Policy"

Prof. Tibor Palankai, Budapest University, Hungary
"From Europe Agreements to Membership (What criteria should be met, and the prospects of meeting them)"

Prof. Dr. Tadeusz Skoczny, Warsaw University, Poland
"Harmonization of the Competition Law of the EU Associated Countries seeking for EU Membership with the EC Competition Rules"

Prof. Ronald J. Wonnacott, University of Western Ontario, Canada
"The EU and Liberalization of East-West European Trade"

Prof. Jiri Zemanek, Charles University, Czech Republic
"Legal Problems relating to Czech Republic's Integration to the EU focused on Competition Law"

**7. The EU and the Mediterranean Countries/
*L'UE et les pays du bassin méditerranéen***

Conveners: **Prof. Jean-Claude GAUTRON**, Université Bordeaux IV, France
Prof. Alejandro LORCA, Univ. Autonoma de Madrid, Spain

Dr Kalliope Agapiou-Josephides, University of Cyprus, Cyprus
"L'avenir des relations euro-méditerranéennes: quelle sécurité?"

Prof. Antonis Bredimas, University of Athens, Greece
"Les droits de l'homme dans la coopération euro-méditerranéenne"

Dr Annette Jünemann, Universität Kassel, Germany
"Europe's Interrelations with North Africa: The Barcelona Concept"

Prof. Halûk Kabaalioglu, Marmara University, Turkey
"Completion of the Customs Union and the Accession of Turkey to the European Union"

Prof. José Maria Mella Marquez, Universidad Autonoma de Madrid, Spain
"Le transfert de technologie dans la coopération euroméditerranéenne"

Prof. Alfred Tovias, Hebrew University, Israel
"Future Trade Arrangements between Israel and its Arab Neighbours: Available Options"

Prof. Dario Velo, Università di Pavia, Italy
"Europe's Mediterranean Policy between Variable Geometry and Single Market"

Prof. Peter G. Xuereb, Mr Roderick Pace, University of Malta, Malta
"On the Threshold of the European Union: A Legal and Economic Perspective on the Adhesion of Malta and Cyprus to the EU"

8. The EU and North America/L'UE et l'Amérique du Nord

Conveners: **Prof. James CAPORASO**, University of Washington WA, USA
Prof. Michael SMITH, Loughborough University, United Kingdom

Prof. Gianni Bonvicini, Istituto Affari Internazionali, Italy
"EU and US Defence and Foreign Policy Cooperation in the 90s"

Dr Maria G. Cowles, The University of North Carolina, USA
"The Collective Action of Transatlantic Business: Cooperation and Conflict"

Prof. Marie Françoise Labouz, Université de Versailles SQEY, France
"L'Union européenne et l'Amérique du Nord"

Dr Kalypso Nicolaidis, Dr Joelle Schmitz, Harvard University, USA
"Exploring a New Paradigm for Trade Diplomacy: The US-EU Mutual recognition Agreements"

Dr John Peterson, University of Glasgow, United Kingdom
"The Domestic Politics of US-EU Relations"

Dr Jens van Scherpenberg, Stiftung Wissenschaft und Politik, Germany
"Towards Rival Regionalism? US and EU Regional Economic Integration Policies and Transatlantic Economic Relations"

9. The EU and Asia-APEC/L'UE et l'Asie

Conveners: **Prof. Dr. Jacques PELKMANS**, Rijksuniversiteit, The Netherlands
Prof. Philomena MURRAY, University of Melbourne, Australia

Prof. Jacques Bourrinet, Université d'Aix-Marseille III, France
"Les relations commerciales euro-japonaises à la croisée des chemins"

Prof. DAI Bingran, Fudan University, China
"Sino-European Political and Economic Relations in the Post Cold-War Era"

Prof. Dr. Rudolf Hrbek, Universität Tübingen, Germany
"The Bangkok Summit 1996 - Towards a New Phase in the Relations between ASEAN and the EU?"

Prof. Robert Scollay, The University of Auckland, New Zealand
"APEC Trade Liberalisation, The European Union and the International Trading System"

Prof. Soko Tanaka, Tohoku University, Sendai, Japan
"EU-Asia and Japan-Asia relations"

Prof. Suthiphand Chirathivat, Chulalongkorn University, Bangkok
"European Union-ASEAN relations"

10. The EU and Latin America/L'UE et l'Amérique latine

Conveners: **Prof. Carlos MOLINA DEL POZO**, Univ. Alcala Henares, Spain
Prof. R. RUIZ DIAZ-LABRAMO, Univ. Nacional-Asuncion, Paraguay

Prof. Allan R. Brewer-Carias, Universidad Central de Venezuela, Venezuela
"Le droit communautaire: expérience pour le processus d'intégration andine"

Prof. Dromi, Argentina
"The Future of the Relationship between the European Union and Mercosur"

Prof. E. Jimenez, Centro de Estudios y Prospectiva Política, Mexico
"The Latinamerican integration process and the European Union"

Prof. Joël Lebullenger, Université de Rennes I, France

Prof. Catherine Flaesch-Mouglin, Université de Rennes I, France
"Les relations contractuelles de la CE avec les pays et groupements latino-américains"

Prof. Marta Olivar, Brazil
"Understanding the idea of European Community Law for a real Integration Process in Southern-Central America"

Dr. Hazel Smith, University of Kent, United Kingdom
"The future of the CFSP: lessons from Central America"

11. The EU and Africa/L'UE et l'Afrique

Conveners: Prof. Etienne CEREXHE, Université Catholique - Louvain, Belgique
Prof. Martin HOLLAND, University of Canterbury, NZ

Dr Olufemi Babarinde, American Graduate School of I.M., USA
"Analyzing the Proposed African Economic Community: Lessons from the Experience of the EU"

Prof. Dr. José Maria Casado Raigon, Universidad de Cordoba, Spain
"Considerations économiques, sociales et politiques des rapports UE-Afrique. La liaison Europe-Afrique à travers le détroit de Gibraltar"

Dr Gerrit Faber, Universiteit Utrecht, The Netherlands
"The Lomé Convention and Development in Sub-Saharan Africa"

Prof. Oscar Garavello, Università di Milano, Italy
"Foreign Capital Flows and the Financial Adjustment Process: The Sub-Saharan African Experience"

Dr Thomas Pandelami Mathoma, University of Pittsburgh, USA
"Within or Without Lomé? The Changing Phase of European Union-South African Trade Relations"

Prof. F. M. Sawadogo, Université de Ouagadougou, Burkina Faso
"L'Union européenne et l'U.E.M.O.A."

13h00: LUNCH/DÉJEUNER (Parlement européen)

PLENARY SESSION/SESSION PLÉNIÈRE

14h30: CONCLUDING SESSION/CONCLUSIONS

Round Table with the Conveners of the working groups chaired by/
Table ronde avec les Conveners des groupes de travail présidée par :

Prof. Malcolm ANDERSON, Président ECSA-World

with/avec **Prof. Jean-Claude GAUTRON**, Président ECSA-Europe
Legal aspects/Aspects juridiques

Prof. Alberta SBRAGIA, Vice-Président ECSA-World
Political aspects/Aspects politiques

Prof. Willem MOLLE, Président ISEI-Netherlands
Economic aspects/Aspects économiques

17h00: END OF THE CONFERENCE/FIN DE LA CONFÉRENCE

GENERAL INFORMATION

CONFERENCE VENUE

European Parliament Building - Auditorium E01 A02 and Working rooms
ESPACE LEOPOLD, rue Wiertz - Brussels

DATE

19-20 September 1996

WELCOME DESK

The Welcome Desk in European Parliament Building will be at the disposal of all participants on Thursday, 19 September 1996, from 8.30 a.m.

LANGUAGES

Simultaneous interpretation in English and French will be provided.

LUNCHES - COFFEE BREAKS

Lunches and coffee for participants during breaks will be provided.

CONFERENCE DINNER

Hosted by Mrs Colette FLESCHE, Director General DG X, with a key note address by Mr Emile NOEL on "La Conférence Intergouvernementale 1996: la situation actuelle"

Hôtel MÉTROPOLE, place De Brouckère 31 - 1000 Bruxelles

CONFERENCE ORGANISATION

For further information about the content of the Conference, please contact:

European Commission - Directorate General X, "University Information"

rue de la Loi, 200 B-1049 Brussels (Belgium)

Mrs A. VAN MIERT, Tel.: 32/2/2999293 - Fax: 32/2/2963106

Mr B. SORET, Tel.: 32/2/2960960-Fax: 32/2/2963106

e-mail: Bertrand.Soret@dg10.cec.be

For further information about the organisation of the Conference, please contact:

ECSCA-Europe/World Secretariat

rue de Trèves, 67 B-1049 Brussels (Belgium)

Mr L. DI FONZO,

Tel.: 32/2/2305472-Fax: 32/2/2305608, e-mail: ccscs@pophost.eunet.be

INFORMATIONS GÉNÉRALES

LIEU

Bâtiment du Parlement européen - Auditorium E01 A02 et Salles de réunion
ESPACE LEOPOLD, rue Wiertz - Brussels

DATE

19-20 septembre 1996

ACCUEIL

Le service d'accueil sera à la disposition des participants le jeudi 19 septembre 1996, dès 8h30 dans le hall du Bâtiment du Parlement européen

LANGUES

L'interprétation simultanée en anglais et français sera assurée.

DÉJEUNERS - PAUSES CAFÉ

Les déjeuners et le café durant les pauses seront offerts sur place.

DÎNER

Présidé par Mme Colette FLESCHE, Directeur Général DG X, avec un exposé par M. Emile NOEL sur "La Conférence Intergouvernementale 1996: la situation actuelle"

Hôtel MÉTROPOLE, place De Brouckère 31 - 1000 Bruxelles

ORGANISATION DE LA CONFÉRENCE

Pour toute information relative au contenu de cette conférence, veuillez contacter:

Commission européenne - Direction Générale X, "Information universitaire"

rue de la Loi, 200 B-1049 Brussels (Belgium)

Mme A. VAN MIERT, Tel.: 32/2/2999293 - Fax: 32/2/2963106

M. B. SORET, Tel.: 32/2/2960960-Fax: 32/2/2963106

e-mail: Bertrand.Soret@dg10.cec.be

Pour toute information relative à l'organisation de cette conférence, veuillez contacter:

ECSA-Europe/World Secretariat

rue de Trèves, 67 B-1049 Brussels (Belgium)

M. L. DI FONZO,

Tel.: 32/2/2305472-Fax: 32/2/2305608, e-mail: ccса@pophost.cunet.be

ESCA-WORLD CONFERENCE

When the European Commission organised the first ECSA-World meeting in Brussels in 1992, the project of federating 32 academic national associations was still a dream. It has since become a reality. Encouraged by President Delors, a first World Conference took place in May 1994. More than 300 scholars took part in this scientific exercise, working together on the theme of "Federalism, Subsidiarity and Democracy in the European Union".

The European Commission has been fully supporting the ECSA-World initiative from the very beginning. It recognizes the vital role of academics to promote a better understanding of the European integration process. DG X (Information, Communication, Culture and Audiovisual), in particular, is watching the development of European studies closely and aims at giving it more visibility in academic circles.

DG X ACTIVITIES

DG X activities to promote European integration studies:

- **Jean Monnet Project:** to develop new university courses on European integration in Member States, Poland and Hungary.
- **European University News:** newsletter (5 issues/year) to disseminate information on Jean Monnet activities, ECSAs Projects, Conferences, publications, etc.
- **ECSA-NET/EURISTOTE:** database on European integration studies (teaching/research) on the Internet.
- **European Documentation Centres:** to give researchers access to European Institution documents.

ECSA-EUROPE/ECSA-WORLD

European integration studies Associations from the member States founded the European Community Studies Association-Europe in 1987. ECSA-Europe's vocation is to structure their cooperation. Since 1994, the ECSAs existing throughout the World are grouped together as ECSA-World.

Membership:

ECSA-Europe: 13 associations representing more than 2 000 professors/researchers from the member States of the European Union (except Luxembourg and Sweden).

ECSA-World: 30 associations representing more than 5 000 members.

Objectives:

a) ECSAs aims are to:

- 1) associate professors/researchers working on European integration issues at the national level;
- 2) provide high level permanent "re-training" of their members (4 to 5 seminars a year);
- 3) strengthen the European integration issue as a scientific discipline, through the organisation of symposia, publications . . . ;
- 4) facilitate transnational cooperation and the creation of an academic world network of European integration specialists.

Activities:

- 1) **Research Networks**: ECSA-Europe builds academic networks in organising transnational research projects:

ECSA-East associates ECSA-Europe members and national associations from Eastern European Countries. Since 1991, participants have been working on common research topics under the direction of Prof. Müller Graff (Heidelberg University), resulting in Conferences and publications.

ECSA-East I dealt with "The Administrative, Economic and Legal Adaptations of the Eastern European Countries to the European Community" (published in 1993 by Nomos Verlag).

ECSA-East II started in November 1994: "From Europe Agreements to a Member Status". Scholars identify the problems linked to the enlargement of the Union to associated countries. After the April 1996 final Conference, proceedings will be published in the ECSA Series (Nomos Verlag).

ECSA-Med, based on the ECSA-East I experience, involves Northern Mediterranean countries (Cyprus, Israël, Malta and Turkey) and members from ECSA-Europe under Prof. Gautron's leadership (University of

Bordeaux). The participants will deliver their conclusions to this ECSA-World Conference, on the theme: "The Policy of the European Union and The Mediterranean Area".

- 2) **Jean Monnet Project:** ECSA-Europe became the main European Commission negotiator in the academic milieu. As such, ECSA-Europe has been asked to nominate and select four delegates to the Jean Monnet European University Council that runs the Jean Monnet Project. The scheme promotes the introduction of new courses on European integration in the member states universities, as well as in Hungary and Poland.
- 3) **ECSA-NET:** in partnership with the European Commission (DG X), ECSA-Europe and ECSA-World set up a Web server on the Internet to provide information on European integration studies (see enclosed description). ECSAs correspondents throughout the World gather data to be introduced in several databases.
- 4) **ECSA-World Conferences:** In February 1992 the first, constitutional, meeting of ECSA-World was held, and was followed two years later in May 1994 in Brussels by a conference on "Federalism, Subsidiarity and Democracy in the European Union". The conclusions and the proceedings are available from the ECSA-Europe Secretariat.

Publications:

- *Who's Who in European Integration Studies*, Baden-Baden, Nomos, 1989, 1991, 1993, 1995.
- *Federalism, Subsidiarity and Democracy in the European Union*, ECSA-World Conference review and conclusion, 1994.
- Ferenc Mádl, P.-C. Müller-Graff (ed.), *Hungary - From Europe Agreement to a Member Status in the European Union*, Baden-Baden, Nomos, 1996.
- *The Legal, Economic and Administrative Adaptations of Central European Countries to the EC*, Baden-Baden, Nomos, 1993.
- P.-C. Müller-Graff (ed.), *East-Central European States and the EC: Legal Adaptations to the Market Economy*, Baden-Baden, Nomos, 1993.

Members of ECSA-World Steering Committee

Prof. Malcolm ANDERSON, President ECSA-World
Prof. Jean-Claude GAUTRON, President ECSA-Europe
Prof. Alberta SBRAGIA, Vice-President ECSA-World
Prof. Toshiro TANAKA, Vice-President ECSA-World
Prof. Rudolf HRBEK, Vice-President ECSA-Europe
Prof. Marc MARESCAU, Vice-President ECSA-Europe
Prof. Constantin STEPHANOU, Vice-President ECSA-Europe
Dr Andrzej STEPNIAK, PECSA Poland

ECSA-EUROPE/ECSA-WORLD

Les associations nationales de professeurs/chercheurs spécialisés dans l'étude de l'intégration européenne des Etats membres se sont fédérées en 1987 au niveau communautaire au sein d'ECSA-Europe et au niveau mondial en 1994 au sein d'ECSA-World.

Membres:

ECSA-Europe: 13 associations représentant plus de 2 000 professeurs/chercheurs des pays membres de l'Union européenne (sauf le Luxembourg et la Suède).

ECSA-World: 30 associations actuellement représentant près de 5 000 membres.

Objectifs:

a) Les ECSAs visent à:

- 1) regrouper au niveau national les professeurs et chercheurs travaillant sur l'intégration européenne et les développements communautaires;
- 2) assurer un "recyclage" permanent de haut niveau de leurs membres (4 à 5 séminaires par an);
- 3) consolider la problématique européenne comme matière scientifique par des colloques, publications, etc.;
- 4) faciliter la coopération transnationale et l'émergence d'un réseau mondial de spécialistes universitaires d'étude de l'intégration européenne.

Activités:

- 1) **Réseaux de recherche**: ECSA développe des réseaux en organisant des projets de recherche transnationaux:

ECSA-East: associe des membres d'ECSA-Europe et les Associations nationales des pays d'Europe centrale. Depuis 1991, les participants travaillent et publient dans la "série ECSA" (Nomos Verlag - cf. publications) sur des thèmes de recherche communs sous la direction du Professeur Müller Graff (Université de Heidelberg).

ECSA-East I a porté sur "Les adaptations administratives, économiques et juridiques des pays d'Europe centrale à l'Union européenne".

ECSA-East II s'est achevé en avril 1996 par une conférence "From Europe Agreements to a Member Status".

ECSA-Med: suite à l'expérience d'ECSA-East I, un projet impliquant des Associations de pays membres et de pays du Bassin méditerranéen a été lancé par le Prof. J.-C. Gautron (Université de Bordeaux). Les participants

présentent leurs conclusions au cours de cette conférence sur le thème: "La politique de l'Union européenne et l'espace méditerranéen".

- 2) **Action Jean Monnet:** ECSA-Europe est devenue l'interlocuteur privilégié de la DG X dans les milieux universitaires. A ce titre, ECSA-Europe désigne quatre membres du Conseil Universitaire Européen pour l'Action Jean Monnet, l'organe académique sur lequel la Commission européenne s'appuie pour l'Action Jean Monnet. Le programme vise à promouvoir l'enseignement universitaire sur l'intégration européenne, dans les Etats membres, en Pologne et en Hongrie.
- 3) **ECSA-NET:** En partenariat avec la Commission européenne, ECSA-Europe et ECSA-World ont créé un système d'information sur Internet regroupant un certain nombre de bases de données sur l'enseignement et la recherche sur l'intégration européenne (cf. encadré "ECSA-NET"). Les correspondants de chaque ECSA nationale collectent les informations qui concernent les activités de leurs membres à introduire dans le système.
- 4) **ECSA-World Conferences:** En février 1992 s'est tenue à Bruxelles la première réunion constitutive d'ECSA-World. La première Conférence mondiale a réuni en 1994, près de 300 participants à Bruxelles autour du thème "Fédéralisme, Subsidiarité et Démocratie". Les conclusions et les actes de la Conférence peuvent être obtenus auprès du Secrétariat ECSA.

Publications:

- *Who's Who in European Integration Studies*, Baden-Baden, Nomos, 1989, 1991, 1993, 1995.
- *Federalism, Subsidiarity and Democracy in the European Union*, ECSA-World Conference review and conclusion, 1994.
- Ferenc Mádl, P.-C. Müller-Graff (ed.), *Hungary - From Europe Agreement to a Member Status in the European Union*, Baden-Baden, Nomos, 1996.
- *The Legal, Economic and Administrative Adaptations of Central European Countries to the EC*, Baden-Baden, Nomos, 1993.
- P.-C. Müller-Graff (ed.), *East-Central European States and the EC: Legal Adaptations to the Market Economy*, Baden-Baden, Nomos, 1993.

Membres du Steering Comité ECSA-World
--

Prof. Malcolm ANDERSON, Président ECSA-World
Prof. Jean-Claude GAUTRON, Président ECSA-Europe
Prof. Alberta SBAGLIA, Vice-Président ECSA-World
Prof. Toshiro TANAKA, Vice-Président ECSA-World
Prof. Rudolf HRBEK, Vice-Président ECSA-Europe
Prof. Marc MARESCAU, Vice-Président ECSA-Europe
Prof. Constantin STEPHANOU, Vice-Président ECSA-Europe
Dr Andrzej STEPNIAK, PECSA Pologne

Associations universitaires d'études européennes University Associations of European Studies

ECSA-WORLD

Presidence:

Prof. Malcolm Anderson
University of Edinburgh
International Social Sciences
Institute - 1, Surgeon Square
HIGH SCHOOL YARDS
UK - EDINBURGH EH1 - 1LZ
Tel.: 44-131-650 2459
Fax: 44-131-650 6345

Pays tiers / Third countries

AUSTRALIA

**CESAA - Contemporary
European Studies Association
of Australia**
President: Dr Philomena
MURRAY
c/o University of Melbourne
Department of Political Science
Parkville
AUS-VICTORIA 3052
Tel.: 61-3-9344 6565 or 9344 5151
Fax: 61-3-9344 7906

BULGARIA

**BECSA - Bulgarian European
Community Studies
Association**
President: Dr Ingrid SHIKOVA
Ul. Dobromir Hriz 7
BL - SOFIA 1124
Tel.: 359-2-971.24.11
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CANADA

**ECSA-C European Community
Studies Association-Canada
Association d'étude sur la
Communauté européenne-
Canada**
President: Prof. Steven B.
WOLINETZ
c/o Department of Political
Sciences
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Tel.: 1-709-737.7413/8179
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CHINA

CSEUS - Chinese Society for EU Studies

President: Prof. DAI Bingran
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Handan Road 220
PRC - SHANGHAI 200433
Tel.: 86-21-65 48.33.31
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CROATIA

**CESA - Croatian European
Community Studies
Association**
President: Prof. Kresimir SAJKO
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CZECH REPUBLIC

**Czech European Community
Studies Association**
President: Dr Lubos TICHY
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Právnická Fakulta
nám. Curieových 7
PSG - 116 40 PRAHA 1
Tel.: 42-2-210 053 34/248 104 72
Fax: 42-2-248 104 72

HUNGARY

**Hungarian Council for EC
Studies**
President: Prof. Ferenc MADL
c/o Eötvös Lorand University
Faculty of Law
European Documentation Centre
Egyetem tér 1-3
H - 1364 BUDAPEST
Tel.: 36-1-266.59.99
Fax: 36-1-266.40.91

ISRAEL

IASEI - Israeli Association for the Study of European Integration

President: Prof. Alfred TOVIAS
c/o Centre for European Studies
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IL - JERUSALEM 91905
Tel.: 972-2-88.32.86
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JAPAN

**NIHON EC GAKKAI - Japanese
Association for EC - Studies**
President: Prof. Masaru NISHI
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MALTA

**MESA - Malta European Studies
Association**
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Fax: 356-33.64.50

NEW ZEALAND

**European Community Studies
Association**
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Fax: 64-33-642 007

NORGE

**Norsk Forum for
Europaforskning**
President: Prof. Janne HAALAND
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Tel.: 47-22-85.56.96 or
85.76.77
Fax: 47-22-85.78.32

POLSKA

**PECSA - Polish European
Community Studies
Association**
President: Dr Renata
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PL-61-895 POZNAN
Tel. 48-61-54.33.20
Fax 48-61-66.89.24

RUSSIA

**AES - Association of European
Studies**
President: Prof. Yuri BORKO
8-3 "V" Mokhovaya Street
103873 MOSKWA
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Fax: 7-095-200 4298

SUISSE

**ASE - Association suisse
d'étude de l'intégration
européenne**
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e-mail: jiek@uni2a.unige.ch

SOUTH KOREA

EUSA - European Union Study Association

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TURKEY

TUNAECS - Turkish Association for European Community Studies

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U.S.A.

ECSA-USA - European Community Studies Association

President: Prof. James A.
CAPORASO
Adm. Director: Bill Burros
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USA - PITTSBURGH, PA 15260
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Fax: 1-412-648-1168

ECSA-NET/EURISTOTE

An interactive communication network on the Internet

The system is a subheading of EUROPA, the European Commission
Web-server: <http://www.cec.lu>

Path: The European Union - Europe ABC - European Integration
Studies - ECSA-NET

Direct access: <http://www.cec.lu/ecsa/homepage.html>

Objectives:

ECSA-NET will link scholars involved in European integration studies. National ECSAs (30 European Community Studies Associations representing 5 000 members) will be involved in data gathering and have the opportunity to get their own entry on our Web. The system is to provide access to our databases and will constitute DG X main instrument to reach the academic community World-wide specialised in European integration studies.

Content:

The following features will be available via ECSA-Net:

- universities involved in European integration studies
- national associations (activities, members, etc.)
- professors specialised in the field
- Who's Who in European integration studies
- EURISTOTE: database on research, updated by ECSAs
- Jean Monnet Project
- European Documentation Centres
- Postgraduate degrees in European integration/summer courses
- News Group, including various features: conferences, debates on current issues (ICG, EMU, etc.), call for papers, vacancies, recent publications . . .

Links will be available with other European Commission's public databases and Web-servers dealing with European integration.

EUROPEAN COMMISSION

Directorate General X "University Information"

Head of Unit: **Mrs Jacqueline LASTENOUSE**

rue de la Loi, 200 B-1049 Brussels (Belgium)

Additional information: *Bertrand Soret, DG X T120 3/62, Tel.: (32-2) 296 09 60,
Fax: (32-2) 296 31 06, E-mail: Bertrand.Soret@DG10.cec.be*

THIRD ECSA-WORLD CONFERENCE
TROISIÈME CONFÉRENCE ECSA-WORLD

NEW!!!

**THE EUROPEAN UNION
IN A CHANGING WORLD**

***L'UNION EUROPÉENNE DANS UN
MONDE EN TRANSFORMATION***

BRUXELLES

19 - 20 SEPTEMBRE 1996

PROGRAMME
CORRIGENDUM

**EUROPEAN COMMISSION
DG X - Information, Communication,
Culture and Audiovisual
UNIVERSITY INFORMATION**

**ECSA-EUROPE and WORLD
European Community
Studies Association**

BÂTIMENT DU PARLEMENT EUROPÉEN
ESPACE LEOPOLD, Rue Wiertz - Bruxelles

19 SEPTEMBRE 1996

PLENARY SESSION / SESSION PLÉNIÈRE

Salle L01A02

(Coffee Break at 11h00)

09h30: **Opening of the Conference / Ouverture de la Conference**
Mrs Colette FLESCH - Director General DG X
Mr Jacques DELORS - Former President of the European Commission
Président Association "Notre Europe" - Paris

Prof. Malcolm ANDERSON - President ECSA-World

10h15: **INTRODUCTORY REPORTS / DISCOURS INTRODUCTIFS**
Dr Hans-Dietrich GENSCHER, Former German Minister of Foreign Affairs
Greater Europe
M. Edgard PISANI, Honorary President - Institut du Monde Arabe, Paris
L'Union européenne et le Sud

12h30: **LUNCH / DÉJEUNER (Parlement Européen)**

14h00-19h00: **WORKING GROUPS / GROUPES DE TRAVAIL 1 - 5**
(Coffee Break at 15h30)

1: **Europe and the World Economy: competitiveness, competition, investment**
L'Europe et l'économie mondiale: compétitivité, concurrence, investissement
Salle MAE1

Conveners: - **Prof. Dieter BIEHL**, Universität Goethe, Germany
- **Prof. Vladimir SHEMIATENKOV**, Russian Academy of Sciences, Russia

Prof. José Manuel Aguera Sirgo, Universidad de León, Spain

"Croissance et emploi. Un défi fondamental pour la construction de l'Union européenne"

Dr Venilde Jeronimo, The Claremont Graduate School, USA

"Telecommunications and Competition in the European Union"

Prof. Sung-Hoon Park, Korea Institut for International Economic Policy, Korea

*"The Current Status and Future Prospects of Regionalism and Multilateralism in the World Economy:
A Case Study of Economic Relations Between EU and APEC in the WTO Era"*

Prof. Manuel Porto, Universidade de Coimbra, Portugal

"Integration, Specialization and Adjustment. The Portuguese Case"

Prof. Dr Hans-Jürgen Vosgerau, Universität Konstanz, Germany

"Towards an International Coordination of Competition Policies"

Prof. Hiroko Yamane, Ritsumeikan University, Japan

"Competition and Competitiveness: Relevance of EC Competition Law to Japan"

2: Trade Relations / Relations commerciales
Salle MAE2

Conveners: - Prof. Dario VELO, Università di Pavia, Italy
- Prof. Marc MARESCEAU, Universiteit Gent, Belgium

Prof. Thiebaut Flory, Université Paris-Val de Marne, France

"L'Union européenne et l'O.M.C. - Approche juridique"

Prof. Dr. Elzbieta Kawecka-Wyrzykowska, Warsaw School of Economics, Poland

"Prospects for Trade Developments between Central and Eastern Europe and the European Union"

Prof. Norio Komuro, Kobe University, Japan

"EU Antidumping Measures against Japanese products"

Dr Laura Resmini, Dr Alberto Brugnoli, Università L. Bocconi, Italy

"Textiles and Clothing Trade: Trends and Development after the Europe Agreements and the Uruguay Round"

Maxim Medvedkov, Ministry of External Economic Relations, Russia

"The Prospect of a Free Trade Area Between Russia and the EU: Imperatives and Paradoxes"

Prof. WU Xian, Chinese Academy of Social Sciences, China

"The Impacts of the Completion of the Internal Market upon the Exports of the Developing Countries"

3: Monetary Policy and Capital Markets / Politique monétaire et marché des capitaux
Salle MAE3

Conveners: - Prof. Willem MOLLE, University of Rotterdam, The Netherlands
- Prof. Franco BRUNI, Università L. Bocconi, Italy

Prof. Nicholas Apergis, University of Macedonia - **Prof. George Demopoulos**, Athens University, Greece

"Macroeconomic Policy within a Monetary Union: Further Evidence from Cointegration Tests"

Prof. Dr. Fritz Breuss, Wirtschaftsuniversität, Wien, Austria

"The impact of EMU on External Trade Relations with CEECs"

Prof. Hugo M. Kaufmann, City University of New York, USA

"The EU's Monetary Policy in an International Context: Is EMU Premature?"

Prof. Paolo Pitta e Cunha, Universidade de Lisboa, Portugal

"Monetary Union and Differentiation. The External Dimension"

Prof. Ramon Tamames Gomez, Universidad Autonoma de Madrid, Spain

"The European Monetary Revolution and the World Currency. A Prophecy"

Prof. Niels Thygesen, University of Copenhagen, Denmark

"The Future Role of the Single European Currency in the International Monetary System"

4: Challenges and Instruments of Foreign and Security Policy
Défis et instruments de la politique extérieure et de sécurité

Salle L05B01

Conveners: - Prof. Dusan SIDJANSKI, Université de Genève, Suisse
- Prof. John ROPER, Chatham House, United Kingdom

Prof. Bertel Heurlin, University of Copenhagen, Denmark

"United States and European Security. US Impact on European Security towards 2000"

Prof. Emil J. Kirchner, University of Essex, United Kingdom

"Economic Security and the Problem of Cooperation in Post-Cold War Europe"

Dr Stephan Kux, Universität Basel, Switzerland

"The EU and the 'European Security Model': Stabilizing a Changing Continent"

Prof. Dr Reimund Seidelmann, Universität Jena, Germany

"Problems and Perspectives of Europe's Security Architecture"

Prof. Dusan Sidjanski, Université de Genève, Suisse

"Politique extérieure et de sécurité: une priorité pour 1996-1997"

5: Europe and International Migrations / L'Europe et les migrations internationales
Salle L06B54

Conveners: - Prof. Jean-Claude MASCLET, Université Paris I, France
- Dr Andrzej STEPNIAK, Uniwersytet Gdansk, Poland

Ms. Sarah Spencer, Institute for Public Policy Research, United Kingdom

"Tackling the root cause of forced migration: the role of the EU"

Dr Penny Henson, Dr Nisha Malhan, University of Birmingham, United Kingdom

"Domestic Politics and Europeanisation in the German Migration Debate:

The Elusive Search for a European Migration Policy"

Prof. Zofia Sokolewicz, Warsaw University Centre for Europe, Poland

"Host-Guest Syndrome: Civil Society facing the phenomenon of migration"

Prof. Pétros N. Stangos, University of Macedonia, Greece

"La 'communautarisation' de la politique de l'immigration au sein de l'Union européenne"

Dr Catherine Wihtol de Wenden, Centre d'Etudes et de Recherches Internationales, France

"Les obstacles à une politique communautaire de l'immigration"

20h30:

DINNER / DÎNER

Hosted by **Mrs. Colette FLESC**, Director General DG X,
with a key note address by
on the
Hotel METROPOLE - Bruxelles

20 SEPTEMBRE 1996

09h00-13h00: **WORKING GROUPS / GROUPES DE TRAVAIL 6 - 11**
(Coffee Break at 10h30)

6: The EU and Central and Eastern Europe (including NIS)
L'UE et l'Europe de l'Est (y compris CEI)
Salle L04B01

Conveners: - Prof. Ferenc MADL, Eotvos Lorand University, Hungary
- Prof. Peter MULLER-GRAFF, Universität Heidelberg, Germany

Prof. Yuri Borko, Russian Academy of Sciences, Russia

"Russia and The European Union in the XXIth Century; Four Possible Scenarios of Relations"

Dr Françoise de la Serre, Centre d'Etudes et de Recherches Internationales, France

"L'élargissement de l'UE aux pays de l'Europe centrale: quelle différenciation?"

Ms. Antoaneta Dimitrova, University of Limerick, Ireland

"The role of the EU in the Process of Democratic Transition and Consolidation in Central and Eastern Europe"

Prof. Janne H. Matlary, Oslo University, Norway

"The Impact of International Institutions: The EU's Role Towards the Visegrad-region in Environmental Policy"

Prof. Tibor Palankai, Budapest University, Hungary

"From Europe Agreements to Membership (What criteria should be met, and the prospects of meeting them)"

Prof. Dr Tadeusz Skoczny, Warsaw University, Poland

"Harmonization of The Competition Law of the EC Associated Countries Seeking for EU Membership with the EC Competition Rules"

Prof. Jiri Zemanek, Charles University, Czech Republic

"Legal Problems relating to Czech Republic's Integration to the EU focused on competition law"

7: The EU and the Mediterranean Countries / L'UE et les pays du bassin méditerranéen
Salle L05B01

Conveners: - Prof. Jean-Claude GAUTRON, Université Montesquieu Bordeaux IV, France
- Prof. Alejandro LORCA, Universidad Autonoma de Madrid, Spain

Dr Kalliope Agapiou-Josephides, University of Cyprus, Cyprus

"L'avenir des relations euro-méditerranéennes: quelle sécurité?"

Prof. Antonis Bredimas, University of Athens, Greece

"Le droits de l'homme dans la coopération euro-méditerranéenne"

Dr Annette Jünemann, Universität Kassel, Germany

"Europe's interrelations with North Africa in the new framework of Euro-Mediterranean partnership. A provisional assessment of the Barcelona-concept"

Prof. Halûk Kabaalioglu, Marmara University, Turkey

"Completion of the Customs Union and the accession of Turkey to the European Union"

Prof. José Maria Mella Marquez, Universidad Autonoma de Madrid, Spain

"La transférence de technologie dans la coopération euroméditerranéenne"

Prof. Alfred Tovias, The Hebrew University, Israel

"Future Trade Arrangements between Israel and its Arab Neighbours: Available Options"

Prof. Dario Velo, Università di Pavia, Italy

"Europe's Mediterranean Policy between Variable Geometry and Single Market"

Prof. Peter G. Xuereb, Mr. Roderick Pace, University of Malta, Malta

"On the Threshold of the European Union: A Political, Economic and Legal Perspective on the Adhesion of Malta and Cyprus"

8: The EU and the North America / L'UE et l'Amérique du Nord
Salle MAE1

Conveners: - Prof. James CAPORASO, University of Washington WA, USA
- Prof. Michael SMITH, Loughborough University, United Kingdom

Prof. Gianni Bonvicini, Istituto Affari Internazionali, Italy

"EU and US Defence and Foreign Policy Cooperation in the 90s"

Dr Maria G. Cowles, The University of North Carolina, USA

"The Collective Action of Transatlantic Business: Cooperation and Conflict"

Prof. Marie Françoise Labouz, Université de Versailles SQEY, France

"L'Union européenne et l'Amérique du Nord"

Dr Kalypso Nicolaidis, Dr. Joelle Schmitz, Harvard University, USA

"Exploring a New Paradigm for Trade Diplomacy: The US-EU Mutual recognition Agreements"

Dr John Peterson, University of Glasgow, United Kingdom

"The Domestic Politics of US-EU Relations"

Dr Jens van Scherpenberg, Stiftung Wissenschaft und Politik, Germany

"Towards Rival Regionalism? US and EU Regional Economic Integration Policies and Transatlantic Economic Relations"

9: The EU and Asia-APEC / L'UE et l'Asie
Salle MAE2

Conveners: - Prof. Dr Jacques PELKMANS, Rijksuniversiteit Limburg, The Netherlands
- Prof. Murray FORSYTH, Baptist University, Hong Kong

Prof. Jacques Bourrinet, Université d'Aix-Marseille III, France

"Les relations commerciales euro-japonaises à la croisée des chemins"

Prof. Bingran Dai, Fudan University, China

"Sino-European Political and Economic Relations in the Post Cold-War Era"

Prof. Dr. Rudolf Hrbek, Universität Tübingen, Germany

"The Bangkok Summit 1996 - Towards a New Phase in the Relations between ASEAN and the EU?"

Prof. Robert Scollay, The University of Auckland, New Zealand

"APEC Trade Liberalisation, The European Union and the International Trading System"

Prof. Soko Tanaka, Tohoku University, Sendai, Japan

"Eu-Asia and Japan-Asia relations"

10: The EU and Latin America / L'UE et l'Amérique Latine
Salle MAE3

Conveners: - **Prof. Carlos MOLINA DEL POZO**, Universidade Alacala de Henares, Spain
- **Prof. Roberto RUIZ DIAZ-LABRAMO**, Univ. Nacional de Asuncion, Paraguay

Prof. Allan R. Brewer-Carias, Universidad Central de Venezuela, Venezuela

"Le droit communautaire européen: une expérience pour l'intégration andine"

Prof. Dromi, Argentina

"El futuro de las relaciones entre la Union Europea y Mercosur"

Prof. E. Jiménez, Centro de Estudios y Prospectiva Política, Mexico

"L'intégration latino-américaine et les relations avec l'Europe"

Prof. Joël Lebullenger, Prof. Catherine Flaesch-Mougin, Université de Rennes I, France

"Les relations contractuelles de la CE avec les pays et groupements latino-américains"

Prof. Marta Olivar, Brazil

"Understanding the idea of European Community Law for a real Integration Process in Southern-Central America"

Dr Hazel Smith, University of Kent, United Kingdom

"The future of the CFSP: lessons from Central America"

11: The EU and Africa / L'UE et l'Afrique
Salle L06B54

Conveners: - **Prof. Etienne CEREXHE**, Université Catholique de Louvain, Belgique
- **Prof. Martin HOLLAND**, University of Canterbury, New Zealand

Dr Olufemi Babarinde, American Graduate School of I.M., USA

"Analyzing the Proposed African Economic Community: Lessons from the Experience of the EU"

Prof. Dr. José Maria Casado Raigon, Universidad de Cordoba, Spain

"Aspects économiques, sociaux et politiques des relations U.E./AFRIQUE."

"La liaison à travers le Détroit de Gibraltar."

Dr Gerrit Faber, Dr Hein Roelfsema, Universiteit Utrecht, The Netherlands

"The Lomé Convention and Development in Sub-Saharan Africa"

Prof. Oscar Garavello, Università di Milano, Italy

"Foreign Resource Flows and the Financial Adjustment Process: The Sub-Saharan African Experience"

Dr Thomas Pandelami Mathoma, University of Pittsburgh, USA

"Within or Without Lomé? The Changing Phase of European Union-South African Trade Relations"

Prof. F. M. Sawadogo, Université de Ouagadougou, Burkina Faso

"L'Union européenne et l'U.E.M.O.A."

13h00: LUNCH / DÉJEUNER (Parlement Européen)

PLENARY SESSION / SESSION PLÉNIÈRE

Salle L01A02

(Coffee Break at 16h00)

14h30:

CONCLUDING SESSION / CONCLUSIONS

Mr Marcelino OREJA - Member of the European Commission

Round Table with the Conveners of the working groups chaired by/
Table ronde avec les Conveners des groupes de travail présidée par:
Prof. Malcolm ANDERSON, President ECSA-World

with / *avec*

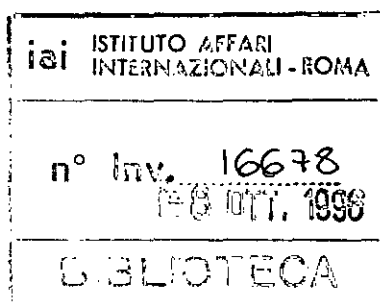
Prof. Jean-Claude GAUTRON, Président ECSA-Europe
Legal aspects / Aspects juridiques

Prof. Alberta SBRAGIA, Vice-President ECSA-World
Political aspects / Aspects politiques

Prof. Willem MOLLE, Président ISEI-Netherlands
Economic aspects / Aspects économiques

17h00:

END OF THE CONFERENCE / FIN DE LA CONFÉRENCE



THIRD ECSA-WORLD CONFERENCE
TROISIÈME CONFÉRENCE ECSA-WORLD

THE EUROPEAN UNION IN A CHANGING WORLD
L'UNION EUROPÉENNE DANS UN MONDE EN
TRANSFORMATION

BRUXELLES
19-20 SEPTEMBRE 1996

WORKING GROUP n°4

Challenges and Instruments of Foreign and Security Policy
Défis et instruments de la politique extérieure et de sécurité

Prof. Dusan SIDJANSKI, Université de Genève, Switzerland

"Politique extérieure et de sécurité: une priorité pour 1996-1997"

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INSTITUT EUROPÉEN
DE L'UNIVERSITÉ DE GENÈVE

POLITIQUE EXTÉRIEURE ET DE SÉCURITÉ: UNE PRIORITÉ POUR 1996-1997

Dusan Sidjanski

Professeur à l'Institut européen de l'Université de Genève

3ÈME CONFÉRENCE ECSA-WORLD

Bruxelles

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Politique extérieure et de sécurité: Une priorité pour 1996/1997

par

Dusan Sidjanski

*Professeur à l'Institut européen
de l'Université de Genève*

Introduction

La paix et la sécurité sont la préoccupation principale des citoyens européens. Répondant à la question quels devraient être les objectifs fondamentaux dans le cadre de la révision du traité de Maastricht, 41% des personnes interrogées en mars 1996 ont indiqué la paix et 17% la lutte contre le chômage¹. C'est pourquoi suivant le sens commun européen, les gouvernements accorderont fort probablement la priorité à la dimension extérieure de l'Union européenne. Le Président Jacques Chirac l'a clairement affirmé devant le Parlement britannique: « En effet, un objectif majeur de cette négociation est de doter l'Europe d'une véritable politique étrangère et de sécurité commune, qui lui permettent de peser de tout son poids, lorsque c'est nécessaire, sur la scène internationale »². Et le Président Chirac de citer le Général de Gaulle dans une interview à Libération du 15 mars 1996: « Il ne peut y avoir de personnalité politique de l'Europe si l'Europe n'a pas sa personnalité au point de vue de la défense » et d'ajouter que c'est l'Union européenne qui offre un cadre naturel à l'émergence de cette personnalité. L'opinion publique se prononce aujourd'hui dans le même sens: 71% sont en faveur d'une politique étrangère commune et, même plus nombreux, 81% sont d'accord avec la nécessité d'une politique de défense commune.³

I

Quelques repères théoriques et historiques

La menace extérieure figure en bonne place parmi les fédérateurs dans la théorie classique des fédérations. En revanche, elle est à peine mentionnée voire passée sous silence dans la théorie de l'intégration.

Parmi les facteurs qui influent le plus sur la formation, le développement et le fonctionnement des fédérations, les périls communs et les sentiments de solidarité qui en résultent sont souvent invoqués pour expliquer les origines des unions fédératives⁴. L'exemple de la naissance de la Confédération helvétique illustre le rôle des acteurs extérieurs. En effet, le Pacte fondateur à la fin du XIII^e siècle vise principalement à assurer l'indépendance des petits Cantons face à la menace de la domination des Habsbourgs. Plus tard, les diverses menaces exté-

¹ Les citoyens européens et la CIG, Europolion, Commission européenne, DGX, Turin, le 29 mars 1996, Fig. 4.

² Discours prononcé par le Président de la République, M. Jacques Chirac, devant le Parlement britannique le 15 mai 1996.

³ Europolion, op. cit., Fig. 7 et 8.

⁴ D. Sidjanski, Fédéralisme amphyonique, Lausanne, F. Rouge et Cie, 1956, p. 2 et Dimensions européennes de la science politique, Paris, LGDJ, 1963, pp. 119-122.

neures produiront des regroupements successifs des Cantons pourtant fort différents par leurs dimensions, leurs niveaux de développement mais aussi par leurs langues et religions. Le facteur restera présent jusqu'à une époque récente marquée par la création de la Communauté européenne réunissant les puissants voisins de la Suisse. La réponse à ces menaces extérieures a été le renforcement de l'Union et l'adoption de la neutralité.

D'ailleurs plus généralement, le besoin d'assurer la sécurité extérieure est un des motifs qui poussent les hommes à se réunir en communautés politiques dont la fonction parmi les plus importantes est de les préserver contre les périls extérieurs et d'assurer en commun leur défense. Certes, cette motivation initiale ne suffit point à créer une fédération. Mais elle est souvent un facteur qui déclenche l'intégration qui, à son tour, peut prendre la forme d'une union fédérative dans la mesure où elle correspond à une série de conditions pré-fédéralistes. Parmi celles-ci on peut retenir à titre d'exemple l'existence des conditions suivantes: un fondement culturel commun, la pluralité de nationalités, de religions, de langues mais aussi le rôle des échanges et des éléments de l'interdépendance ainsi qu'une conscience croissante d'un destin partagé. Dans ces situations, l'union de type fédératif apparaît comme la forme la plus appropriée d'organisation commune.

Il est étonnant de constater que le facteur extérieur de crainte devant la menace n'est pris que marginalement en considération dans l'oeuvre pionnière Karl W. Deutsch⁵. D'autant plus qu'un des concepts qui est à sa base la communauté de sécurité. Cependant la définition de ce concept porte principalement sur l'évolution des rapports pacifiques entre les membres de la communauté et leur degré d'intégration. Certes parmi les motifs invoqués par les promoteurs d'unions, le motif des alliances militaires figurent en queue des quinze motifs. Cependant, selon le critère de l'efficacité, les alliances militaires occupent une place médiane sur l'échelle. Il n'en reste pas moins que la dimension de la sécurité extérieure est amplement mise en lumière dans les travaux ultérieurs que Karl W. Deutsch, fin connaisseur de l'histoire de la Suisse, a consacrés à ce pays.

L'oeuvre fondamentale de Ernst B. Haas consacrée à l'intégration européenne au sein de la CECA, The Uniting of Europe, met l'accent sur les processus de décision et les forces socio-économiques et politiques. Son cadre théorique général n'exclut pas la dimension extérieure bien que son intérêt et sa recherche portent principalement sur les acteurs à l'intérieur de la Communauté. De même, son concept de spill over, effet de débordement, se développe à partir d'une intégration sectorielle et fonctionnelle à l'exemple de la stratégie de Jean Monnet, avant de se rapprocher d'une intégration globale. N'empêche que la dimension extérieure et de sécurité demeure, dans cette approche néo-fonctionnaliste, le parent pauvre. De fait, en se concentrant sur les processus et les comportements des acteurs au sein de la CECA de 1950 à 1957 et les effets positifs de l'intégration, Haas n'a pas tenu compte de la dimension historique globale de cette période. En effet, c'est à cette époque qu'intervient la tentative de mettre sur pied une Communauté de défense européenne (CED) qui, par son échec, déterminera le cours principalement économique et technique de l'intégration en la privant de son complément d'intégration politique. Dès lors, la politique étrangère, de sécurité et de défense devient un tabou qui accentue l'ostracisme de ces secteurs politiques par excellence. Cette lacune a été comblée par la suite par des travaux ultérieurs de Haas et de ses disciples dont Philippe Schmitter qui utilise le concept d'«externalisation»⁶.

⁵ K. W. Deutsch et al., Political Community and the North Atlantic Area, Princeton University Press, 1957. Il s'agit d'un ouvrage fondamental offrant le cadre théorique pour l'analyse des processus d'intégration et de désintégration.

⁶ «Three Neo-Functionalist Hypotheses about International Integration» in International Organization, 1969.

En se référant au schéma de Joseph S. Nye tel qu'il est présenté dans Peace in Parts en 1971, Panayotis Soldatos reprend les concepts d'acteurs externes et « d'externalisation »⁷. Le premier constitue la pierre angulaire du schéma lorsqu'on analyse la Communauté européenne dans sa dimension extérieure. S'agissant d'un système ouvert, l'influence et les positions des acteurs externes sont des variables significatives, acteurs qui peuvent être des Etats, des organisations internationales ou régionales, des groupes de pression et des forces multinationales. Le deuxième concept d'« externalisation » ou de projection extérieure de la Communauté traduit l'émergence d'une identité européenne à l'égard du monde extérieur: adoption de positions communes, formation d'une politique extérieure en tant que prolongement des décisions et des aspirations internes de la Communauté dans la poursuite de sa vocation d'acteur majeur du système international. Les acteurs externes agissent sur les centres de décision communautaires qui, à leur tour, formulent des politiques et entreprennent des actions à l'égard du monde extérieur, ces deux sphères d'acteurs et d'activités étant en interaction. Sollicitée par des pressions et des stimuli extérieurs, « la Communauté plutôt introvertie, c'est-à-dire essentiellement préoccupée par sa construction interne » a été amenée à s'ouvrir davantage au monde et à assumer des responsabilités et des charges qui découlent de son poids économique et politique⁸.

Les nombreux travaux d'historiens de l'intégration européenne jettent un éclairage précieux sur les origines de la Communauté⁹. L'évaluation du rôle de divers acteurs et facteurs permet d'enrichir l'approche des politologues à condition que ceux-ci prennent en compte la dimension historique. En mettant l'accent sur la sécurité en Europe d'après-guerre, un groupe d'historiens a insisté sur le rôle des Etats-Unis, le duopole Etats-Unis et URSS, l'OTAN et le consensus des Occidentaux. Un autre groupe a étudié l'intégration dans sa dimension intérieure et extérieure. Plus récemment l'accès aux archives a permis de réévaluer l'influence des fédérateurs intérieurs et des forces politico-économiques ainsi que l'attitude ambivalente de Washington à l'égard de l'intégration. Ainsi selon les approches et les périodes, le rôle moteur dans l'intégration est attribué au soutien de l'Amérique, à la menace soviétique et davantage encore au rapprochement franco-allemand qui résulte d'une décision fondamentale créant une communauté de sécurité. A travers ces méandres de faits, de décisions et d'interprétations se dessine le cheminement des idées et des projets. Des idées-forces, des valeurs qui, au prix d'adaptations et malgré les résistances, paraissent orienter le processus d'intégration.

II

Les valeurs face aux défis actuels

Pendant longtemps le processus d'intégration s'est déroulé sur un fond de « valeurs acquises » confortées dans leur opposition au monde communiste. Aujourd'hui, les valeurs qui forment le fondement même de l'Union européenne sont, à défaut d'un ennemi en bloc, confrontées à de multiples défis et mises à rude épreuve. Parmi ces défis figurent en bonne place la

⁷ P. Soldatos, Le système institutionnel et politique des Communautés européennes dans un monde en mutation, Bruxelles, Bruylant, 1989, pp. 75 à 79.

⁸ P. Soldatos, op.cit., p. 78.

⁹ P.-H. Laurent, « Reappraising the Origins of European Integration » in H. J. Michelmann & P. Soldatos, Ed. European Integration. Theories and Approaches, University Press of America, 1994, pp. 99 et ss.

mondialisation de plusieurs secteurs économiques et financiers de pointe, les effets de la haute technologie et de la communication sans frontières.

La quête d'identités nationales et régionales, la recrudescence des nationalismes parfois extrémistes et violents ainsi que des mouvements indépendantistes à l'extérieur comme à l'intérieur de l'Union européenne (Irlande du Nord, Pays basque, Corse, Italie du Nord etc...). Ces mouvements sont suivis parfois par l'apparition ou le retour de partis et de régimes national-autoritaires. En contrepartie, la nécessité de renforcer et de réadapter le système démocratique au sein de l'Union européenne s'impose avec d'autant plus d'urgence.

A cela s'ajoutent les effets de la réunification allemande, le nouveau rapport de force et la recherche d'un nouvel équilibre au sein de l'Union européenne. Le poids économique et politique de l'Allemagne (UEM, PESC, PECO, ex-Yougoslavie etc...) et les contrepoids tels l'approfondissement de l'intégration. D'où l'importance du couple franco-allemand et des grands Etats membres, en particulier de la France et de l'Angleterre, puissances nucléaires et membres permanents du Conseil de Sécurité.

De surcroît, au duopole s'est substitué le monopole de la superpuissance des Etats-Unis: la volonté ou les velléités hégémoniques, décisions unilatérales et autoritaires (« nouvel ordre mondial américain ») par opposition à la tendance aux partenariats et aux associations libres et participatives; Dayton, sanctions contre le Cuba, l'Iran et la Lybie, péripéties de l'élection du Secrétaire général des Nations Unies, autant de cas qui donnent lieu à des tensions avec l'Union européenne. L'ambition américaine de maintenir le leadership politique et militaire à moindre coût économique, la recherche d'un nouvel équilibre au sein de l'OTAN et la confirmation du pilier européen (UE-UEO) en dépit de la domination technologique américaine ainsi que son emprise sur le réseau d'information mondial (CNN, information contrôlée lors de la guerre du Golfe, etc...) ne sont que des illustrations des grands défis qui guettent l'Union européenne.

Simultanément, se dressent des questions des élargissements de l'Union européenne, notamment aux pays de l'Europe centrale et de l'Est, la nouvelle architecture de la grande Europe avec la Russie et les pays de la CEI ainsi que les problèmes que soulève la création d'un espace économique et d'un espace de sécurité sans oublier le rôle de l'Union européenne à l'égard des pays en développement et au sein de l'ONU, l'OMC et plus généralement dans le monde en mutation.

Ce n'est là qu'un échantillon des principaux problèmes auxquels la révision du traité sur l'Union européenne devrait apporter des réponses ou plutôt des esquisses de réponses en proposant des méthodes d'approche et de traitements adéquats.

III

Valeurs, principes et objectifs de l'Union européenne

Les valeurs et les principes sur lesquels repose l'Union européenne sont en grande partie implicites. Le moment n'est-il pas venu d'explicitier ces éléments de base afin que les citoyens européens soient à même de comprendre les enjeux de la démocratie européenne et que les pays candidats aient une vision claire des conditions préalables à toute adhésion.

Un répertoire des principes fondamentaux de la démocratie et du fédéralisme européens dont l'application effective constitue la condition sine qua non de l'appartenance à l'Union européenne apparaît désormais indispensable. Comme le prévoyait le Projet du Traité de l'Union européenne adopté par le Parlement européen en 1984, la non application de ces principes pourrait entraîner des sanctions allant de la suspension jusqu'à l'exclusion d'un Etat membre. Parmi ces principes figurent notamment ceux de la reconnaissance des personnes et des communautés de personnes, du pluralisme idéologique et politique impliquant la régularité des élections, l'existence des partis en compétition et des médias pluralistes, des garanties de la vie privée et de la propriété privée, l'Etat de droit et les droits des citoyens européens sans discrimination.

Bref, un bréviaire de la démocratie européenne complété par celui des principes fédératifs est d'une nécessité urgente: l'association libre et sans contrainte à l'exclusion de toute hégémonie, fondée sur l'autonomie et la participation des Nations, des Régions et des collectivités locales ainsi que des acteurs sociaux; la diversité au sein de l'Union reposant sur la tolérance et le respect de la différence; la capacité de préserver et de développer les ressources humaines et culturelles communes dans l'Union tout en garantissant l'épanouissement des Nations et des Régions ainsi que des réseaux de communication, de solidarité et d'interdépendance au bénéfice de l'ensemble et de ses composantes.

Ce catalogue des principes traditionnels subit l'effet des conditions nouvelles qui appellent un nouveau fédéralisme souple en voie de formation. Cette innovation politique assure la présence de l'Union sur la scène mondiale en la dotant des fonctions communes dans les domaines tels que la monnaie, les relations extérieures, la sécurité ainsi que la stimulation et la promotion de la capacité concurrentielle économique mais aussi scientifique et technologique. En offrant un cadre général et des orientations communes à des activités multiples et diversifiées selon le principe de subsidiarité, l'Union européenne aura la capacité de gérer les conflits intérieurs en assurant les identités de ses composantes et de l'Union et en s'engageant dans la voie de la nouvelle révolution technologique et dans le mouvement de mondialisation. Face à la vague d'uniformisation mondiale, l'Union européenne apparaît comme la meilleure garantie de l'identité européenne fondée sur la culture commune et ses riches diversités qui constituent la base du nouveau fédéralisme européen¹⁰. Afin que l'opinion publique européenne soit libérée du stéréotype qui dépeint l'Union européenne comme un futur Etat centralisé ou super-Etat, elle doit prendre conscience que l'Union à vocation fédérale est seule en mesure de préserver et de développer le modèle original européen. Rien d'étonnant que dans sa vision de l'Union européenne à long terme, le Président Jacques Chirac s'est référé au « modèle social européen » ainsi qu'à un ensemble de principes de base qui s'apparentent aux principes fédératifs¹¹.

¹⁰ Voir mon livre L'Avenir fédéraliste de l'Europe, Paris, PUF, (Coll. IUEE), 1993, pp. 255 et ss.

¹¹ Conférence de presse du 17 mai 1996 à l'occasion de sa visite en Grande-Bretagne.

IV

Politique extérieure, de sécurité et de défense commune

1. Le grand défi

Pendant des années, le processus d'intégration portait principalement sur le secteur économique et son prolongement extérieur: Accords d'association, ACP et FED, négociations commerciales - GATT, OMC à titres d'exemples. Depuis les bouleversements de 1989, la dimension de politique extérieure et de sécurité devient prioritaire sous la pression des événements politiques extérieurs et en raison du poids de l'Union dans l'économie mondiale et de son potentiel politique. Sous l'impulsion de ces facteurs, l'Union européenne est appelée à rétablir le parallélisme entre intégration économique et intégration politique dont le déséquilibre constitue une menace pour la poursuite du processus d'intégration. En effet, l'incohérence de la politique extérieure, les tensions et l'insécurité qu'elle peut engendrer ne manquent pas d'avoir des répercussions sur l'Union économique et monétaire ainsi que sur la cohésion et la solidarité communautaires. Il est urgent de recréer la cohésion politique globale de l'Union exposée qu'elle est à des politiques sectorielles, aux visions et pouvoirs éclatés ainsi qu'à la disparité des processus de décision.

Le renforcement de la capacité de l'Union répond à une série de besoins pressants externes et internes:

- soutenir la transition pacifique à la démocratie et le développement économique et social des pays de l'Europe centrale et de l'Est et en particulier de ceux ayant vocation à adhérer à l'Union;
- aider à stabiliser les pays de la CEI et la Russie en particulier, deuxième puissance militaire et nucléaire mais fragilisée par l'instabilité intérieure;
- préparer l'Union à affronter les crises et les conflits en tirant les leçons du conflit yougoslave notamment;
- garantir l'équilibre politique au sein de l'Union à la suite de la réunification allemande afin d'éviter les tentations hégémoniques ou les dérives géopolitiques du passé (voir la proposition de la CDU/CSU);
- assurer la représentation effective de l'Union au sein du Conseil de sécurité;
- pallier les insuffisances du processus intergouvernemental: le peu d'engagement réel du Conseil européen, le rôle prépondérant du Conseil des Ministres des Affaires étrangères, la surcharge qui pèse sur la Présidence (troïka), le caractère trop « diplomatique » du Comité politique - une réminiscence lointaine de la « Commission politique » prévue par le Projet Foucher du Général de Gaulle - et le rôle modeste sinon marginal de la Commission;
- renforcer le pilier européen de l'UEO au sein de l'OTAN et assurer une autonomie de défense et d'intervention européenne dans le cadre de l'Union européenne.

Une révision à la lumière de l'expérience et de la situation nouvelle s'impose d'autant que les Etats-Unis sont écartelés entre le désengagement et le leadership au moyen de l'OTAN notamment. Les fluctuations de la politique américaine souvent en contradiction avec les positions européennes, les incohérences des politiques des Etats européens, sont autant de facteurs qui créent des situations déstabilisantes en Europe (embargos contre le Cuba, la Lybie et l'Iran, accord de Dayton, etc...). D'où le besoin urgent d'assurer la stabilité et la sécurité en Europe en se donnant les moyens d'une politique extérieure et de défense commune. Plus que tout

autre, le conflit yougoslave met en relief les carences du système actuel et la nécessité d'une révision fondamentale.

2. Quels sont les principaux enseignements de la crise yougoslave?

La capacité et les instruments insuffisants de la PESC dans des cas de conflits graves en Europe, tel est le premier constat. Ce constat général est corroboré par une série de facteurs aggravants: le rôle prépondérant et dysfonctionnel des contraintes de politiques nationales intérieures ou extérieures et de dirigeants politiques, l'impact déformant de certains médias sur les opinions publiques qui, influencées puis amplifiées par ceux-ci, ont fait irruption sur la scène internationale lors de la guerre du Golfe et de la crise yougoslave. Le manque de connaissance des réalités de la région et des motivations politiques des dirigeants de diverses communautés nationales sont flagrants: remèdes économiques en porte à faux face aux nationalismes virulents et la lutte pour le pouvoir cherchant leur « légitimité » dans les conquêtes de souverainetés territoriales. De surcroît, ces mouvements sont souvent motivés par la volonté d'instaurer des Etats homogènes à l'opposé des principes et des réalisations de l'Union européenne.

Le conflit yougoslave a mis à nu la carence d'une stratégie commune et d'une action cohérente. Selon le traité de Maastricht, la définition d'une stratégie générale incombe au Conseil européen, le Conseil des Ministres des Affaires étrangères se chargeant de la mettre en oeuvre avec l'aide de la Commission. De fait, tant le Conseil européen, que la Commission n'ont assumé qu'une responsabilité limitée laissant peser la responsabilité principale sur le Conseil des Ministres des Affaires étrangères. Or, la démonstration est faite de sa capacité limitée à s'occuper de manière cohérente et suivie d'une crise grave: les défauts d'une présidence-troïka tournante de six mois, de sa composition parfois inadéquate ne garantissant pas l'engagement des grands ou des plus actifs, les inconvénients résultant du manque d'infrastructure appropriée, la surcharge qui rend difficile et lente l'action de la troïka et du Conseil, sont autant de lourds handicaps.

A cela s'ajoutent l'absence d'une préparation suffisante ainsi que des tensions animées par des prises de positions unilatérales qui, dans la plupart des cas, ont marqué les concertations et les négociations au sein du Conseil. Ces tensions ont provoqué des failles à l'intérieur de l'Union et une opposition dangereuse au sein du couple France-Allemagne. Dès lors, les efforts se sont concentrés principalement sur le rétablissement de la cohésion au sein du couple et de l'Union au dépens de la recherche d'une solution au conflit. Le tout aggravé du fait d'un manque de vision politique commune à plus long terme à laquelle se sont substituées des actions réactives et souvent tardives. De surcroît, il en est résulté parfois des compromis ou des « paquets » entre domaines disparates: PAC et GATT, EEE, budget et politique hésitante face à la crise yougoslave à propos de la reconnaissance de la Slovanie et de la Croatie notamment. La meilleure preuve d'un constat inavoué d'incapacité de la Communauté et puis de l'Union est fournie par le recours à la Conférence de paix, puis à l'ONU et, plus récemment, au groupe de contact sans grand résultat jusqu'au moment de l'intervention autoritaire des Etats-Unis imposant l'Accord de Dayton aux parties en conflit, à l'Union européenne et à la Russie.

Quelques suggestions pour 1996/1997

Le manque d'analyse des situations et des conflits potentiels ainsi que l'absence de prévision au plan communautaire ont mis en relief la nécessité de créer une Cellule d'analyse et de

prévision. Cette cellule d'analyse et de prévision pourrait fonctionner sous la responsabilité conjointe de la Commission et du Conseil. En s'appuyant sur un réseau d'antennes au sein de l'Union et dans les régions à risques ainsi que sur les sources provenant des gouvernements membres, de banques de données et d'instituts de recherche, la cellule assurerait les échanges d'informations et leur analyse. Son travail pluridisciplinaire d'analyse et de prévision offrirait une meilleure base pour une politique et des actions communes de prévention et si nécessaire d'intervention en faveur de solutions négociées et du maintien de la paix.

Afin d'assurer une plus grande cohérence et plus d'efficacité, le Conseil européen devrait assumer une responsabilité directe et pas seulement par Conseil des Ministres des Affaires interposé, définir la stratégie et le cadre général de la politique commune avec plus de précision et plus d'engagement. Si dans les domaines politiquement sensibles tels que l'orientation de la politique économique ou la monnaie unique, le rôle du Conseil européen est fondamental, il l'est encore davantage dans des matières politiques par excellence telles que la PESC et la défense commune. Sans cet engagement plus direct et plus précis, la PESC continuera à souffrir d'un manque de volonté politique. Affirmée au niveau du Conseil européen, la responsabilité de l'Union et de ses institutions serait clairement définie. Dans cette matière qui est au coeur de la souveraineté nationale, l'engagement politique de l'Union repose sur la volonté commune de ceux qui représentent les pouvoirs nationaux suprêmes, à savoir les Présidents et Premiers ministres réunis au sein du Conseil européen.

Des conséquences multiples résulteraient de la prise en charge de cette haute responsabilité par le Conseil européen. Ainsi le Conseil européen en Dayton cette fonction et en se dotant d'une capacité décisionnelle serait amené à définir des procédures d'adoption des orientations et directives politiques: unanimité avec possibilité d'abstention, majorité qualifiée avec la majorité des gouvernements prêts à s'engager, la participation active d'un certain nombre de grands Etats membres. En outre le Conseil européen devrait pouvoir compter sur un Président et une Présidence d'une durée de 2 ½ ou de 5 ans assurant la continuité, la cohérence ainsi que la représentation à l'extérieur. De plus, le Conseil européen devrait se réunir plus fréquemment afin de pouvoir prendre à temps des décisions fondamentales. De même que pour pouvoir exercer ses pleines responsabilités, le Conseil européen devrait disposer d'une infrastructure de soutien efficace. De son côté le Président de la Commission apportera en sa qualité de membre du Conseil européen, tout l'appui de la Commission, tandis que le Conseil des ministres des Affaires étrangères et de la défense en particulier serait au service du Conseil européen. De cette manière, le Conseil européen disposerait de deux approches l'une communautaire et l'autre intergouvernementale. Dans le cadre des orientations et directives du Conseil européen, le Conseil et la Commission auraient pour tâche commune de mettre en oeuvre et d'assurer le suivi des politiques communes. Si nécessaire, cette tâche pourra être confiée à un Comité ad hoc composé des membres qui prennent part à l'action commune.

Il est essentiel que la Commission en tant qu'institution collégiale communautaire retrouve un rôle similaire sinon identique à celui qu'elle assure en matière économique et sociale. Les négociations et les délibérations qui s'engagent au sein du Conseil européen ou du Conseil Ministres des Affaires étrangères sur la base des positions nationales divergentes sinon opposées, ont peu de chance d'aboutir à des politiques et actions cohérentes. Des compromis masquent souvent les oppositions et les tensions et, tout en cherchant à préserver l'image de l'Union, donnent lieu à des interprétations, voire à des comportements divergents. Tel fut le cas de la France, de l'Allemagne et de l'Angleterre notamment à propos de la reconnaissance des Républiques yougoslaves ou des interventions militaires).

D'où à l'avenir le rôle important du Collège communautaire autonome dont le poids politique s'est accru sous la présidence Delors et que vient de confirmer l'investiture et la composition de la nouvelle Commission Santer qui comprend deux anciens premiers ministres et nombreux ministres et responsables politiques). Représentée au sein du Conseil européen et des Conseils, la Commission aurait la charge de préparer grâce à son réseau et à la Cellule d'analyse et de prévision, des propositions ou des recommandations à l'adresse du Conseil européen et du Conseil. Comme à l'occasion de ses « propositions formelles », elle chercherait à dégager des positions et des politiques communes en fonction de l'intérêt commun de l'Union. Ces recommandations servant de base aux délibérations permettraient d'aboutir à des politiques et actions plus cohérentes et partant plus efficaces.

Conclusion: structure générale de l'Union européenne

Afin d'accroître l'efficacité de la Commission et son caractère d'institution communautaire autonome à la veille de l'élargissement, différentes formules sont envisagées visant à réduire le nombre de ses membres, à renforcer sa cohésion collégiale et sa légitimité démocratique. La réduction du nombre des membres se heurte à la résistance des Etats qui, à l'exemple de l'opinion publique, ont tendance à percevoir les membres de la Commission comme leurs « représentants officiels ». Parmi les idées qui circulent, la première reflétant cette perception, consiste à prévoir un membre par pays. Cette réduction s'avérant insuffisante, il serait judicieux, tout en attribuant un membre par grand pays, d'envisager une rotation parmi les autres selon la procédure en vigueur pour les avocats généraux de la Cour de justice. En attendant leur tour, les autres futurs membres pourraient assumer des fonctions de Commissaires adjoints ou associés. Cette formule aurait l'avantage de réaffirmer le caractère communautaire de la Commission à l'exemple de la Junte du Groupe andin qui est composée de trois membres sur cinq Etats membres, tout en associant à des degrés divers les ressortissants de tous les Etats membres aux activités de la Commission.

Le Conseil européen se doterait des structures et des moyens lui permettant d'assumer pleinement ses hautes responsabilités. Il pourrait selon les besoins déléguer pour des périodes déterminées certaines de ses fonctions à des comités ad hoc ou à des cellules opérationnelles composés de participants actifs et des représentants de la Commission. Des formules et des arrangements ad hoc qui allégeraient son fonctionnement en évitant la lourdeur des réunions plénières sans faire taire la voix des autres Etats membres.

Le Conseil es ministres serait aménagé différemment selon qu'il exerce des fonctions de type gouvernemental (PESC) ou des fonctions législatives. Cette division du travail ou cette séparation des pouvoirs pourrait donner lieu à deux institutions distinctes: le Conseil des ministres et le Conseil des Etats. Ce dernier pourrait être composé pour moitié de ministres désignés par les Etats membres pour la durée d'un mandat de cinq ans et pour moitié des membres issus des parlements nationaux. De la sorte, ceux-ci seraient pleinement associés - selon les vœux de la grande majorité des gouvernements et des parlements - à la fonction législative en collaboration avec le Parlement européen. De surcroît, cet aménagement assurerait la transparence de la fonction législative sans empiéter sur les procédures gouvernementales du Conseil des ministres.

Quant au Conseil des ministres des affaires étrangères et de la défense, il assumerait son rôle dans la PESC en collaboration avec la Commission et les représentants du Conseil de l'UEO tant que celle-ci ne sera pas intégrée dans le système de l'Union européenne. A leur tour, le

Conseil des Etats et le Parlement européen auront la faculté, comme prévu par le traité de Maastricht, de formuler des avis sur la PESC. A la demande du Conseil européen, ils pourront être invités à approuver les grandes orientations de la politique extérieure, de sécurité et de défense commune.

Ce ne sont là que quelques lignes générales qui conditionnent, à mon avis, l'efficacité de la politique extérieure de l'Union européenne et de l'ensemble de son fonctionnement. Cette esquisse est une des formes parmi d'autres qui permettrait de doter l'Union européenne des moyens à la mesure des défis actuels et futurs.

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Challenges and Instruments of Foreign and Security Policy
Défis et instruments de la politique extérieure et de sécurité

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"United States and European Security. US Impact on European Security towards 2000"

UNITED STATES AND EUROPEAN SECURITY
US IMPACT ON EUROPEAN SECURITY TOWARDS 2000

BY BERTEL HEURLIN.

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1. INTRODUCTION.
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1. INTRODUCTION

The aim of this chapter is to assess the impact of the US on European security. It has been common wisdom to state that Europe after the end of the cold war now is on its own. Now Europe - not any more divided, not any more threatened by the mighty Soviet Union - has- seriously- to take care of its own affairs, of its own fate, of its own security. The United States was the protector of Western Europe during bipolarity. Now Europe, free, undivided, without external threats has to protect itself. The United States is not needed any more. One can assess the situation like a period after a war: ending the war - here the cold war - means demobilisation. This is what has happened: the United States has reduced its former formidable military presence to almost a fourth, measured in destruction power to more than one hundredth as most of the nuclear weapons have been destroyed or removed.

This picture of Europe, now taking over the full responsibility for itself matches poorly with reality. The empiric truth is rather a Europe, unable to solve even the most acute and internal security affairs and problems, not to mention the total lacking ability to get involved in more pressing global questions of international peace, security and stability. The EU -Common Foreign and Security Policy (CFSP) functions mostly as a continuation of the former European Political Cooperation (EPC) which is tantamount to general and vague declarations.

So- perhaps the sea-changes in Europe 1989-91 -although they fundamentally transformed the world - have not changed the impact of the United States on European Security that much.

This theme is the content of this chapter. First will be

presented six paradoxes in the US-European security relationship in order to set the scene and to pinpoint the crucial issues. Then the American strategy towards Europe and the policy as a consequence of this strategy will be outlined. To place the policy in a theoretical context, a set of theoretically generated foreign policy goals are put forward in order to get a better understanding of the role of the US in European Security. The next part of the chapter will be how to explain the developments in terms of theory. The part is called: The Logic: Explanations. The last part of the chapter will be conclusions.

2. THE PARADOXES:

In order to assess the American influence on European Security one cannot avoid the paradoxes.

First paradox: On the one hand US is often considered a declining power. Serious assessments is arguing that the American society is subject to dissolution and disorganisation, that one even can refer to the US as a Third World country.

On the other hand it is obvious that the US is still exerting a heavy influence worldwide and regionally manifested through heavy military, political and economical presence in Europe as well as in other vital areas and regions of the world. This massive presence is not necessarily signalling decline. Moreover, the US is scoring high in relative capabilities, be it in political, economical, military, territorial and populational capabilities. The US is still second to none.

Second paradox: On the one hand: The Cold War has ended. There was a clearcut winner and loser. The winner, the West, organized in NATO became partner with the loser, the USSR, which reduced and transformed itself into a new and democratic Russia. Now Russia is a partner of the US. On the other hand: Still the cold-war alliance per excellence, NATO, having the US as an undisputed leader, and having its main purpose to contain and to deter the Soviet Union is not merely still at play, but the organization is even in the process of being widened and deepened.

Third paradox: On the one hand: The United States has during the years after the Second World War with enthusiasm and energy supported European integration, starting with the Marshall-plan, which presupposed the formation of a European organisation, ending with the European Union of 1993. On the other hand: The European Integration process is aiming at "an ever closer union among the peoples of Europe" which is tantamount to the prospect of a new mighty, powerful unit aiming at being a superstate, which in many ways is - and increasingly will be a serious competitor to the US, bilaterally and globally, in terms of economy, political organisation and security.

The US has for example signalled sharp reactions towards European projects of institutionally to encourage a single European voice vis a vis the US inside NATO, as the former debates on the WEU demonstrate.

Fourth paradox: On the one hand: The Europe-policy of the US after the cold war can be regarded as unstable, fluctuating and swinging, seemingly without any coherence or rationale and often with a preference for non action. The Europeans dislike such a policy, particularly a policy of doing nothing. On the other hand: when the US decides to act, the action often is unexpected, effective, overwhelming, without former intensive consultations. Such a policy is also problematic in the eyes of the Europeans, not least due to lack of information and due to the feeling of being entrapped by the political necessity of the situation: that one has to adhere when the US eventually happens to act. US acting or not acting: both is negative.

Fifth paradox: On the one hand there are tight bonds - politically, economically and militarily- across the Atlantic. There certainly still exist a sort of a security community between the US and Western Europe, based on common values. It has been manifested through formal EU-US agreements¹, through a strengthening of NATO at the expense of WEU, through heavy US-involvement in the European security affairs. The US still has more than 100.000 armed forces stationed in Europe. Still there are American nuclear weapons deployed in Europe, mostly on airplanes, although the amount has been drastically reduced. On the other hand: In many crucial aspects the US and Europe (here primarily EU) do have serious conflicting interests: Fundamental economic competition, often threatening to develop into trade wars. Add to this contrasting fundamental political and military interests due to the simple fact, that the US has global responsibility and reach while Europe is inward-looking and primarily exerts regional influence.

Sixth paradox: On the one hand the American population is losing interest in what is seen as American military, political and financial support for solving problems for a more or less irresponsible Western Europe which does have abundant resources being sort of an island of welfare and prosperity. This is closely connected to an American trend towards isolationism. On the other hand the American population also is aware of the global responsibility of the United States, as specific interventions in the last analysis have been accepted. We can here refer to humanitarian motivated military interventions - limited in time and scope - like the 20.000 man operation in Bosnia in 1995-96.

Six paradoxes as to the US-European relations have been put forward. We will return to these specific relations and try to prove that they really are paradoxes, i.e. apparent contradictions.

First, however, a short survey of the US -strategy towards Europe in security terms will be presented.

¹ See e.g. "Europe and the US: the way forward", Communication from the Commission to the Council, Brussels, 26.07.1995, COM (95) 411 final.

3. US-STRATEGY TOWARDS EUROPE

The overall US - strategy in security terms towards Europe has never been expressed so clearly as in 1995. The remarkable demonstration was the Holbrooke article in Foreign Affairs, March - April 1995 called "The US, a European Power"². The US being a European power implies obviously that the US exerts an impact upon European security which cannot be overestimated. The US is in this understanding literally a part of Europe.

This notion was already stated as part of the US "National Security Strategy of Engagement and Enlargement, 1994"³. The overall message was that the United States is a genuinely global power. And in listing the different world regions Europe comes first. "Europe is vital to our own security, a lesson we have learned twice at great cost this century". One could add that the lesson was and is learned the third and fourth time during the cold war and in the present post-cold war situation.

Europe is vital - according to the US in many ways. Vibrant European economies mean more jobs for Americans at home and investment opportunities abroad. And the US has an unparalleled opportunity to contribute toward a free and undivided Europe. The US states its goal as "an integrated democratic Europe cooperating with the United States to keep the peace and promote prosperity".⁴

Building on this Strategy of Engagement and Enlargement Pentagon has developed regional security reports in 1995. In the European report,⁵ is emphasized that the goal of a free and undivided Europe is obtained by maintaining a strong NATO while avoiding the creation of new dividing lines that could exacerbate security threats in Europe.

The United States is - according to this report- outlining a comprehensive approach to create new security architecture for Europe. The key elements is Partnership for Peace, NATO enlargement, the creation of cooperative relations with Russia, the support of the European integration (EU) and the strengthening of OSCE.

² Foreign Affairs, March/April 1995, Vol. 74, no.2, pag. 38-51.

³ The White House, July 1994, pag. 21 ff.

⁴ Ibid, pag. 21.

⁵ US Embassy, EUR 409, 08.17.95, EUROSEC TEXT, 13740, pag. 14ff.

Translated into policy goals this implies⁶

- adapting the NATO- alliance which includes internal reforms, enhancement of the Partnership for Peace, and gradual, deliberate and transparent enlargement of NATO,
- integrating Russia and the new independent states into Europe's broad security and economic architecture, including developing an enhanced NATO-Russia relationship,
- strengthening the OSCE
- Encouraging Central and East European states to resolve subregional tensions and consolidate democracy and market reforms
- supporting European integration, EU enlargement, and US- EU relations through new transatlantic initiatives,
- engaging the Congress and the American people in a broad, bipartisan effort to ensure America's continuing role as a European power.

The transatlantic cooperation outlined here is - according to the American strategy - "the key not only to advancing our mutual interests in Europe, but also to solving global problems".⁷

It takes place e.g. through the UN-security council, G 7 and the International Monetary Fund. It is the American view, that the "US leadership on European security issues not only shapes our own and allied views toward consensus on the major defense issues, it also facilitates cooperation and gives the US leverage in other important forums".⁸

As a fundamental part of the US strategy is the view that the European allies play important roles in addressing the risks to US-security and well- being. So - the US will continue to have a great stake in maintaining influence in the decisions and policies of Europe's governments and multinational institutions. Here NATO is the main instrument.

In general - as it was expressed by president Bush in 1990- asked why US still was present in Europe - "We are not in Europe for the sake of the Europeans - we are in Europe for our own sake" - this is not just for security reasons. Also in economic terms American participation in the defense of Europe is in the US-interests. A crucial part of the whole thinking is the US-statement: "By pursuing a policy that shares responsibility for defending our mutual interests with our transatlantic allies, America reduces its own defense costs and increases the security of its vital economic interests".⁹

All in all: the American strategy as it is officially formulated

⁶ Overview of US-policy in Europe, Hearing before the Committee on International relations, House of Representatives, July 28, 1995, Washington 1995, pag. 42 ff.

⁷ Ibid p.14.

⁸ Ibid,p.14.

⁹Ibid.,p.15.

seems to demonstrate a coherent, rational and logic whole which does not directly relate to the paradoxes mentioned above. This whole points to a US which is well aware of its vital interests in Europe - in economic, political and military terms. But how is the US pursuing the policy towards Europe according to this strategy?

4. US POLICY

The US-strategy towards Europe is translated into policy as follows:

First: When US declares itself to be in a position being a European power it is not just rethoric. US certainly is a Panamerican power and a Middle East power. But it is more a European Power than an Asian/Pacific power. The US position in Europe is protecting American interests through forward defense in an American core area. In this area the enemy is not a single country, but chaos and risks.

Second: As to security policy vis a vis Europe, the US has the following means: diplomatic-political, military and economic. The US is using all of them, with a special emphasis on the two first. The military means has changed from having mainly deterring functions during the cold war, into also now to include direct, selective military action.

The most important means is, however, the mere existence of the US with its overwhelming combined capabilities, not its actual use. This fact is the fundamental condition for whole Europe.

Third: In security policy the US takes action in three ways:

a. Actions together with the "World Community", i.e. in practice the Security Council of the United Nations. In Europe, contrary to the Middle East during the Gulf War 1990-91, this procedure has been used only to a very limited degree. A less convincing example was seen in the beginning of the Balkan crisis where the former US- Foreign Minister Cyrus Vance - not representing the US, but nevertheless an American - acted on behalf of the UN.

b. The other way is pursuing security policy in an integrated way together with allies. Integration in this context means an integration under US- leadership. This is the most used way of action in Europe. For good reasons. NATO here is the perfect framework as it includes American leadership. Furthermore NATO is broad enough to encompass the whole geographical Europe due to the NATO-accommodation after the cold war- e.g. to include NACC and PfP, Partnership for Peace, meaning not excluding Russia. The present NATO operation in Bosnia is the best demonstration of this way of action.

c. The third way is to act unilaterally. This is normal US-procedure in other parts of the World. Not in Europe, where the most convenient and convincing way to act is multilaterally, due to the existence of NATO.

Exerting policy is one thing. We need, however, to have a closer look at the policy processes and their relations to the more theoretically generated goals.

5. US- GENERAL GOALS

In what way will the general security policy goals which in the understanding of this paper encompasses six factors, namely existence, sovereignty, integrity, autonomy, wealth, and peaceful surroundings, influence the US- policy towards Europe?

a. The physical existence of the US is threatened only from Russia being the world's number two nuclear power with still enormous destruction power and effective delivery systems. Although a great part of the nuclear forces is in the Asian part of Russia, the Russian political centre is and remains in Europe. Russia is first and foremost a European regional power. Russia is however, as a partner to the US, considered no threat. The main threat is identified as chaos, meaning that Russia is more a threat to itself than a threat to the US.

The US-Russian cooperation on the nuclear issue is discrete but comprehensive. The US heavy interest in European security highlighted by its actual presence, also including nuclear weapons - is a clear signal of US-forward defense. This forward defense is not directed against anybody, but could be seen as a demarcation of some sort of a regional balance. It is interesting to note that in the NATO- strategy the members still emphasize the reference to the concept of balance.

b. Sovereignty is no problem for the only superpower US. As it is indicated the US feels free to pick up the policy it prefers - be it global, regional or unilateral. Certainly the US allows no interference in US freedom to decide and to pursue its own security policy. Crucial in relation to European security is the fact that the US, due to its structural determined responsibility for the whole international system, is interpreting the sovereignty of all other states in terms of US- or a US-supported "World Community"- including the legitimation and right to interfere in the security policy of all other states.

c. Referring to integrity - in geographical and populational terms - the position of the US is also different from those of other states. The US is more than any other country a nation consisting of immigrants from practically all of the world, and not least from Europe. Another difference is manifested in the US-ability to exert a massive global responsibility vis a vis its citizens who happens to reside outside the territory of the US. Any security related intervention can in the American understanding be legitimized by need for protecting US- citizens. As there is a heavy American political, military and economic presence in Europe, this integrity-perception do count as a factor in European security. The populational integrity goal can be widely followed. An example: Attacks from terrorist on American soldiers in Berlin can justify heavy military intervention in Libya.

d. The same goes for autonomy. Very few countries will dare to question or to challenge the United States in its taking care of its own political, economic and social system. And if they dare, the results are condemned to be very limited. Attempts have certainly been made - especially by the USSR during the cold war. The USSR attacked the US for massive violations of human rights. The impact was, however, minimal.

A humanitarian , international intervention from the "international community" in the US for violating human rights is of course totally out of the question owing to the fact that the US is so weighty a part of this international community. In these matters the US as the only superpower always is the executor, not the victim. One of the reasons for the US to get congressional support for its military action in Bosnia was the reference to the humanitarian dimensions. Organized massive cruelties and genocide cannot be tolerated in the American-European world.

e. Wealth is a crucial goal in security policy. A strong US needs a sound and expanding economic basis. All American administrations have focused upon this goal, and certainly not least the Clinton-administration. The basic reason for this administration to highlight and strengthen the economic and domestic issues was evidently to make sure, that the US remained the undisputed number one in the world.

How come that the US will weaken itself economically by committing it to comprehensive military presence in Europe, including the decision to be heavily involved in European security interventions (e.g. Bosnia)? Furthermore how come that the US has military expenditures which is double the average of what European NATO-members spend in terms of expenditure in relation to BNP, and in this way by a possible military overspending, is weakening itself as an economic competitor to the EU ?¹⁰

To the US the economic position is- as mentioned crucial. But in order to exert political leadership, the military means has to be available. What the US basically is doing, is to use exactly the political leadership to get paid for its military activities. During the Gulf War the US succeeded in virtually earning money fighting the war - as the collected amount of economic contributions from Japan, Germany, Saudi Arabia and others together exceeded the actual warfighting expenditures.¹¹ The same is done in Europe, as the US has a very tough position in the burden sharing negotiations, and as the US mostly leaves it to the EU-countries to deliver the "Marshall-aid" of the post cold war to countries of the former Soviet European empire. It is also to be considered if there could be some truth in the claim, as

¹⁰ Ref. to Military Balance 1995-96, London 1995.

¹¹ According to analysis by former US Deputy Minister of Defense, Lawrence Korb.

it is emphasized in the official statements, that fundamentally the US-European relations is to the benefit of the United States.

f. The last goal is maintaining peaceful surroundings through exerting influence. Certainly the US is doing this effectively in Europe. In order to avoid chaos, which is enemy number one in the present international system, the US is taking care of European security. A stable, secure, wealthy Europe is part of the American national interest. This is best secured by European integration. The US is even more interested in European integration than during the cold war where European Integration was an effective tool to keep USSR "contained" in the general East-West conflict.

The logic now is, that European integration - in widening as well as in deepening terms - will bolster the fragile reconstruction of Central and Eastern Europe. The victory in the cold war was a victory for the Western norms and values, manifested in general support for the Western understanding of the content of democracy, human rights, individual freedom, and prosperity through market economy. This has now spread over all Europe. This is of utter importance to the US as a part of its security policy. The US wants to keep it that way. Support for European Integration is included in this policy, as the European integration is aimed at covering most of Europe, at least to the border of CIS.

In conclusion we have to assume, that US has decisive reasons - according to the fundamental security-policy goals - to be persistent in the Europe engagement.

6. THE LOGIC: EXPLANATIONS.

In order to explain the present situation regarding the relations between the US and Europe, one has to rely on theory. If it is assumed, that the units in the international system will act according to which move will secure their survival the best in a given structure, the identification of the structure is fundamental.

The claim is that the international system 1989-90 was transformed from a bipolar system into a unipolar system¹². As the Soviet Union surrendered voluntarily in the cold war and dissolved itself, only one superpower was left: the United States. The United States is the uni-pole. US is the only power with global reach, politically, economically and militarily. The combined capabilities of the US are second to none and the US is - as it fills out a relatively comprehensive part of the international political system - in a position which propels it in the direction of taking care of the whole system- not just- as

¹² For a further explanation of the concept of unipolarity, see Birthe Hansen (1993, 1995, 1996) and Bertel Heurlin (1993, 1996).

during the cold war - half of it. There are no counterbalancing forces at play - balancing is taking place on individual issue areas (e.g. economic, nuclear weapons, geopolitical) without the structural effect. Structural effect presupposes that balancing output is based on not an individual issue areas, but on combined capabilities.

The effects of unipolarity are

- that states tend to flock around rather than to balance against the unipole, in order to gain security and thereby to secure survival,
- that freewheeling is no relevant strategy, and therefore the states have to rely more on own capabilities, i.e. hard work,
- that regionalization, including integration increasingly will be the preferred strategies for the uni-pole as well as for the other states.

To Europe this new situation implies, that the justification of the former integration which was an outcome of the cold war -now is without meaning. Integration continues, however, but for different reasons. During the cold war, when the US took care of Western European security, there was no incentive for the individual European states to think in terms of relative gains in the security game.

After the cold war the security "overlay", the US-role as the European "pacifier ", was- due to unipolarity- extended to cover whole Europe. This implied, that Europe as a whole, was positioned in a situation with the best possible security situation ever. The political game of relative gain- contrary to absolute gain- as concerns the hard core of security and survival has not returned among the European states, but the individual countries states know, that they have to rely more than before on own resources. This implies in the unipolar situation that they will be propelled in the direction of hard work in cooperation with likeminded.

The European integration is a process which also can be explained in terms of a common understanding among the Western European States, that the survival of the European nation state is best served through supranationality on certain important issue areas as trade and foreign policy in broad terms.¹³

In this understanding -a whole Europe guaranteed by the US - one can, as already hinted at , assess the security situation in Europe being the best ever.

But can brutal war in the middle of civilized Europe be considered in agreement with the best possible security situation?

A fundamental observation is, that the Balkan-areas could be considered what the Americans call "strategic ghettos", or "islands of conflict" , i.e. areas which are of no or very

¹³ Ref. to Groom and Taylor, Milward etc.

limited strategic interest for the main powers of Europe. The way to deal with strategic ghettos is containment. Containing the conflict means an attempt to avoid proliferation to vital areas which in the Balkan case means spread towards the West - Albania, to the East - to Hungary and finally - and decisively to the South - in the direction of Greece, Turkey and the Middle East.

The US has been taken care of its interests- using containment - by approaching Albania (bilateral military cooperation), approaching Hungary (also military involvement) and finally by stationing US-troops in Macedonia, and exerting heavy pressure on Greece and Turkey in order to avoid warlike situations among these two countries, which would be particularly counterproductive to the US.

For a long time the US considered the Balkan-wars mainly as a problem to be solved by Europe itself, except for the policy of containment, where the US was active from the very first beginning.

Then - in 1995 - the very active involvement began. There were many reasons:

- it became evident that the Europeans were not able to construct a common, coherent policy ,
- the cruelties of the war became an unavoidable, repeated truth,
- it became chocking visible that there was a huge gap between the new global norms and the murderlike-wars . These new global norms included human rights, personal freedom, minority rights and thus making genocide and ethnic cleansing on a biological basis even more condemnable than ever.

To the US chaos and instability in the centre of Europe was considered increasingly threatening: it was necessary to pursue American leadership.

7. CONCLUSION - THE PARADOXES IN PERSPECTIVE.

Why are the paradoxes mentioned in part 1 just paradoxes - and not contradictions? The theory-based assertions mentioned above will help to understand or figure out the content of the paradoxes:

The theoretical assessments have the following implications on the paradoxes in the US-Europe- security relations:

Paradox number 1: Fall and rise of the US:

As the co- superpower USSR, the only real challenger to the US, disappeared, the relative capabilities of the US grew. In relative terms there was certainly no decline - but the opposite. The US-influence over Europe also increased, as the need for US-protection or US- affiliation (or reference) became evident concurrently with the "wholing" of Europe, i.e. the US was taking over the "overlay" of whole Europe. As the security problems of the 21st century seems to be double-sided , on the one hand hard security - i.e. the ability to fight local and regional wars - and on the other hand soft security , the US is well off and

prepared. There is no relative decline in the US military capabilities. The US is spending around the half of the world's military expenditures and is the only country having a global strategy of preparing to fight and win two regional wars at the same time - the so-called "win-win strategy". The US is more prepared than any other country to the soft-security-international society. Here again is no relative decline - but rather a rise.¹⁴

2. Paradox number 2: NATO under and after the cold war. NATO is still alive, although its "rationale" the Cold War has disappeared, and the US is still NATO's only and active leader. In theoretical terms this is logic. The US exerted its influence in Western Europe during the cold war through NATO - and not through bilateral channels - for good political and practical reasons. Now the US has the possibility of continuing this policy using the whole Europe as the part of the NATO- game. The US hereby is attaining a superior security situation in Europe:

- due to multilateralization and military integration NATO or affiliated institutions as NACC or PfP (with the US as the undisputed leader) can prevent fragmentation and nationalization in Europe and thus in the last analysis prevent instability or even chaos,

- the US can through NATO have Germany as a partner in leadership, (in practice, however, more partner than leader). This policy is generally accepted among the European states as long as Germany pursues its security policy imbedded in Atlantic or European institutions. Germany has no national security policy and the existence of NATO is thus a prerequisite for the continuation of the reduced and embedded role of Germany.

- the US can use NATO or a revised NATO as a part of a concept of a general global regionalization in which NATO is a cornerstone taking care of the European area but also - at least as part of the long term American expectations- serving as a powerful out-of-the-European area- more-globally-oriented security organisation.

3. Paradox number 3: Why support European Integration?

How is the US-policy of encouraging European integration compatible with a situation where the US at the same time is considering EU as a potential counter-pole to the US?

Here theory will point to the fact, that under bipolarity as well as under unipolarity the US has good reasons for supporting European integration-policy. Why ? The fundamental factor is that the EU countries during bipolarity needed US-protection - more than they were trying to attain bilateral agreements managing their individual security. The US policy was - if not to compel - then at least to make it favourable for the Western European States to cooperate and integrate. This was the case during

¹⁴ See for example Joseph Nye, "xxxxxxxInformation society", Foreign Affairs, March-April 1996, pag. xx xxx.

bipolarity -as the US had no incentive to encourage fragmentation or partition. The opposite was the case: a "divide et impera"-strategy was considered counterproductive to the US during bipolarity.

The same is the case during unipolarity. Unipolarity propels in the direction of avoiding chaos or instability in areas of severe concern and interest to the unipole. This is best avoided through an intensified call for and support for integration.

The limit for integration is evident: In hard security issues there should be no doubt of who is in charge in the last analysis. The US will not tolerate in crucial, vital questions to be confronted with a single European voice. As long a unipolarity endures such a situation is - by the way -unthinkable.

The simple conclusion here is then the observation that under bipolarity as well as under unipolarity European Integration is a strategy which in security affairs will be rewarded, and therefore is promoted by Western Europe as well as by the US.

4. Paradox number 4: Europe wants the US to act and not to act. Maybe this problem of the Europeans - liking and disliking the Americans to intervene in European security affairs is - in the last analysis- no paradox at all. It could be considered a condition which can be explained in structural terms. The condition is the relative distribution of capabilities across units - which means a stratification between superpowers and all other states. These states will all have an incentive to act in accordance with the superpowers. During bipolarity the Western European countries flocked around the US for fundamental security reasons. They were afraid of being abandoned due to potential superpower detente - or entrapped by confrontative, aggressive US-policy towards the Soviet Union. Therefore the bipolar situation in Europe was a period of almost constant severe contradictions between the US- policy and the policy of the European countries. To the American benefit this European policy was split, and not coherent. There was never a strong single, European voice.

During unipolarity the fear of entrapment and abandonment has ceased since the USSR disappeared and since the successor state Russia could not be considered a superpower, but rather a weak regional power. But still the entrapment and abandonment forces are at play, however, in a reduced form. due to the fact that fear and threat have disappeared. They play a role in the US-European security game .e.g. in Ex-Yugoslavia. The US has the freedom of action - as to when and how to intervene. The European countries close to the area are compelled to have a coherent policy - or at least to behave, as if such a policy exists, mainly due to the soft security factors: refugees, political and economic pressure.

5. Paradox number 5 is a real paradox: between the Western - i.e. the US and Western Europe - security and value-identity on the one hand and on the other, the constant trade war-like competition between US and EU. This paradox is intensified as

the economic factor apparently has a growing influence during a new World Order with less emphasis on military force and characterized by a comprehensive reduction of armaments.

No doubt that the economic dimension is important. The hard and often intransigent negotiations in the WTO is a clear manifestation of this importance. It has, however, always been that way. Bad organization of the economy was in the last analysis the reason for the collapse of the USSR. The crucial thing is, however, still the combined capabilities. One cannot rely on economics alone. Military force still counts.

As can be seen in Europe: all states are in security terms referring to the United States or to NATO, not to EU, not to WEU, not to OSCE.

The economic competition - even the trade-war like competition - is not the exception - it is the rule between market-oriented economies.

So, it is possible to have heavy economic competition and at the same time have security cooperation.

6. The paradox number 6: The role of the American population: at the same time for and against global - and here - European involvement. One could assume that the American population generally was less inclined to accept US-involvement in Europe after the end of the cold war. This is partly true. But the impact of the international structure is not exclusively affecting the administration but the population as well. The American political constituency also is supporting a world leadership role for the United States. The problem is at what costs. The US policy no doubt is influenced by the opinion of the population. The ups and downs in the opinion are often directly reflected in a more or less inconsistent foreign policy towards Europe. The question is: intervene or not, and if: how.

Generally the paradox is to be understood in terms of the theoretical assumption that a superpower - due to its comprehensive coverage of the international system - has wider limits for transferring its domestic policy into the international system.

All in all:

The paradoxes can be explained partly in terms of the transformations in the international system, transformations which are taking place in the foreign policy of the involved states, in the processes - and - fundamentally - in structure, and partly in terms of the general assumptions of neorealism.

Unipolarity has not lessened or weakened the US- impact on European security. On the contrary. Due to the simple fact that the US now has to take care of the security of the whole Europe. Not for the sake of the Europeans but owing to a situation where Europe still is a fundamental factor of the international system. An the US comprises a relative comprehensive part of this system. Truly the US is a European power.

Bertel Heurlin. April 1996.

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Défis et instruments de la politique extérieure et de sécurité

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"Economic Security and the Problem of Cooperation in Post-Cold War Europe"

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Economic Security and the Problem of Cooperation in Post Cold-War Europe

by

Emil Kirchner, University of Essex

Economic Security and the Problem of Cooperation in Post-Cold War Europe

A reconfiguration of Europe's strategic landscape and a redefinition of security have taken place in Europe. The security concerns of the European and North American states have expanded and now embrace not only the preoccupation with territorial integrity, defence and deterrence, but also include the nonmilitary elements of security that range from macroeconomic stability to environmental degradation. Economic security was a critical component of the American security strategy in the immediate postwar period, but it was soon eclipsed by the militarisation of the Soviet-American competition begun with the onset of the Korean War.¹ The major European powers were preoccupied with sustaining the nuclear balance of terror between the superpowers and the conventional balance of power on the Eurasian landmass. Despite the heavy emphasis upon the military element of national security, attention was paid to the economic underpinnings of military prowess. Nonetheless, economic issues were subordinated and treated as an adjunct to the more important and pressing issue of military security.

Economic issues grew more salient in the late 1960s and were increasingly treated as important political and broader architectural elements of both national security and the larger security order. A few studies of the western alliance in the late 1960s and early 1970s emphasised the importance of economic relations between the members of the Atlantic Alliance; they focused on the importance of those economic relationships as critical struts undergirding the Atlantic Alliance and the security of its member-states.²

The growing remoteness of a military threat to European security combined with an increased frequency of economic conflict within the Atlantic area during the 1970s and 1980s. This period saw the erosion of American hegemony and the rise of Germany and Japan, the slow collapse of the Bretton Woods monetary system between 1971 and 1973, the two oil shocks of 1973 and 1979, and the consequent concerns over the access to critical raw materials, the divergence of macroeconomic policies throughout the 1980s, and a marked preference on both sides of the Atlantic for bilateralism. Economic issues moved to the 'top table' of diplomatic discourse within the Atlantic area.³ By the end of the 1980s, the security concerns of the Europeans, particularly the Germans, were increasingly expressed in an economic rather than military idiom.⁴ The collapse of the post-Yalta security order has initiated the process of recalibrating national interests to conform with the pressures and opportunities presented by the emerging European security order.

The sudden transformation of the cold war security order in 1989 altered the structure of the European state system, intensified the interrelationship between military security and economic security and possibly inverted their relative importance, raised new possibilities for cooperation in military and economic affairs, and necessitates the striking of a new balance between the economic, political and military requirements of security. The end of the cold war and the erasure of the stark political and military lines dividing the European continent have not unified Europe. Europe remains divided by differences in the level of per capita GDP, level of economic development, the stability of democratic institutions, and differential membership in the key institutions of the European security order, particularly NATO and the European Union. Overcoming the continuing division of Europe and assuring the future stability of the European security order are contingent upon the successful transition of the central and eastern European states to the market economy and multiparty democracy. The sine qua non of the successful

transition of those countries is a stable economic and political environment.

Consequently, until that transition is completed and consolidated issues of political economy must be treated as elements of the new security order rather than as simple issues of welfare maximisation. This perspective requires a redefinition of security. It suggests that the European security system has two mutually constitutive elements, the political-military and the economic. The interdependence of these two elements of the security architecture raises a set of important and interrelated questions: Does a stable security architecture require the parallel construction of the institutions of military and economic security? What are the limits of asymmetrical progress in the construction of those institutions? If the parallel construction of those institutions is not possible, what does it imply about the future European security order?

The change in the definition of security and the presumed necessity of the parallel construction of the institutions of the European security order requires that a convincing case be made that the post-cold war security problematique differs significantly from that posed by the postwar period (and perhaps any other epoch of modern European history); and that a convincing case be made that the provision of security in the post-cold war era will be best supplied by international institutions. It is our purpose to make the case for both propositions.

I. The Changing Attributes of the European State System

From the perspective of national policy-makers in North America or Europe, the world has experienced fundamental changes. The Warsaw Pact has dissolved and NATO robbed of its postwar *raison d'etre*. The Soviet Union has fragmented into a large number of independent republics, some of which are tenuously connected to Russia by preexisting economic ties and a paper confederation. The nations of north central and eastern Europe are not only

undergoing a political and economic transformation simultaneously, but many of these states seek membership in the western clubs, particularly NATO, WEU and the European Union. Germany is united and has gained a new centrality, both geographically and politically, in the 'new' Europe. More broadly, the ideological enmity that marked relations among the two post-war blocs has given way to growing ideological conformity and growing amity. Yet, the changes that took place in 1989, from a historical perspective, do not appear to be a marked departure from other significant junctures in the history of the modern European state system. Yet at the same time, the domestication of international politics that has slowly evolved during the 20th century suggests that the prospects for sustained cooperation within the European political space is greater than it has ever been in the past. Important changes have taken place in the European state system which point to the growing importance of institutions in managing European conflicts of interest and the necessity of reconsidering the domain of security.

Although the state remains the primary actor in the contemporary international system, the state is changing in a number of important ways. First, the national economies of Europe and North America are experiencing greater levels of openness, in the real as well as the financial sectors of the economy. Second, the tension between autonomy and interdependence in the conduct of economic affairs is slowly being resolved in favour of the latter; it is increasingly true that "internal state power is sustained by external cooperation."⁵ Third, external cooperation has taken the form of ceding some sovereign power to non-state actors, ranging from supranational actors (most notably the European Union in the case of the western European states) to international organisations (for instance, the International Monetary Fund and International Atomic Energy Agency). States increasingly face external constraints in the formation or execution of policy; in fact, state preferences are increasingly shaped by the principles, norms and rules of

international institutions.⁶ And finally, the process of democratisation and the embrace of the market-economy in eastern and central Europe is producing a more homogeneous European state system. One consequence of this development is the creation of a common frame of reference amongst the nations of the European security space that should facilitate cooperation, just as the preexisting ideological opposition provided a barrier to cooperation between the two halves of Europe.⁷

A second category of change is the currency of power in the security space occupied by the states of North America and Europe. While it is true that the primacy of military security, the residual preoccupation with nuclear war and the concern with national survival, remain the paramount concerns of the major European powers, it is also the case that a perceptible shift has taken place in the relative importance of military security and economic welfare that favours the latter. As economic issues increased in salience in the 1970s and 1980s, military issues and the concern with military security suffered a corresponding decline. This preexisting shift of emphasis was transformed by the end of the cold war. The end of the cold war, in redirecting attention to the underlying importance of economic capacity, has changed the perception of power and consequently its redistribution. The absence of a stark military threat to the west has made the process of America's relative economic decline more meaningful and resonant in Atlantic relations.⁸ Thus the currency of military power has been devalued, particularly in the relations amongst the wealthy states of the European security space, and is being driven out by the currencies of commercial competitiveness and economic capacity. The dominance of the technological frontier, essential for sustaining commercial competitiveness on world markets, has become the arena of intense interstate competition between the North American and western European states. Moreover, only the economic capacity of the NATO member-states can finance the long-term transition to the

market economy and democracy in the former member-states of the Warsaw Pact. The new currency of power has thus had the effect of altering the distribution of capabilities in the European security space. Whereas cold war Europe was characterised by political-military bipolarity dominated by the United States and the Soviet Union, post-cold war Europe is characterised by an economic multipolarity cojoined by a military bipolarity that has been eclipsed, for the time being, by the economic and environmental security concerns of the states occupying the European security space.

The third category of change that has taken place is located in the resolution of the debate about state preferences. Robert Powell has argued quite convincingly that preferences are not immutable, but are linked quite closely to the external constraints facing a state; and that those constraints are linked to the level of amity and enmity in the international system.⁹ Where there are high levels of enmity, cooperation is unlikely: states are compelled to focus on relative gains, since an unequal absolute gain derived from cooperation today could lead to military defeat tomorrow. Where there are high levels of amity, on the other hand, cooperation is more likely: states are free to focus on absolute gains, since a state's relative loss today is unlikely to be employed against it tomorrow and lead to defeat on the battlefield. The implications of Powell's argument are of significance for the institutional architecture and likely patterns of cooperation in the post-cold war European security space.

It is relatively safe to assume that the resort to interstate war is no longer at issue in the 'new Europe,' notwithstanding the civil conflicts raging in the former Yugoslavia and percolating along the periphery of the former Soviet Union. The enmity of the pre-1989 European security area, generated by two mutually opposed and ideologically antagonistic military alliances, is no more. In its place we find a Europe where ideological fragmentation and opposition are being replaced by a growing ideological

conformity; where opposed military alliances have been replaced by a single military alliance, NATO, in search of a pan-European security role; and where the wealthy states of Europe are actively seeking to assist the economic and political transformation undertaken by the states of central and eastern Europe. Amity, then, has become the contextual hall-mark of interstate relations in the 'new Europe.' This change of context should lead us to expect, then, greater cooperation between the former member states of the two cold war alliances. And that cooperation is in fact taking place in economic, political, and military affairs. The fear of relative gains has been replaced with a concern for ensuring cooperative outcomes that deliver an optimum level of absolute gains for all.

Nonreciprocated cooperation during the cold-war between the NATO and Warsaw Pact states carried potentially high costs for individual and collective security. The necessity of military cooperation within each alliance created an incentive to minimise conflict and noncooperation within the alliance on economic issues.¹⁰ The potential use of force against NATO member-states by the Warsaw Pact created a context that encouraged cooperation in economic affairs to ensure large absolute gains to meet the welfare and military security demands of those states. With the end of the cold war, however, the costs of defection in economic matters have declined precipitously: the absence of cooperation between Europe and North America in economic affairs, for example, no longer carries with it a high cost in military terms. And, perhaps more importantly, the benefits of defection have risen markedly: if, as we have argued above, the most important currency of power is economic and the source of that power is dominance of the technological frontier, then we should expect less cooperation in economic affairs amongst the NATO allies today than occurred during the cold war.¹¹

A confluence of three developments---a process of change in the structural characteristics of the state, in the currency of power, and in the

contextual environment---suggests that the prospects for cooperation have increased in the European security space. But these changes are only important insofar as they contribute to the resolution of the postwar security dilemmas that stymied panEuropean cooperation.

II. The Requirements of a Comprehensive Security System

The institutional configuration of the post-cold war security order is in a state of becoming. The architecture of the emerging European security order, the interrelationships between institutions of security in the military and economic domains, and the coordination between those domains remain ambiguous and plastic. The most important question facing the future security order revolves around those institutional relationships within those two security domains and, perhaps more importantly, the interplay and interdependency between those domains. The architectural dimension of the emerging European security order revolves around the problem of establishing a coherence within each security domain as well as a complementarity between them.

The management of economic competition amongst the NATO allies and the successful transition to the market economy and multiparty democracy in the former member-states of the Warsaw Pact are the basic building blocks of the new European security architecture. The passing of the cold war has diminished the force of anarchy in the shaping of the European security environment and has enhanced the 'interaction capacity' of the European state system.¹² The interaction capacity of a security system captures not only "the ability and the willingness of [states] to interact, but also determine what types and levels of interaction are both possible and desired."¹³ One element of the system's interaction capacity is the extent to which states share norms and are governed by common institutions. Institutions, according to Buzan, Jones and Little "greatly facilitate, and even promote, interactions

that shared norms and values make possible and desired...Institutions provide not only more opportunities to communicate, but also more obligations and more incentives to do so."³² The states of the European security space increasingly share common norms and state interaction is increasingly governed by a common set of institutions. Common membership in institutions fostering those norms on a panEuropean basis has created a greater interaction capacity within the European security space.

This focus on the interaction capacity of the system presumes the importance of norms and institutions as constraints on state choice in an anarchical system. The role of institutions in international relations is shaped by the conceptual preeminence attained by both the international regimes and the 'new institutionalism' literature, both of which highlight the autonomy of political institutions in shaping state preferences and constraining state choice.¹⁴ Both bodies of literature demonstrate that international institutions must be treated as something other than a clearinghouse for information or preferences; rather both suggest how international institutions shape state preferences, how those preferences develop and change, and why states deviate from power-based explanations of state action. Institutions also serve the important function of supplying historical and normative order in an anarchical world.¹⁵ Historical order refers to the role played by institutions in shaping historical processes. Although this role can only be judged ex post, an awareness of the potential historical role institutional choice may have for a given element of a security architecture underlines the importance of institutional design and choice. Flaws in institutional design, as occurred in the 1930s, can contribute to the collapse of the international system.¹⁶ Normative order directs attention to the consideration of "the relations among norms, the significance of ambiguity and inconsistency in norms, and the time path of the transformation of normative structures."¹⁷ Both historical and normative

order suggest that the institutional design of the emerging European security order meet the criteria of regime congruence and interdependence.

The stability of the emerging European security architecture depends upon the congruence and interdependence of the economic and military security regimes governing the European security space. Regime congruence refers to the requirement that the norms governing these separate regimes are mutually reinforcing and that those norms do not conflict in purpose. The interdependence of the military and economic security regimes refers to the requirement that the norms of military (economic) regimes generate positive externalities that support the norms and institutions of the economic (military) regimes. It also implies that the interdependence of the regimes supporting the economic and military components of the overall security architecture are mutually dependent: the instability or incoherence of the one element of the security architecture will diminish the stability or coherence of the other element. The stability and effectiveness of the future European security order requires the satisfaction of these two criteria, both of which were met within the American and Soviet dominated economic and military alliance systems.

The problem of institutional design precedes the emergence of the new Europe, but has only recently emerged as a focal point of either the theoretical or policy-oriented literature.¹⁸ The variation in institutional design is either attributed to the indeterminacy of a cooperative outcome; i.e., the problem of cooperation could be solved by any number of institutional possibilities. Or it is attributed to the observation that different categories of problem require different types of institutional solution.¹⁹ But with the end of the cold-war, the process of institution-building and adaptation has been given a new prominence and urgency to the problem of and criteria for institutional choice. There are three categories of enquiry that pertain to the issue of institutional choice: the

problems associated with the institutional configuration of the security architecture; the problems associated with the problem of resolving the dilemmas of cooperation that states (and other actors) face within and between issue-areas; and the problem of identifying the content of the emergent security architecture. The resolution of these problems provides a basis for assessing the levels of regime congruence and interdependence within the European security space.

The problems associated with the issue of institutional configuration revolve around three issues: institutional scope; institutional membership; and the character of the institutional clusters governing specific issue-areas. Institutional scope reflects a concern with the geographic scope of the institution. The various institutions of the post-cold war security architecture range from the regional, to the Atlantic, to the global. Membership in these institutions is both selective and universal within a particular geographic demarcation---as the overlapping but incongruent memberships of the United Nations, OSCE, NATO, and WEU demonstrate. The problem of scope and membership raises a number of questions: Is one particular combination of geographic scope and membership optimal for the supply of security? Are the problems of institutional redundancy or competition mediated or intensified by different or overlapping institutional memberships? How do choices of inclusion and exclusion affect the quality of systemic security and stability?

The emergence of institutional clusters within issue-areas raises a set of more compelling questions about the congruence and interdependence of the institutions of the European security space. Institutional clusters, defined as the set of institutions that govern a specific issue-area within the economic or military dimension of security, raise three general questions. The first question to be posed is: Does a single institution hold a monopoly of competence within an issue-area or does it share its competence with other

institutions. If there is more than one institution involved in the management of a specific issue-area, another question arises: Can the institutional interrelationships within the issue-area be best described as a hierarchy or polyarchy? The answer to that question is both descriptive and prescriptive: it determines whether institutions act in conformity with the principle of subsidiarity or in accordance with the market metaphor; and it enables analysts to assess the relative merits of each form of organisation in terms of efficiency of effort and efficacy of outcome. The second general question---Is there a differentiation or conflation of issue-areas?---directs attention to the necessity of compartmentalising the different elements of the security order without divorcing them from one another and thereby precluding necessary or successful cross issue-area linkages. A third area of enquiry focuses on whether a single institution has a monopoly of competence within an issue-area or shares its competence with another. The more diluted is the competence for any single issue-area within a cluster and the less hierarchically those institutions are ordered, the more likely will be the potential level of institutional dissonance. The final question asks whether there is a surfeit or deficit of institutions governing an issue-area, of whether there is an institutional disequilibrium. An institutional disequilibrium can be of two sorts. First, there can be a surfeit of institutions where too many institutions seek to manage too small a policy space, as in the case of providing finance for the reconstruction of central and eastern Europe---the World Bank, the European Bank for Reconstruction and Development, the European Investment Bank, and the European Community's Phare Programme largely duplicate each other's efforts. Second, there can be a deficit of institutions where too few (or unempowered) institutions seek to manage too large a policy space, as is the case of restructuring the nuclear power industry in central and eastern Europe as well as the former Soviet Union---no single institution has the authority or resources to address the

most pressing environmental threat Europe. While this concept of institutional (dis)equilibrium is difficult to define or measure with any precision, it requires careful consideration nonetheless.

The next set of issues that need to be addressed focuses on whether the existing and proposed institutional frameworks facilitate the coordination of state action within and between the economic and military components of the security order. First, it is essential to assure the operation of mechanisms facilitating the coordination of common problems within an issue-area (e.g., the need to coordinate debt negotiations between commercial and official creditors). Second, there is a similar need for policy coordination between issue areas (e.g., the need for the 'greening' of European Investment Bank finance for eastern and central European in accordance with the Fifth Environmental Action Plan of the European Union). And finally, there is a need to coordinate the economic and military dimensions of security where they intersect (e.g., coordinating the reduction of forces in Europe with the microeconomic policies aiding defence conversion).

A comprehensive treatment of the emerging European security architecture requires the decomposition of that architecture into sets of interlocking institutional clusters. There are three institutional clusters defining the post-cold war security architecture. The first is the well-known and easily accepted political-military cluster that is rooted in the realist tradition. The second and third clusters, which contain the economic institutions of security, reflect the close connection between the future stability of the European security space and the successful political and economic transformation of central and eastern Europe: one cluster encompasses exchange rate stability, the freeing of trade, and macroeconomic stability; and the other cluster encompasses the interconnected problems of financing the large debt overhang of the central and eastern European countries, the political and economic transitions of those countries, and the resolution of regional

environmental threats. The stability of the emerging architecture depends upon the normative congruence within and interdependence between those clusters. The argument presented above suggests that careful attention must be paid to institutional choice and identified some criteria for that choice.

III. Conclusion

Institutional choice in shaping the future European security order has become a central element of American and European foreign policy strategies.

The policy importance attached to the institutional elaboration of European security raises two final questions: What are the likely sources of institutional supply in the new Europe? What are the limits of the dysynchronous construction of the economic and military components of the European security architecture?

There is clearly a demand for institutions governing the military and economic elements of the post-cold war European security space. The problem rests in the supply of those institutions and their transformation.²¹ Hegemony, leadership, and small-n multilateralism are the three sources of institutional supply that are potentially relevant to the post-cold war security architecture.

The hegemonic stability thesis holds that in an anarchical international system, only a hegemonic power can provide the collective good of international stability and foster cooperation in the international system. The ability of a hegemonic power to do so is logically and empirically compelling: it is logically compelling because hegemonic powers have both the self-interest and ability to establish international institutions; and a cursory examination of European history makes it an empirically compelling proposition. It is also the case, however, that a state falling short of hegemonic pretensions, but nonetheless capable of exerting international

leadership, can also contribute to the provision of international institutions. A state can solve what Peter F. Cowhey calls the 'top dog' problem of institutional supply if it has "the means to motivate self-interested [states] to participate in collective action."²² But the ability of a state assuming or seeking a position of leadership depends upon its ability, first, to distinguish between states that can be induced to cooperate and those that cannot; and second, to provide the former with rewards and to sanction the latter with punishments. International institutions may be also supplied as the result of small-n multilateralism.²³ Small-n multilateralism, for example the G-7 or G-3, occurs when the significant states in an issue-area agree to cooperate in the creation or adaptation of international institutions. Small-n multilateralism provides a greater probability of sustained cooperation than large-n multilateralism, although it carries a price: by restricting the number of participating states, the gains from cooperation are reduced.

Since the United States appears to be undergoing a prolonged process of hegemonic decline and Germany can only stake a claim to regional dominance, leadership and small-n multilateralism are likely to be the important sources of institutional supply in the post-cold war European security space. The majority of the relevant economic and security regimes have been carried over from the cold war order; and many are now in the process of adaptation to the new international environment. While many international institutions have their origin in the immediate post-war period and owe their existence to American hegemony, it is also the case that the adaptation of these regimes to the post-cold war security landscape has been and will remain the result of small-n multilateralism within the G-7 or leadership exercised by the United States on issues affecting Atlantic cooperation or by Germany on issues affecting European cooperation. The absence of a hegemonic power in the post-cold war European security space suggests that the evolution of existing

regimes and the creation of new regimes will require intensive negotiation. The prospects for an imposed regime in any issue-area by a single European or North American power are unlikely. As a consequence, the task of regime construction and adaptation facilitating cooperation in issue-areas ranging from the environment to macroeconomic stability to defence will be greatly complicated.

The preferred institutions of security in both the military and economic dimensions differ across national boundaries; the competition for delivering the blue-print for that architecture is particularly marked between the United States, the major western European states (Britain, France, and Germany), and Russia. The diverse definitions of security and the competition to supply the outlines of the security architecture pose a potential barrier to great power cooperation in constructing a coherent European security system. Moreover, it remains likely that the intended roles to be played by institutions in the new security environment will remain unfulfilled.²⁴ The proliferation of institutions and new forms of cooperation that are spanning Europe across the economic and military dimensions of security will undoubtedly generate both intended and unintended consequences. The process of small-n multilateralism, which may be the only politically viable avenue of institutional supply, may have the flawed outcome of putting into place a set of security institutions that reflect an incompatible jumble of great power preferences that please no one and erode the quality of European security.

An assessment of the emerging security architecture requires an assessment of its parts, the three critical institutional clusters outlined above. A successful security architecture requires that these institutional clusters generate positive externalities which requires their interdependence. Institutional interdependence suggests, in turn, the necessity of parallel progress in the development and elaboration of the constituent elements of the security architecture. But the parallel progress of those clusters cannot be

taken for granted; it is probably more reasonable to assume that progress will be dysynchronous rather than synchronous. What are the causes and consequence of uneven progress? A potential barrier to even progress and a source of potential regress is the inability of the states of the former Warsaw Pact to conclude successfully the economic and political transformation of those societies. Membership in the core institutions of European security, the European Union and NATO, is contingent upon the successful transformation of those nations to democracy and the market economy. Consequently, continued and deepened economic and military cooperation depends in large part upon the increasing homogeneity of the European nation-states; of the creation of a common political and economic frame of reference generating a common and legitimate normative order governing Europe. A failure at this level, which guarantees the continued division of Europe, precludes the construction of a cooperative pan-European security order.

The transformation of these societies has been made possible and supported by the previously enumerated changes that have taken place in the European state system. Yet it is more than likely that progress in the construction of the economic dimension of the security architecture will outstrip the construction of the military dimension. As compared with the military sector, the payoffs and costs of cooperation in the economic sector are relatively calculable, the costs of compliance and noncompliance are relatively well-established, the constraints on adverse state conduct are relatively well-established, and the institutional mechanisms facilitating cooperation are long-standing and highly developed. The same cannot be said for the military element of security. Here we find that the payoffs and costs of cooperation, particularly between former adversaries, are uncertain, the costs of compliance and non-compliance are high-risk and difficult to reverse, and the institutional mechanisms facilitating cooperation are relatively underdeveloped and the experience with them chequered. The process of uneven

progress is affected by yet another consideration: the incongruity between the economic and military payoffs derived from cooperation combined with the domestic political costs of cooperating in either dimension. It may be that the high symbolic cost of cooperation in the military dimension of security, calculated in terms of lost national prestige and autonomy, may present too high a political barrier to military cooperation on a panEuropean basis. And it may be that the measurable payoffs flowing from cooperation in the economic dimension of security may be likewise stymied by domestic political resistance. These considerations, which establish the linkage between domestic politics and interstate cooperation, suggest that there may be some unique level of interstate cooperation on the military and economic dimensions of security that is domestically sustainable. The tolerance for external cooperation to sustain domestic welfare and security objectives will vary between states and will place a limit on the overall level of cooperation within post-cold war Europe. Although cooperation in both issue-areas may be derailed by domestic political resistance, it is unlikely that the economic and military trains would fall off the tracks at the same point of institutional development. The possibility of dysynchronous development of the two elements of the post-cold war security architecture raises the important question of whether autonomous or differentiated progress in the economic and military elements of the security order can be safely tolerated if the overall stability of the system is to be assured.

Uneven institutional development or uneven progress in the supply of military and economic security could have disastrous results for Europe. Although there has been a real decrease in the likelihood of major war, it remains the case that there is no comprehensive set of institutions that effectively monitor and manage the military dimension of European security. There are no countervailing sets of institutions in operation that could foster greater economic or military security in eastern and central Europe,

not to mention the former Soviet Union. The medium-term exclusion of the eastern and central European states from full participation in the existing military institutions of security (e.g., NATO or the WEU), combined with the inclusion of those same nations in the Atlantic institutions of economic security, if not the European Union, preclude the development of a sustained and interdependent community of interests that will engender and foster cooperation across both the economic and military dimensions of security.

This potential development suggests a reconsideration of the future course of Europe. If the minimum level of interdependence between the economic and military elements of security can not be realised with the existing institutions of security, it may counsel the creation of a security architecture that tolerates if not encourages the economic and military differentiation of the European area. It may counsel a return to a set of security institutions mimicking those established in the aftermath of the second world war, but not marred by the ideological enmity or competition between Russia and the United States. If the minimum level of interdependence is sufficiently low and is met by the existing institutions of security, it may counsel a less drastic course: economic differentiation or integration complemented by cooperation in a less formalised or inclusive set of security institutions.

The resolution of this dilemma may be found in the distribution of capabilities in post-cold war Europe. The distribution of capabilities raises the issue of polarity and reemerges as a critical variable in the determination of the broad contours of the European security system. If military power recedes into the deep background of diplomacy, if military power becomes merely the foundation of interstate relations in Europe but no longer functions as an instrument of statecraft, then the states occupying the European security space will be driven by one of the many logics ascribed to economic multipolarity: at one extreme, it will provide a more fertile basis

for cooperation and stability; and at the other, it promises a return to the competitive and noncooperative world of neo-mercantilism." The choice of institutions in both the economic and military dimensions of security will largely define the pathway that is eventually chosen for Europe.

Footnotes

1. See Robert A. Pollard, **Economic Security and the Origins of the Cold War, 1945-1950** (New York: Columbia University Press, 1985).
2. See Richard N. Cooper, **The Economics of Interdependence** (New York: McGraw Hill for the Council on Foreign Relations, 1968); and David P. Calleo and Benjamin M. Rowland, **America and the World Political Economy: Atlantic Dreams and National Realities** (Bloomington: Indiana University Press, 1973). By the mid-1970s, however, the importance of the economic dimension of national policy, if not national security policy, was established by the turbulence in international economic affairs and by the publication of Robert O. Keohane and Joseph S. Nye's **Power and Interdependence: World Politics in Transition** (Boston: Little, Brown, 1977) and Robert Gilpin's **U.S. Power and the Multinational Corporation** (New York: Basic Books, 1975).
3. This development was given institutional form with the G-7 economic summits. For a history of the G-7, see Robert D. Putnam and Nicholas Bayne, **Hanging Together: The Seven-Power Summits** (Cambridge: Harvard University Press, 1984); and G. John Ikenberry's brief update in "Salvaging the G-7," **Foreign Affairs**, vol. 72, no. 2 (Spring 1993), pp. 132-40.
4. See Hans Maull, "Germany and Japan: The New Civilian Powers," **Foreign Affairs**, vol. 69, no. 5 (Winter 1990/91), pp. 91-106; and James Sperling, "America, NATO, and West German Foreign Economic Policies, 1949-1989" in Emil J. Kirchner and James Sperling, **The Federal Republic of Germany and NATO: 40 Years After** (London: Macmillan, 1992), pp. 157-193; "German Security Policy and the Future European Security Order," in Michael G. Huelshoff, Andrei S. Markovits, and Simon Reich, eds, **From Bundesrepublik to Deutschland: German Politics after Unification** (Ann Arbor: University of Michigan Press, 1993), pp. 321-346.

5. Wolfram F. Hanrieder, "Dissolving International Politics: Reflections on the Nation-State," **American Political Science Review**, vol. 72, no. 3 (September 1978), pp. 1276-87. On the contest between autonomy and interdependence, see Thomas Ilgen, **Autonomy and Interdependence** (New Jersey: Rowman, Littlefield, 1985).
6. International institutions must be viewed as shapers of preferences rather than as simply functioning as the clearing house of competing state preferences. This view of institutions is found in James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," **American Political Science Review**, vol. 78, no. (1984) pp. 734-39.
7. Raymond Aron, **Peace and War: A Theory of International Relations** (New York: Anchor Press, 1973). See also Bruce Russett, "Correspondence---The Democratic Peace," **International Security**, vol. 19, no. 4 (Spring 1995), pp. 164-175.
8. On the issue of hegemonic rise and decline, see Charles P. Kindleberger, **The World in Depression, 1929-1939** (Berkeley: University of California Press, 1973); Robert Gilpin, **War and Change in World Politics** (Princeton: Princeton University Press, 1981); and Robert O. Keohane, **After Hegemony: Cooperation and Discord in the World Political Economy** (Princeton: Princeton University Press, 1984).
9. Robert Powell, "Absolute and Relative Gains in International Relations Theory," **American Political Science Review**, vol. 85, no. 4 (December 1991), pp. 1303-1320. The importance of amity and enmity in shaping interstate

relations is found in Arnold Wolfers, **Discord and Collaboration** (Baltimore: Johns Hopkins University Press, 1962).

10. Joanne Gowa, 'Bipolarity, Multipolarity, and Free Trade,' **American Political Science Review**, vol. 83, no. 4 (December 1989), pp. 1245-1256.

11. Powell briefly discusses the problem of cooperation even when force is not at issue; and Duncan Snidal suggests that Powell's formulation is too extreme to capture state interaction in a less restrictive universe. Robert Powell, "Absolute and Relative Gains..." p. 1316; and Duncan Snidal, "Relative-Gains Problem for International Cooperation--Comment," **American Political Science Review**, vol. 87, no. 3 (September 1993), p. 740.

Another way of putting it is that the games played within the West during the cold war were coordination or battle of the sexes, but that the end of the cold war may have transformed those games into a prisoner's dilemma. The focus of competition shifted from one of interbloc comparisons to one of intrabloc comparisons of (relative) gains from cooperation; and the intensity of relative gains concerns increased for intrabloc interaction and decreased for interbloc interaction. For the transformation of games, see Duncan Snidal, "Relative Gains and the Pattern of International Cooperation," **American Political Science Review**, vol. 85, no. 3 (September 1991), pp. 701-26.

32. Barry Buzan, et. al., **The Logic of Anarchy...**, p. 70-1.

1. See Robert A. Pollard, **Economic Security and the Origins of the Cold War, 1945-1950** (New York: Columbia University Press, 1985).

2. See Richard N. Cooper, **The Economics of Interdependence** (New York: McGraw Hill for the Council on Foreign Relations, 1968); and David P. Calleo and Benjamin M. Rowland, **America and the World Political Economy: Atlantic Dreams and National Realities** (Bloomington: Indiana University Press, 1973). By the mid-1970s, however, the importance of the economic dimension of national policy, if not national security policy, was established by the turbulence in international economic affairs and by the publication of Robert O. Keohane and Joseph S. Nye's **Power and Interdependence: World Politics in Transition** (Boston: Little, Brown, 1977) and Robert Gilpin's **U.S. Power and the Multinational Corporation** (New York: Basic Books, 1975).

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12. For an extended discussion of interaction capability as an element of the international system structuring the relations between states, see Barry Buzan, Charles Jones, and Richard Little, **The Logic of Anarchy: Neorealism to Structural Realism** (New York: Columbia University Press, 1993), pp. 69-80.

13. Buzan, et. al., **The Logic of Anarchy...**, p. 69.

14. Barry Buzan, et. al., **The Logic of Anarchy...**, p. 70-1.

15. James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," **American Political Science Review**, vol. 78, no. 3 (September 1984), p. 738. See also Elisabeth R. Gerber and

John E. Jackson, "Endogenous Preferences and the Study of Institutions," **American Political Science Review**, vol. 87, no. 3 (September 1993), p. 652; and Geoffrey Garrett, "The European Community's Internal Market," **International Organization**, vol. 46, no. 2 (Spring 1992), p. 534-45. For two representative volumes on regime based understandings of international politics, see Stephen Krasner, (ed.), **International Regimes** (Ithaca: Cornell University Press, 1983); and Paul F. Diehl, (ed.), **The Politics of International Organizations** (Chicago: Chicago University Press, 1989), p. 15.

16. March and Olsen, "The New Institutionalism..." pp. 743-44.

17. Kenneth Oye, **Economic Discrimination and Political Exchange** (Princeton: Princeton University Press, 1992).

18. March and Olsen, "The New Institutionalism..." p. 744.

19. See Miles Kahler, **International Institutions and the Political Economy of Integration** (Washington, DC: Brookings Institution, 1995), chapter one; and Lisa L. Martin, **Coercive Diplomacy: Explaining Multilateral Economic Sanctions** (Princeton: Princeton University Press, 1992).

20. The categories of problem are derived from the strategic interaction states face. See Duncan Snidal, "Coordination versus Prisoners' Dilemma: Implications for International Cooperation and Regimes," **American Political Science Review**, vol. 79, no. 4 (December 1985), pp. 923-24; Arthur Stein, "Coordination and collaboration: regimes in an anarchic world," in Stephen D. Krasner (ed.), **International Regimes**, (Ithaca: Cornell University Press,

1982), pp. 115-41; and Lisa Martin, "Interests, power, and multilateralism," p. 768-83.

21. The literature on the supply of regimes is less well-developed. See Oran R. Young, "Regime dynamics: the rise and fall of regimes," in Krasner (ed.), **International Regimes**, pp. 93-113.

22. Peter F. Cowhey, "Domestic Institutions and International Communication," **International Organization**, vol. 47, no. 2 (Spring 1993), p. 300. What remains unaddressed, however, is the actual **need** for international regimes. The usefulness of a regime is found to be heavily dependent upon the type of cooperation problem faced by states. See Lisa Martin, "Interests, Power, and Multilateralism," **International Organization**, vol. 46, no. 4 (Autumn 1992), pp. 765-93.

The requirements of leadership are drawn from William T. Bates and Robert H. Bates, "Cooperation by Design: Leadership, Structure, and Collective Dilemmas," **American Political Science Review**. See also Duncan Snidal, "The Limits of Hegemonic Stability Theory," **International Organization**, vol. 39, no. (1985), pp. 579-614.

23. See Kenneth A. Oye, "Explaining Cooperation Under Anarchy: Hypotheses and Strategies," **World Politics**, vol. 38, no. 1 (October 1985), p. 21; and Miles Kahler, "Multilateralism with small and large numbers," **International Organization**, vol. 46, no.3 (Summer 1992), pp. 684-85.

24. The European Bank for Reconstruction and Development is a good case in point. Designed as the engine of economic growth and political transformation in central and eastern Europe, the EBRD has failed to deliver on its original

promise. It has become a relatively inconsequential player in the recasting of eastern and central Europe playing a distant second to its primary competitor (and shareholder), the European Investment Bank.

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**“The Collective Action of TransAtlantic Business:
The TransAtlantic Business Dialogue”**

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Introduction*

In December 1994, the late Commerce Secretary Ron Brown launched the idea for the TransAtlantic Business Dialogue (TABD). Brown sought to bring American and European firms together to identify obstacles to transatlantic trade and investment. Today, the TABD is a coalition of business leaders who, together with top government officials, have developed a comprehensive approach to transatlantic trade and investment policy. As one observer noted, the TABD "is probably the first time in American history that the private sector is determining the substance of future executive or legislative agreements."¹

The TABD provides a fascinating case study for scholars and practitioners alike for at least three reasons. First, the TABD is a novel structure in the international trade arena. Historically, trade negotiations have been conducted on a government-to-government basis. The TABD, however, is a *quadrilateral negotiating forum* involving government and business leaders alike.

This quadrilateral structure challenges the political scientists' model of the "two-level game" in international trade and finance negotiations.² In traditional two-level games, government leaders negotiate agreements at the international level. Domestic groups' interests determine the leaders' negotiating margin-of-maneuver -- the "win-set".³ The TABD, however, modifies the traditional government-centered model in a number of ways: (1) Transnationally-organized business shapes the government leaders' margin-of-maneuver upfront by setting the negotiation agenda; (2) TABD business leaders participate in the negotiation process with the public officials, placing pressure not only on their own government but also on the other government directly; (3) TABD participants are involved in shaping domestic interests as well. They do so not only by providing their own input to the government, but by seeking to influence other societal groups' views of the negotiations. In this sense, the TABD represents a new form of "industrial diplomacy."

In many respects, the inclusion of business as a direct interlocutor in the US-EU trade and investment negotiations is hardly surprising. As Alberta Sbragia points out, "American firms in Europe and European firms in the United States have been in some sense 'silent' members of the transatlantic community" over the years.⁴ Indeed, transatlantic relations have been composed of both a "public sphere" of government negotiations and a "private sphere" of market activity for a number of decades.⁵ The TABD process brings the "private" and "public" together in a blurring of competencies. In the TABD, for example, the transatlantic business community plays a *public* role in setting the agenda for trade and investment policy.

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A second reason why the TABD is an interesting case study is because this novel format of international negotiation challenges traditional forms of business-government relations. In the United States, for example, the TABD provides an official industry-to-government channel beyond the mandated Advisory Committees. Similarly, in Europe, the TABD format directly threatens traditional national and European industry associations' representation. As one observer noted, "There is a potential to redefine the business-government relationship in Europe via TABD."⁶

Yet a third reason why the TABD makes a fascinating case study is because it challenges long-held cultural norms. While Americans and Europeans share similar beliefs in international trade and investment, they differ significantly in how to address these issues. The TABD process reveals these cultural differences -- and underscores the importance of understanding and confidence building in bridging them. If anything, the TABD highlights future challenges facing business and government officials if they hope to transpose the TABD model on other international fora.

Today, the TABD remains a novel experiment. TABD negotiations are still ongoing and may take several years to complete. The purpose of this paper, therefore, is to shed light on the early construction of the TABD as a novel forum in the international trade and investment arena. The paper begins by examining the origins of the TABD. The second section highlights the business-to-business dialogue and quadrilateral negotiations at the international level. The third segment analyzes the "domestic game" that is currently underway. The final section of the paper assesses TABD's success-to-date as well as TABD's potential as a model for other international negotiations.

I. Origins Of The TransAtlantic Business Dialogue

The TABD concept was formally proposed by the late Commerce Department Secretary Ronald Brown at a speech sponsored by the EU Committee of AmCham in Brussels on December 15, 1994.⁷ There were at least two rationales behind the Commerce Secretary's "vision" of the TABD. First was Ron Brown's belief that international business was at least four to five years ahead of governments in its thinking on trade liberalization. Yet Brown and other Commerce Department officials found that the existing framework of business lobbying organizations in the US and the EU were not organized in a coordinated transatlantic manner. As a result, American officials believed that EU negotiators often based their trade positions on input from the Member States, and not from European industry per se. Brown believed that if US and EU CEOs were able to develop unified stance, then neither the US nor the EU government could ignore a transatlantic business agenda.⁸ Of course, several US officials were convinced that the government's negotiating position would coincide with the US-EU business community's stance. Consequently, the EU Commission would be the "outlier" in the negotiations.⁹

A second rationale behind the Commerce Secretary's speech related to domestic politics. It was no coincidence that the idea was launched shortly before Congressional representatives pushed legislation to dismantle the Commerce Department. By encouraging industry involvement in transatlantic trade negotiations, Brown hoped to secure greater business support for the department.¹⁰

Brown's call for a transatlantic dialogue was soon championed by Stuart Eizenstat, then-ambassador to the European Union. Eizenstat met with a number of groups, notably the Executive Committee of the EU Committee of AmCham, to discuss how to operationalize the Commerce Secretary's proposal.¹¹ The EU Committee members -- government affairs representatives of major American multinational firms operating in Europe -- were particularly interested in the concept. From their perspective, a transatlantic business project would give their own European operations greater visibility back in the US boardrooms where investment and operations decisions were made. Refocusing their CEOs' attention on Europe could improve their own standing within the company.

Soon, officials in Washington, DC, and Brussels generated a plan to create a transatlantic coalition of US and EU Chief Executive Officers (CEOs) who would propose measures to improve US-EU trade and investment. The choice of CEOs, as opposed to industry associations, was an important and, as discussed below, controversial one.

Eizenstat began to meet with EU Commissioners and officials from Directorate Generals I (trade) and III (industry).¹² Leon Brittan, the commissioner responsible for US-EU trade relations, was very receptive to the idea, but Horst Krenzler, Director General of DG I, was less enthusiastic. As one Commission official noted, "in the initial stages, there was a certain amount of skepticism because we thought transnational relations was best done between governments ... but the advantages of business involvement soon became apparent."¹³ Commission officials also wanted to make sure that the US government did not have a "hidden agenda" -- such as the previously proposed TransAtlantic Free Trade Agreement (TAFTA) -- behind the TABD.¹⁴ By early spring 1995, Leon Brittan and Industry Commissioner Martin Bangemann agreed to the project.

In April 1995, the famous "Three B" letter was sent by Brown, Brittan and Bangemann to approximately 1,800 US and European industry officials asking for suggestions regarding a transatlantic business forum.¹⁵ The letter was designed to "test the waters" for the TABD initiative. Over 300 European and American replies were received.¹⁶

American Business: The "Muffin Club"

Interestingly, American firms' initial response to the "Three B" letter was rather lukewarm. First, several firms were wary that the initiative was merely a stunt to support the Commerce Department and the Clinton Administration during the run-up to an election year. Indeed, because the Republic-dominated Congress might question the TABD initiative, the companies did not want to jeopardize key legislative issues such as corporate tax cuts. Second, other firms were reluctant to find themselves caught in-between the Commerce Department and the Office of the United States Trade Representative (USTR) which had the legal authority to negotiate US-EU trade matters. Though the TABD initiative purportedly had then-USTR Mickey Kantor's approval, several USTR officials were not pleased with the Commerce Department's encroachment on their turf.¹⁷ Third, still other business officials expressed concern that economic

issues would be linked to a larger "Atlanticist Agenda" involving military and security issues. They did not want to be "used" by governments in the efforts to reinforce the NATO relationship, for example. Finally, many American firms questioned whether they would be embarking on anything "new". Most of the agenda items proposed in the "Three B" letter -- such as standards, tariff barriers and investment -- were already being considered in other international fora such as the OECD and WTO. The value-added of an additional transatlantic initiative was not clear to American business.

Despite industry's initial reticence, the TABD proceeded once Commerce officials enlisted the support of key business leaders such as Paul Allaire of Xerox. Allaire, who once served as managing director of Rank Xerox Ltd. in the United Kingdom, was a close friend of President Bill Clinton.¹⁹ The fact that the Commerce Department had strong ties to "one of its own" -- Mike Farren, Allaire's key government affairs representative who had been Undersecretary of Commerce during the Bush administration -- facilitated Allaire's involvement. Commerce officials also recruited other CEOs that were "close to Commerce, friendly to Brown and the Department."²⁰ Commerce sought CEOs who would be "responsive, who could take on Commerce's mission, who could take on Brown's mission."²¹ Dana Mead of Tenneco, John Luke of Westvaco, Bill Hudson of AMP Incorporated, and Jack Murphy of Dresser Industries joined the initiative to form the U.S. Steering Committee.

In early fall, Alex Trotman, CEO of Ford, was recruited to co-chair the US TABD Steering Committee with Allaire. Scottish born, Trotman is a naturalized US citizen whose previous post was head of Ford Europe. Thus, Trotman viewed the transatlantic initiative as an important project from both a professional and personal perspective.

Not everyone was satisfied with the TABD arrangements. Several U.S. trade associations were less than pleased that the TABD would be a "CEO-to-CEO dialogue" -- thus shutting out groups like the National Association of Manufacturers (NAM) and the U.S. Chamber of Commerce. As one business representative noted, "the Commerce Department was up to its old tricks."²² NAM and the U.S. Chamber resented the exclusion in part because they already met with their European counterpart, UNICE (the Union of Industrial and Employers' Confederations), to discuss transatlantic trade and investment issues. NAM officials were somewhat placated when Dana Mead, CEO of Tenneco and incoming NAM president, joined the U.S. Steering Committee.²³ NAM and Commerce Department officials thus agreed that CEOs would lead the dialogue -- and give it greater visibility and political clout -- with the association playing an important supporting role. U.S. Chamber officials accepted the TABD format later when they agreed to serve as coordinator for Outreach Meetings -- events designed to inform the larger business community of TABD activities.

In addition to the industry associations, some members of the Industry Policy Advisory Committee (IPAC) and the Industry Sector Advisory Committees (ISACs) protested that TABD would bypass the legally mandated private sector advisory committee system.²⁴ Commerce and industry officials assured these members that they would be fully apprised of TABD activities and pointed out that there was already membership overlap between TABD and the ISACs.

The joint US-EU steering committee comprised of government and industry officials met for the first time in Brussels in July 1995.²⁵ At the meeting, the participants

decided to launch a conference in Seville, Spain in November 1995. The conference goal was to bring industry officials together to develop recommendations for removing obstacles to trade and investment. Four working groups were created to prepare working papers on: (1) standards, testing/certification and regulatory issues; (2) trade liberalization; (3) investment; and (4) third country relations.

Beginning in late September, the US Steering Committee began to focus intensely on the preparations for the Seville conference. Every weekday morning at 8 a.m., for the following three months, the "Muffin Club" (named after the breakfast fare) met at the Xerox government affairs office in Washington, DC. The goal of the Muffin Club was two-fold: to recruit CEOs, and to prepare working papers for the Seville conference. The Muffin Group participants included officials from Xerox and Ford, the four representatives of CEOs representing the Seville working groups,²⁵ and a newly-hired US TABD coordinator who worked out of the Ford office in Washington, DC. In addition, Frank Vargo, the Commerce Department's Deputy Assistant Secretary-Europe, and other Commerce officials attended every meeting as "observers".²⁶ Given that the success of the Seville conference -- and TABD itself -- was largely dependent on the number of U.S. CEOs who showed up for the event, Vargo's role was to recruit business leaders. Vargo regularly informed Ron Brown when telephone calls to various individuals were needed. He also served as a "sounding board" for working group officials who questioned whether various recommendations were viable or not.²⁷

While the early Muffin Club meetings were filled with concerns about CEO recruitment and complaints regarding the working group process, the group managed to pull together a high-power list of company leaders and extensive briefing papers. Participants describe the Muffin Club meetings as a "logistical exercise." The meetings also represented, however, the close ties forged between business and government officials on trade matters in the United States over the past few decades.²⁸ As discussed below, however, this same business-government relationship on trade matters was not found on the other side of the Atlantic.

European Business: A New Relationship

Following the response to the "Three B" letter, EU Commission officials recruited Jürgen Strube, CEO of BASF who once lived in the US where he headed the firm's North American Regional Division. Officials also tapped Peter Sutherland, chairman of Goldman Sachs International. While Sutherland worked for an American firm, his "European credentials" were firmly ensconced as a former Commissioner of the European Union and GATT trade negotiator.

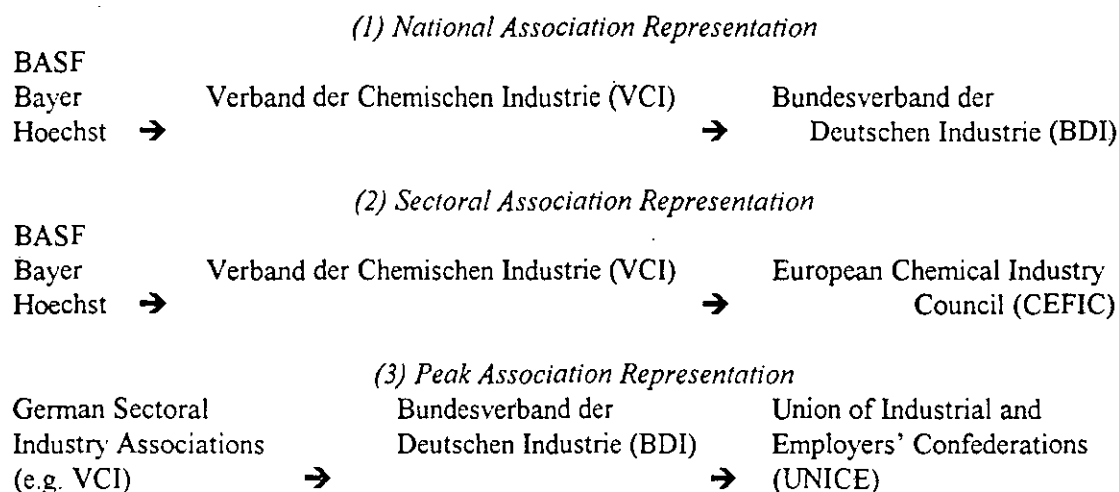
In many respects, the recruitment of European business leaders such as Strube and Sutherland was the easy step. Developing a working relationship between Commission and industry within the TABD was more difficult. Disagreements with trade associations, questions regarding the official competence of the Commission, as well as DG I's approach to external trade negotiations proved to be important obstacles.

Trade Association Disagreements

One reason for the difficulties is that Commission officials agreed with their American colleagues that CEOs should drive the TABD process -- not business associations. While American associations were none too pleased with this situation, European associations were up in arms over the TABD format. The reason was quite simple: the CEO-driven format defied the traditional business-government relationship long established in Europe, notably continental Europe. Historically, industry associations -- not CEOs -- were the primary interlocutors in business-government relations.

The composition of industry associations reinforced this pattern. With the exception of the Confederation of British Industry (CBI), individual European firms are not direct members of the industry federations. Instead, companies are members of various sectoral associations, which are in turn members of the national associations. This traditional form of industry representation is demonstrated in Figure 1 above. Using German industry as an example, one notes that the major chemical firms (BASF, Bayer, Hoechst) are members of the Verband der Chemischen Industrie (VCI) which is a member of the Bundesverband der Deutschen Industrie (BDI). This same format is present at the European level where the companies belong to the VCI which, in turn, is a member of the European chemical association, CEFIC. Similarly, the VCI is a member of the BDI, which was a member of the Union of Industrial and Employers' confederations (UNICE), the "peak" association of all European industry associations. UNICE, therefore, is an association of associations of associations.

FIGURE 1
TRADITIONAL GERMAN INDUSTRY REPRESENTATION



Source: Adopted with modifications from Maria Green Cowles, "German Big Business: Learning to Play the European Game", *German Politics and Society*, Vol. 14, No. 3, Fall 1996.

In the past 15 years, individual companies that had mobilized in Brussels challenged the associations' role in EU regulatory matters.³⁰ Many of these multinational firms had emerged as important actors in EU policymaking, often bypassing the industry associations to work closely with Commission officials on regulatory issues. Indeed, the European Round Table of Industrialists, a group of CEOs from 40 leading European companies, largely set the agenda for and promoted the completion of the Single Market Program.³¹

These individual companies and their CEOs, however, had yet to mobilize in a strong coordinated manner on international trade matters. Indeed, few European CEOs follow international trade matters closely.³² Therefore, the fact that individual CEOs, including ERT member Jan Timmer of Philips, became involved in the TABD did not sit well with the associations.

Believing the CEO-only format would minimize the role of sectoral, national and European associations, UNICE officials held frank conversations with Commission officials as well as with Ambassador Eizenstat. While the peak association responded favorably to the "3B letter" on behalf of its membership (national industry associations), UNICE contested the new structure.³³ UNICE officials pointed out that a transatlantic industry dialogue already existed between it and American associations. They also questioned the representativeness of the TABD process, maintaining that TABD must speak on behalf of European business as a whole, and not a handful of companies.³⁴ Finally, UNICE officials pointed out that the TABD required individuals with specific technical expertise on trade and investment matters -- an expertise usually found in the industry associations themselves in Europe.

Commission officials, however, were determined that the TABD be CEO-led. They noted that UNICE's institutional format did not provide the dynamism for TABD to be successful. While undeniably "representative," the UNICE structure could also be very time-consuming and bureaucratic. Because the national industry associations must come to a consensus, UNICE policy positions at times resulted in watered-down statements. As one Commission official explained, "We did not want the [TABD] process to be filtered by the UNICE-style process. We don't want the very correct and proper functioning of UNICE which gives you the average view."³⁵ Moreover, while UNICE's expertise on transatlantic issues centered on technical details, the purpose of the TABD was to engender broader *political* initiatives. Of course, that several Commission officials were more interested in working with and developing political ties to heads of major European companies than they were with leaders of national industry associations also influenced their selection of the CEO format.

Commission and industry officials reached a compromise in which UNICE served as a member of the European TABD steering committee while the European companies maintained the larger TABD leadership role. Strains among UNICE, individual companies and the Commission, however, persisted throughout the TABD process.

The Commission's Official Competence and Business's Participation

The role of the Commission vis-à-vis the member states in external policy matters provided another obstacle to developing Commission-industry ties. The power of the Commission depends greatly on the policy arena at hand.³⁵ For example, the Commission assumes a critical role in the development of EU regulatory policy. Indeed, one could argue that the Commission plays a more important role in the development of Single Market legislation than do the member states.³⁶ As a result, societal groups -- notably industry -- have developed extensive lobbying activities to influence the drafting of EU legislation.

However, Member States place certain restraints on the Commission's powers in external trade policy. The Commission must be given its negotiating mandate by the 113 Committee (made up of member states) and report to the Member States regularly on the negotiation proceedings. Moreover, any Commission activities must be approved by the Member States' unanimous vote.³⁷

Given the Commission's limited powers in external trade matters, one would expect European industry to focus its lobbying at the Member State level. The fact is, however, that European companies have historically been less involved than their American counterparts in trade matters.³⁸ In recent years, companies have begun to participate -- albeit slowly and carefully. For example, French industrialists were quite involved in the Uruguay Round discussions with the French government. When pressed by the Commission to speak out on the protests by the French farmers, French industrialists countered that the action would be counterproductive. For a variety of historical and cultural reasons, French, German and other European firms -- unlike their American counterparts -- prefer to work primarily behind the scenes.³⁹

While some firms did express their interests directly to trade officials in DG I and III, Commission officials note that it was very difficult to get a clear cut position of business on the Uruguay Round.⁴⁰ The fact that European business has not formally organized itself in Brussels to lobby Commission officials on trade issues may be one reason for the weak industry position. Another reason may be the lack of formal channels to Commission officials. U.S. industry, for example, has direct channels to the Commerce Department and USTR on trade issues through the ISACs. European industry does not.⁴¹ Granted, UNICE provides "official" industry positions on trade matters. UNICE, however, is not interested in creating more formal industry inputs based on the American ISACs model for the simple reason that European-level sectoral associations would then challenge the peak association's leading role.⁴²

The Approach of DG I

DG I's overall approach to determining societal interest on trade matters also served as an impediment to closer Commission-industry ties within TABD. In the United States, the USTR and the Commerce Department focus on industry concerns on a sector-by-sector basis.⁴³ By contrast, DG I tends to have a "package approach" to these trade negotiations. As an EU industry representative explains, Commission officials draw up a

work program for the negotiations based on their perceptions of what they believe are the interests of society at large -- including labor and environmental groups. Their approach links all societal interests together in an overall combined package.

A Commission official confirms this view:

Business is a major group [in external trade matters] but it is not the be all and end all. I can well imagine hearing the business contribution -- but we must also take x, y and z into account. Both sides -- government and business -- appreciate the context in which business conclusions will be cited. The business side is one part of the bigger picture -- but it hasn't stopped the business side from wanting results.⁴⁴

Given these obstacles -- trade association disagreements, questions regarding the Commission's competence, and DG I's approach -- the working relationship between DG I and industry began very slowly. As one EU industry representative noted,

the original involvement [of the two sides] was very difficult. Business wanted a briefing from the Commission on what the Commission was doing in these areas [of trade and investment]. The Commission expected business to tell [the Commissioners] what it wanted to do. We hadn't developed a spirit of cooperation. It didn't work too well.⁴⁵

Moreover, the Commission took a "wait and see" stance, pushing industry to "run with the process."⁴⁶ TABD was, after all, touted as a business-to-business dialogue. Several EU business representatives, however, believed that the "Commission wanted to place the burden of success on industry."⁴⁷ Consequently, European industry representatives did most of the preparatory work for the Seville conference themselves.

II. The "Spirit of Seville": Business at the International Negotiating Table

Expectations were growing by the time the Seville meeting arrived on November 10, 1995. Business leaders on both sides of the Atlantic had worked at a frenetic pace to complete the working papers which would serve as the basis of negotiation. The US paper on standards, testing/certification and regulatory issues went through 34 revisions alone.

Pressure was added when the European media labeled the conference a test for overall US-EU relations.⁴⁸ In the past five years, a number of published government and think tank reports had warned that the United States and Europe were "drifting apart" not only on political/military issues -- but on economic matters as well.⁴⁹ The reports noted that intermittent crises -- the hormone beef controversy, the oil seed dispute, etc. -- often characterized US-EU economic relations. The Clinton administration's perceived tilt towards the Asian Pacific region and Big Emerging Markets (BEMs) also strained transatlantic ties. Therefore, once State department and other Commission officials

became aware of the business leaders' work, they viewed TABD as a potential vehicle to strengthen the transatlantic partnership.⁵⁰ In the US, for example, State Department officials began to participate in Muffin Club meetings. Business representatives, in turn, encouraged these officials to include TABD recommendations in the New Transatlantic Agenda (NTA). The NTA was a major US-EU initiative to be unveiled at the US-EU Madrid summit less than one month after the Seville conference.

The fact was, however, that TABD was still an experiment -- and no one was certain how the Seville meeting would turn out. Admittedly, the conference had an inauspicious start. There was considerable rancor over the participants' status which owed much to differences in US and European corporate tradition and culture. Again, the role of national industry associations proved troublesome. Since most association leaders were also heads of companies, US and EU government officials had decided they would invite the association leaders in their capacity as "heads of companies." Thus, Hans-Olaf Henkel, the well-known president of the German industry federation BDI and the retired CEO of IBM Germany, was invited as a board member of Tempelhof airport in Berlin. The head of the Spanish federation was invited as director of the board of a paper company in Spain. The Spanish leader was so insulted, however, that he refused to attend the Seville conference unless he was recognized as chair of the Spanish business federation. In the end, he did not attend.⁵¹

National industry association officials were further insulted when US and EU government officials devised a "participant vs. observer" system at the conference. Red cards were passed out to "participants" -- CEOs who were allowed to speak at the conference working groups. Blue "observer" cards were given to non-CEOs, business association leaders and government officials who were to refrain from speaking. The association leaders' dissatisfaction grew when they observed several U.S. government officials -- "observers" -- dominating some of the working group conversations.⁵²

The "CEO" appellation also posed problems. Certain members of the American delegation were frustrated that many European companies sent Chairmen of the Boards to Seville, and not CEOs per se. This CEO issue revealed differences in the corporate structure of the two sides. In many respects, the CEO is an American phenomenon. The chief executive officer may be Chairman of the Board as well as President of the company. This is generally not the case in Europe where the two functions are often held by two separate people.⁵³ Thus, by sending the board chairman to Seville, European firms were in fact sending a top company official.

The political role of American and European CEOs also differ. In the United States, the CEO has increasingly taken on a "political" role in addition to her or his management role of the company. CEOs meet with local, state and federal officials, and promote *specific* legislation vital to the company. The creation of the Business Roundtable in 1973 -- a group of CEOs the top 200 US companies who focus on political issues -- is indicative of the growing trend.⁵⁴ Choosing a CEO to attend Seville was, therefore, the logical American choice.

As discussed earlier, European company leaders are less interested and involved in trade issues than their American counterparts. For example, while the European Round Table of Industrialists ERT was created in part on the U.S. Business Roundtable model, its members rarely get involved in *specific* pieces of regulatory or trade legislation.

Rather, they prefer to work on larger *strategic* issues.⁵⁵ Nonetheless, the ERT did play a role in promoting industry views during the Uruguay Round. Rather than speaking out publicly on the negotiations, however, ERT members held a behind-the-scenes meeting with Edouard Balladur to impress on the then-French Prime Minister the importance of completing the GATT talks.

In general, the individual often responsible for "external affairs" and specific legislative initiatives in European companies is a Senior Vice President. Several European companies, therefore, opted to send their Senior Vice Presidents to the TABD conference.⁵⁶

While American officials were upset, they could only protest so long. As one European representative noted, it was rather illogical in Seville to tell the board member of a big company that he could not participate in the TABD discussions -- and then allow one of the CEOs from small or medium-size American companies to speak out.⁵⁷ The fact was that the Europeans had managed to assemble an impressive number of well-known companies. The Americans, while bringing CEOs, were not able to entice some of the leading firms to Seville. As one observer noted, "The Americans had the CEOs, but the Europeans had the companies."⁵⁸

In addition to disagreements over "CEO-only" participation, the different cultural approaches to the meeting also posed some interesting situations. The Americans prepared for Seville largely as a logistical exercise. "American efficiency" was evident when each U.S. CEO walked into the conference area with a special briefing booklet bound in a Department of Commerce folder. Muffin Club members had prepared most of the material for the booklet, notably the briefing papers. Commerce department people, however, assembled the booklets and included maps of Seville as well as an "official welcome" from Commerce Secretary Brown. From an American perspective, the briefing booklet was a logistical necessity for CEOs traveling overseas. Of course, it also served as a nice propaganda piece for the Commerce Department. From the European perspective, however, it appeared that the Commerce Department itself had prepared the papers for the conference, and not the American companies as promised.

The European logistical preparation -- according to both American and European accounts -- was less obvious. There were no briefing books, nor did every CEO or board member have a copy of the working papers before the conference. The relative lack of coordination between the Commission and the TABD business representatives likely contributed to the situation. Of course, unlike the Americans, neither the Commission nor the industry people had any strong experience with the TABD's CEO-style format. As one European official noted, the TABD was "a whole different ballgame. It was something we had not done before."⁵⁹ Some attendees were concerned that the Europeans would be at a disadvantage in the negotiating process vis-à-vis the Americans as a result.⁶⁰

Finally, there were differences in the approach taken by the two sides to the working papers. The Americans tended to focus on specific recommendations and details regarding trade and investment policy. The Europeans, on the other hand, had called attention to broader principles. The difference in approach, however, had nothing to do with preparation for the conference. As one European industry representative -- who is highly regarded by his American counterparts -- explained,

As Europeans, we're different from the Americans. [In looking at the US and EU working papers, it is] not that someone was behind, or someone was leading.... Americans love more detail, more tangibles. Europeans look for principles and visions. That won't change -- but doesn't mean that we can't work together.⁶¹

In fact, the many differences in tradition and culture were soon pushed aside by the accomplishments made at Seville. According to most American and European participants, the Seville conference was a great success. Despite the short time frame (less than 48 hours), business participants agreed to over 70 specific recommendations in a final document for US-EU government consideration. Attendees were surprised by the amount of goodwill that existed between the two business sides. Business representatives soon referred to the cooperative working environment as the "spirit of Seville."

Not knowing whether the conference would be successful, government and business leaders had not made any definite plans for "post-Seville." Before the conference ended, however, Trotman of Ford and Strube of BASF decided to jointly continue the TABD process to ensure that their respective governments would follow through on the Seville recommendations. Indeed, the "spirit of Seville" prompted the US-EU business to largely take over the initiative in ensuing months.

US and EU government officials were also pleased with Seville's success. Following the conference, the Commerce Department and Commission wrote extensive comments on the 70-plus recommendations. The following month, approximately 60 percent of the TABD Seville recommendations were incorporated in the New Transatlantic Agenda (NTA) at the December Madrid Summit attended by President Clinton, Commission President Jacques Santer and Spanish Prime Minister and EU Council President Felipe Gonzalez.⁶² Moreover, the NTA formally noted that "the creation of the New TransAtlantic Marketplace will . . . take into consideration the recommendations of the TransAtlantic Business Dialogue."⁶³ The TABD's inclusion in the NTA was further evidence that while initially viewing TABD as a separate Commerce Department undertaking, the State Department and USTR now embraced the business dialogue as a positive vehicle for transatlantic economic and political relations.

The Seville Aftermath: Refining the Agenda

In February 1996, the government and business members of the US-EU TABD Steering Committee met to establish a follow-up program to Seville. Business leaders decided to draw up more precise statements and action plans for the Seville recommendations to preclude government backpedaling on the issues. Based on recommendations from European industry, the business leaders presented the Commission and US government with a new structure of 15 issue groups, thus replacing the original four working groups (see Table 2).⁶⁴

Figure 2
1996 TABD Issue Groups

Transatlantic Committee on Standards Certification and Regulatory Policy (TACS)
WTO Implementation and Expansion Issues
Trade Liberalization
Information Technology Agreement
Government Procurement
Intellectual Property
Tax Issues
Export Controls
Customs Issues
Transportation
International Business Practices
Small and Medium Sized Enterprises
Investment and R&D
Product Liability
Competition Policy

One of the rationales for the new organizational structure was to make the process more manageable. At the same time, however, EU business participants recognized that the new "sectoral approach" would place pressure on DG I to move from its "combined approach" to external trade, and to a sectoral one. As one European business association official noted, "the only progress that can be made is in the sectors. The sectoral approach is best but the Commission doesn't like it. [We decided to] go for it with our American counterparts -- and then push the member states."⁶⁵ Indeed, in later quadrilateral meetings, EU business officials were unabashed in promoting sectoral position such as "zero-tariff" proposals in the information technology section to sometimes reluctant DG I officials.

Commission officials, for their part, were more responsive to the TABD process. For example, the Commission devised a points-of-contact list within DG I to allow for better coordination between business and Commission officials. Slowly, a more cooperative relationship developed between European industry and DG I.

The new organizational structure also created a more positive relationship between the companies and the business associations. A number of UNICE policy committee members, for example, chaired the TABD issue groups. While the companies still led the TABD initiative, the associations were now more integrated into the overall process.⁶⁶

With the structure in place, US and EU business representatives soon pursued their own transatlantic shuttle diplomacy on behalf of the CEOs -- very similar to that of their government counterparts. Meetings were held in Europe, in the US, and via transatlantic conference calls.⁶⁷ On May 23, 1996, the TABD issued its Progress Report -- a 72-page document with specific policy recommendations. The document included suggestions for "language to be included" in the June 1996 transatlantic government summit. In addition,

a "message to government on business expectations" was highlighted in virtually every subsection of the report.

The TABD Progress Report addressed several key issues including:

1. the Information Technology Agreement (ITA). The business groups identified which countries should be recruited for ITA membership by the time of the December 1996 WTO Singapore Ministerial Meeting. They also asked for the elimination of tariffs on specific products.
2. Automotive Regulatory Harmonization. Following Seville, a Transatlantic Automotive Industry Conference on International Regulatory Harmonization was convened in April 1996. Industry negotiators not only identified major obstacles to trade, but were able to delineate how governments could proceed to address the obstacles.
3. Mutual Recognition Agreements (MRAs). Business negotiators recognized that in most cases, it would be too difficult to harmonize the various complex regulations in both the US and EU. Therefore, they espoused a key concept of "mutual recognition" and the slogan, "approved once, accepted everywhere" -- as the cornerstone of their approach. A product tested and approved in the United States, for example, would not be required to undergo further testing/certification by an EU regulatory agency -- and vice versa. While recognizing the intransigence of US and EU regulatory bodies (notably the U.S. Food and Drug Administration), business leaders have strongly expressed their desire to move ahead with MRAs in a number of key areas.

The May 1996 report also announced the business leaders' decision to convene another conference in November. This time, CEOs and government officials -- including USTR and Commission trade negotiators -- would sit down to "assess the progress" and encourage action on TABD recommendations.

US and EU officials publicly applauded the Progress Report and cited the TABD process as one of the most positive developments in the US-EU relationship. At a May 23, 1996 press conference in Brussels, the new Undersecretary of Commerce Stuart E. Eizenstat was effusive in his praise of TABD. Eizenstat noted that

... no one would have quite imagined the degree to which this [the TABD] has influenced government decision-making on both sides of the Atlantic. It has become deeply enmeshed and embedded into the U.S. government decisionmaking process on a whole range of regulatory, trade, commercial issues. It is regularly cited, often by one agency against the other It is regularly cited and is part of the ongoing discussions between the EU and the U.S..... So the TABD has had a truly remarkable impact in our country, in the Transatlantic dialogue, and multilaterally".⁷⁰

IV. Confidence Building and the Domestic Game

In one year, the TABD had moved from a concept to a quadrilateral organization with a defined negotiating agenda. Indeed, TABD's quadrilateral nature set it apart from traditional government-to-government negotiations -- as well as the traditional two-level game model in the political science literature.

While accepting government praise for the May 1996 Progress Report, US-EU industry groups also expected action on the TABD recommendations. Given the frenetic work and considerable resources expended on TABD, the transatlantic business community anticipated concrete results at the June 1996 government summit between US and EU leaders. The June summit, however, disappointed the business community. While President Clinton formally recognized Jürgen Schrempp of Daimler-Benz and John Luke of Westvaco at the summit press conference for their active TABD participation, the US-EU governments' disagreement over the Helms-Burton legislation on Cuban investments dominated the summit.

The June summit prompted TABD leaders to call on government leaders to achieve concrete progress by the November Chicago TABD meeting. Industry officials warned that they might terminate the TABD process -- now the cornerstone of the New TransAtlantic Marketplace -- if government action was not forthcoming. In private meetings and in public fora, US and EU officials stated their willingness to address the TABD recommendations.

By demonstrating how domestic events could hijack international agendas, the failed summit also prompted the business community to reevaluate its TABD strategy. Now that the international trade agenda was set, TABD business leaders decided to redirect their focus to the domestic environment. They realized that domestic groups would also mobilize to influence the government officials' negotiating positions on transatlantic matters. By late summer, TABD business officials determined that a successful TABD process would involve two factors: (1) time to build confidence among TABD participants to move ahead with the proposed recommendations, and (2) political buy-in from domestic groups to support the TABD agenda.

Confidence Building

Business leaders -- who often measure time by quarterly profit reports -- were frustrated by the governments' slow response. As one Commission official noted,

The government side [did not sell] the real necessity of time to the business side -- not that we don't share their enthusiasm. It is simply that given [the potential problems], in order for whole process [to work], we need to build little by little and to get it right this first time.

Slowly, TABD business participants increasingly recognized that some of the Seville and May Progress Report recommendations would take months if not years to implement. Time was necessary for government negotiators and domestic groups to

grapple with some of the political initiatives. After all, transatlantic business partners required the Seville conference and almost a year of negotiations to develop a comfortable working relationship. A large part of the relationship was centered on a unique learning process. American business leaders -- who knew little of the workings of the European Union -- began to better understand the complicated multi-level structure in Europe. They also learned more about the specific obstacles facing European companies in the US market. As one participant noted, "From a European perspective, the dialogue has worked very well to educate American industry to reality."⁷¹ In return, the Europeans discovered some of the impediments to trade facing the American companies. Equally important, the two sides also learned how to work together in the dialogue. Americans determined that the European representatives were equally adept at "technical details" as they were with "overarching principles" articulated at the Seville conference. Europeans, on the other hand, learned to recognize that the Americans' "direct, blunt" style was not designed to "shove their views" onto the Europeans. Rather, it was simply the "direct, blunt" style of the Americans!

As one business representative noted, "TABD is a psychological process as much as anything."⁷² Government leaders in particular needed time to sort out the Mutual Recognition Agreements at the domestic level. In the United States, for example, Congress needed to pass new laws to change domestic regulatory agencies' mandates. The agencies needed to develop new approaches and "mindsets" to MRA requirements while being responsive to competing interest groups such as environmental coalitions. In Europe, the confidence-building had begun several years earlier when "mutual recognition" was enshrined as a key principle underlying the Single Market Program.

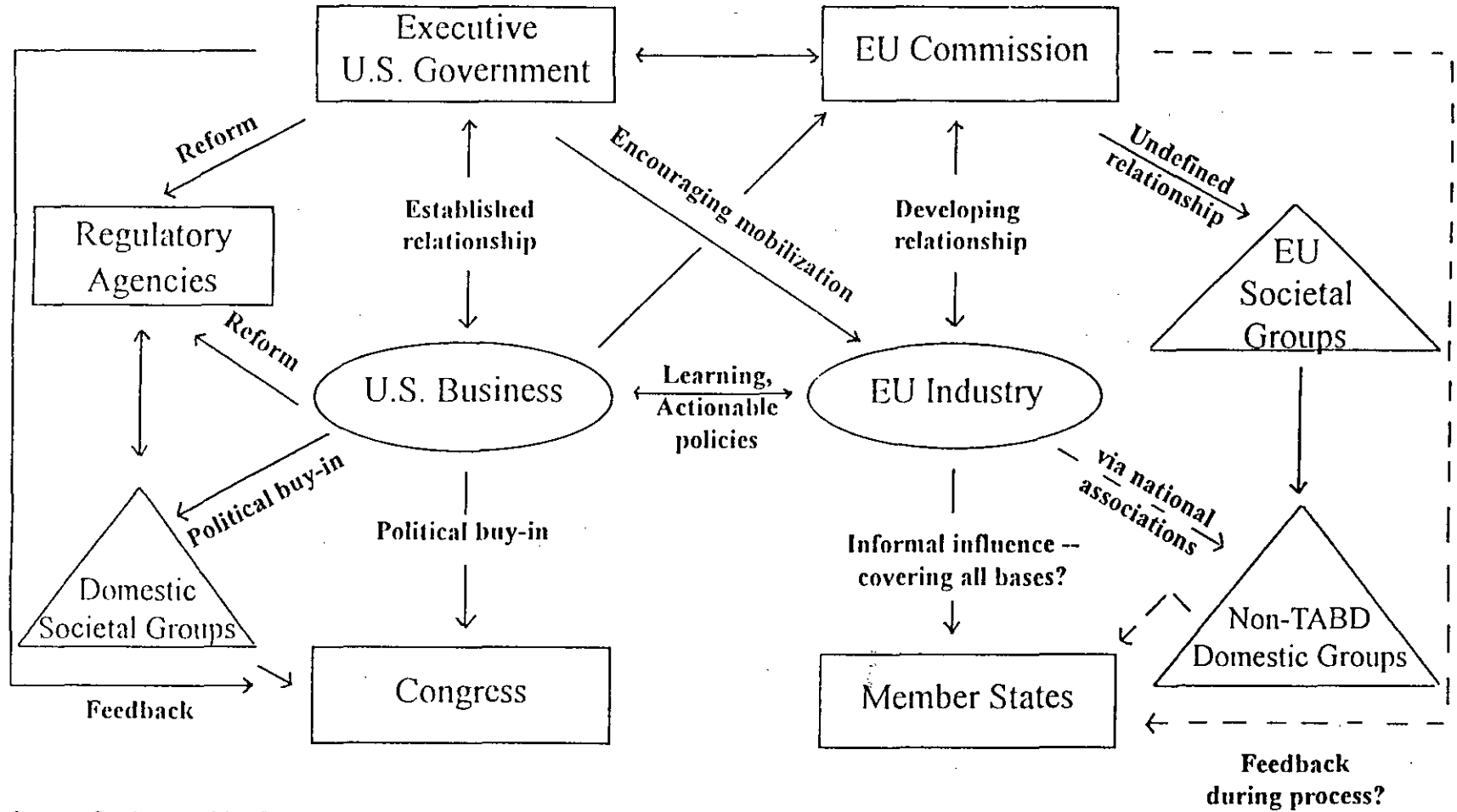
Of course, at the international level, US and EU government officials also needed to establish a stronger working foundation. As one Commission official noted, the MRAs must ultimately pass the "Congressman's daughter test": If a Congressman's daughter is driving a European car certified by a European certification body, and the daughter crashes the car and dies, the TABD players cannot have the Congressman challenge the entire mutual recognition process. The same official noted,

We are working very hard to explain how regulations work on both sides and to find a common path for a common regulatory system or a mutual regulatory system..... We need confidence-building measures of tremendous proportion.....⁷³

The American Domestic Game

As figure 3 indicates, three key groups formed the domestic targets on the American side: societal organizations such as consumer, labor and environment groups; the US Congress; and regulatory agencies such as the FDA. US TABD business leaders wanted to secure political support for the Seville recommendations in a proactive manner. TABD's visibility had already prompted labor groups to respond with their own initiative. Earlier in the year, for example, EU Commissioner Paidre Flynn and US Secretary of Labor Reich agreed to create a Transatlantic Labor Dialogue.

Figure 3
The TABD Two-level Game



Source: Cowles, Working Paper
Design: Marlene Niefeld

The first major effort to address "the domestic game" occurred on June 27, 1996. The Council on Foreign Relations sponsored a TABD meeting in New York in which a number of environmental and consumer groups were invited.⁷² Business representatives reported on the May 1996 TABD Progress Report and invited the other groups to provide their comments. These groups were particularly interested in determining whether mutual recognition efforts would result in "lowest common denominator legislation."

In addition to labor, consumer and environmental groups, TABD participants were cognizant that not all firms were in agreement with the Seville recommendations. Some of these "non-TABD firms" have argued that the transatlantic initiative is not representative of all industry. Interestingly, these companies have developed their own transatlantic strategies by lobbying government officials in both Brussels and Washington. TABD representatives have hotly contested the accusations of non-TABD participants by pointing out the process has been an open and transparent one -- any firm can become involved in a TABD working group. US government officials tend to support this argument.

TABD business leaders also met with members of the US House and Senate to inform them of the TABD recommendations and activities. Recognizing that any major changes to US regulatory policy would require Congressional action, TABD industry officials made contacts with the House Ways and Means and the Senate Finance Committees. Hearings on TABD will likely be held in fall 1996.

Perhaps the most difficult domestic groups with which business leaders needed to contend were the regulatory agencies. Indeed, European TABD officials viewed the US regulatory agencies as the biggest stumbling blocs in the TABD process. In general, U.S. regulatory agencies were reluctant to embrace the proposed Mutual Recognition Agreements which usurp their authority. Moreover, the agencies have argued that they are legally required to take into consideration all societal interests. In July 1996, the National Highway Traffic Safety Administration and the Environmental Protection Agency held hearings on the recommendations of the Transatlantic Automotive Industry Conference. The hearings allowed other societal groups to provide their input into the transatlantic proceedings. Whether or not the agencies will actively recruit a constituency of societal groups against the MRAs remains to be seen.

The European Situation

The domestic targets are different and indeed, less visible on the European side, as indicated in figure 3. In general, domestic societal groups are less unaware of activities occurring at the European level. Much of their information comes from EU level societal groups which have not followed the TABD closely. Perhaps for this reason, EU business groups are only beginning to focus on the domestic game.

By far the most important "domestic group" in the European TABD equation is the Member States. As mentioned above, while the Commission can negotiate with the US government over TABD recommendations, the negotiating mandate comes from the Member States. As a Commission official points out,

If ... the business community thinks that "x" should be the case and there is a negotiating mandate that precludes "x", certainly there is leverage vis-à-vis member states. But Member States guard their competence very jealously. If there is a national domestic concern, the fact that TABD challenges it will not [change the mandate] one iota.

At the same time, business leaders on both sides of the Atlantic are increasingly aware that several of the TABD recommendations involve mixed competencies. In other words, some recommendations will require action that can only be carried out by the Member States, and not the Commission. Most business representatives agree that Member States have not been kept adequately informed of the TABD process.

Moreover, not every Member State is represented in the TABD by a European company. To date, for example, there are no Swedish or Austrian firms involved in the dialogue. National industry associations thus remain important partners in TABD. As one association official noted,

In the end, TABD decisions are taken by member states. This is one of the reasons why we pleaded for member federations because if you do not have strong support at the national level, the process could have backfired. It is important that you play both the national level and the European level.⁷⁵

National industry associations alone, however, may not be enough. European business leaders are careful not to represent TABD as an "industrial front" -- especially in countries like Germany where "social dialogues" among industry, labor and government leaders have long been the norm. Some European governments -- notably the German and the French -- are also wary that the TABD detracts from the multilateral mechanisms of the GATT and World Trade Organization.⁷⁶

The difficult domestic game reminds European business leaders once again of the "newness" of the TABD process, and the lessons to be learned in the future.

V. Evaluating the Success and Future of TABD

Given that the TABD agenda has yet to be realized, it is difficult to provide a definitive assessment of the quadrilateral forum. Those business and government officials involved in TABD, however, believe the *process* of creating this forum has been a very positive one. As one European business representative pointed out,

TABD is a flexible, dynamic, pragmatic process. [The people involved were not necessarily] the experts in the detail but they had a vision, a way to find solutions. TABD has found solutions to problems that seemingly were intractable.⁷⁷

At the same time, business leaders are frustrated with the TABD's pace. Even companies that *have* been involved in international trade negotiations were surprised at the slow

TABD activity. During the Uruguay Round, for example, chemical firms and their associations from the US, EU and Japan were able to devise a united platform to government negotiators. There was little margin of maneuver for government negotiators in the chemical sector -- and the chemical industry's position was largely achieved. The TABD process, however, is more complicated. There are many more sectors involved. There are different issues such as Mutual Recognition Agreements at stake. And, of course, there is the domestic game. As one participant point out,

TABD was not as easy as I thought it would be. I thought it would be more easy to mobilize. We're in an awareness stage... Ultimately we [the business community] realize that is a quadrilateral negotiation -- so everyone has a role. Are all four moving at same time? Are common objectives moving along? Are government institutions responding? In part, yes, and in part, no.⁷⁶

Government leaders, for their part, continue to strongly support the TABD. Indeed, their support is based on political as well as economic grounds. Economically, the TABD has provided government leaders with clear negotiating direction and has improved the prospects for trade liberalization. Politically, the TABD has emerged as an important component of larger transatlantic relations. As mentioned above, until TABD, the "norm" of US-EU trade management was not an ongoing dialogue, but a series of global spats that often soured other aspects of the transatlantic partnership. The TABD, however, has improved the situation by providing a means by which transatlantic economic issues can be discussed on a regular basis. Government leaders, therefore, are very reluctant to dissolve the quadrilateral forum.

Government officials have called on the transatlantic business participants to continue to support the TABD for at least one more year. Business leaders have expressed a willingness to continue with TABD as long as governments take positive steps toward addressing key TABD recommendations. Business is no longer demanding immediate results -- but it is demanding that "tangible deliverables" be provided between now and the November 1996 TABD. Government officials have agreed to send "strong political signals" to the business community over the next few months to indicate that progress will be made.

In the meantime, business leaders have begun to consider ways to develop TABD into a longer-term process. In general, business leaders are reluctant to create a formal organization with a permanent secretariat.⁷⁷ Participants maintain that the TABD's loose structure allowed for greater dynamism and flexibility. Discussions are underway, however, to determine whether Trotman and Strube will continue to lead (and help finance) the TABD -- or whether the baton will be passed on to other CEOs.

For the moment, attention is focused on the November conference.⁷⁸ As mentioned above, USTR and Commission trade negotiators will participate in the Chicago meeting. Some business representatives also view the conference as an opportunity for business and government leaders to sit down and devise "creative solutions" to the domestic situation.⁷⁹ In an effort to develop stronger domestic support in Europe, for example, Member State ambassadors to the US will be invited to attend.

Interestingly, despite the lack of “tangible deliverables” to date, certain business leaders and Washington think tank officials have championed the TABD as a model for future international trade negotiations. Officials close to the Asian Pacific Economic Council (APEC), for example, have suggested that the TABD model be used in US-APEC trade and investment matters. The ease to which the TABD format can be transposed to other parts of the world is debatable, however. First, as highlighted above, TABD is not merely a forum to discuss obstacles to trade. It is psychological process in which participants must recognize the culture and legal traditions of the other side. Given the US-EU historic ties, problems that arose in TABD were difficult, though not insurmountable. Given the vast differences between Asian and American cultures, however, one would expect more intractable problems. Second, TABD requires political will from *both* government and industry participants. Whether this political will can be found is, of course, critical.

For now, the TABD remains an interesting case study of a novel quadrilateral negotiating forum in which government and business leaders work together at both the international and domestic levels. It also provides a fascinating study of changing business-government relations. TABD’s current and future success, however, will ultimately be found in the negotiation’s final outcome.

ENDNOTES

¹ Norman Levine, "A trans-Atlantic bargain," *Journal of Commerce*, May 10, p. 6A.

² Robert Putnam, "Diplomacy and Domestic Politics: the Logic of Two-Level Games," *International Organization* 42 (Summer 1988), pp. 427-60.

³ The two-level game was elaborated upon in Peter Evans, Harold K. Jacobson and Robert Putnam, eds., *Double-edged Diplomacy* (Berkeley: University of California Press, 1993).

⁴ Alberta Sbragia, "Transatlantic Relations: An Evolving Mosaic, prepared for presentation to the international conference on Policy-Making & Decision-Making in Transatlantic Relations, Université Libre de Bruxelles, 3-4 May 1996, p. 7.

⁵ Ibid.

⁶ Interview with US business association official, Brussels, June 24, 1995.

⁷ Brown's initial proposal called for meetings of the American Chambers of Commerce in Europe. At the recommendation of EU Mission officials in Brussels, the Commerce Secretary changed his speech at the last minute to call for a dialogue among American and European firms. Interview with EU Mission official, Brussels, June 24, 1996.

⁸ Interview with Commerce Department official, Washington, DC, June 10, 1996.

⁹ Interview with USTR official, Washington, DC, May 29, 1996. Several TABD participants believe that this rationale -- to use TABD as "a means to force the Commission's hand on liberalization issues" emerged only after the fact. The reason is that there was some European support -- including Commission support -- for TABD from the start given the economic situation in Europe. Some members of the Commission, notably Leon Brittan, believed that "a major order of liberalization" was due and that by allowing for "outside pressure," i.e. the US-EU business community, the Commission would be "allowed" to move forward. As one US business representative noted, "If liberalization is part of the Commission's grand scheme, the TABD makes it more palatable." Interview with US business association official, Washington, DC, June 3, 1996. This view is echoed by a Commerce Department official in an interview, Washington, DC, June 10, 1996.

¹⁰ Interview with Commerce Department official, Washington, DC, June 10, 1996.

¹¹ The EU Committee of AmCham is an influential lobbying organization in Brussels made up of major American companies. See Maria Green Cowles, "The EU Committee of AmCham: The Powerful Voice of American Firms in Brussels," *Journal of European Public Policy*, Vol. 3, No. 3, 1996.

¹² The Directorate Generals (DGs) are similar to executive branch agencies in the United States. Each DG is run by a Director General who, in turn, reports to her/his respective EU Commissioner. The Commissioners usually have more than one DG in their portfolio.

¹³ Interview with Commission official, Brussels, June 26, 1996.

¹⁴ Interview with Commerce Department official, Washington, DC, June 10, 1996. The idea behind TAFTA was to create a free trade area similar to the US-Canadian free trade area. Many officials in both the US and the EU were unwilling to pursue a TAFTA shortly after the drawn-out Uruguay Round negotiations. In addition, French government officials were against further liberalization efforts.

¹⁵ The letter to U.S. firms was sent out on Commerce Department stationery with the three signatures. The letter to European companies was sent out on Commission stationery. Not every European government was pleased with the arrangement. The French government, for example, questioned whether it was appropriate for a US official to place his signature on Commission letterhead.

¹⁶ In the US, 400 letters were sent out to U.S. associations and companies, of which approximately 20 percent responded. U.S. Commerce Department, "Transatlantic Business Dialogue: Initial Tabulation of U.S. Results," June 1995. The European Commission sent letters to the top 1000 European companies based on sales, 170 medium-sized companies, and 208 business associations at the European level. As of 30 June 1995, the Commission received 230 replies of which more than one-third came from business associations. European Commission, "Transatlantic business Dialogue (TABD) Analysis of the EU Business Responses, undated document.

¹⁷ Indeed, several USTR officials found it "odd that Commerce was running TABD because of the USTR mandate" to oversee trade negotiations. While initially strained, the relationship between USTR and Commerce on TABD matters gradually improved, notably after the November 1995 TABD conference in Seville. Interview with USTR official, Washington, DC, May 29, 1996.

¹⁸ It is interesting to note that the mobilization of both American and European business groups was not spontaneous, but largely prompted by government officials. Both the US and EU governments played the role of "outside entrepreneur," a role well-documented in the collective action literature. See Paul A. Sabatier, "Interest Group Membership and Organization: Multiple Theories," in Mark P. Petracca, ed., *The Politics of Interests: Interest Groups Transformed*, (Boulder, CO: Westview Press, 1992), pp. 99-129.

¹⁹ Interview with Commerce Department official, Washington, DC, June 10, 1996.

²⁰ Ibid.

²¹ Interview with U.S. business association official, Washington, DC, June 3, 1996.

²² Interestingly, when Congressional leaders first attacked the Commerce Department, NAM came out in support of the agency. The US Chamber, however, chose to remain neutral. TABD insiders suggest that the NAM's presence on the U.S. TABD steering committee was a result of the association's support.

²³ IPAC and the ISACs are jointly managed by the Departments of Commerce, Agriculture, Labor and the Environmental Protection Agency. The committees provide advice on industry matters.

²⁴ While the meeting was called on short notice, European officials were not pleased when the US side arrived with a handful of government officials and only two industry representatives -- recruited from the Brussels offices of American companies and lobby groups.

²⁵ Dana Mead, CEO Tenneco and incoming Chairman of NAM chaired Working Group (WG) 1 on Standards, Testing and Certification. Both Tenneco and NAM officials participated in the Muffin Meeting. John A. Luke, Jr., CEO Westvaco chaired WG 2 on Trade Liberalization; William Hudson, CEO AMP chaired WG 3 on Investment. Jack Murphy, chairman and CEO Dress Industries chaired WG 4 on Third Country Relations. Representatives or "sherpas" -- not the CEOs -- did the TABD preparatory work on both sides of the Atlantic.

²⁶ Interview with US business representative, Washington, DC, May 31, 1996.

²⁷ Interview with Commerce Department official, Washington, DC, June 10, 1996.

²⁸ For an overview of growing business-government ties, see David Vogel, *Fluctuating Fortunes: The Political Power of Business in America* (New York: Basic Books, 1989).

²⁹ See, for example, Maria Green Cowles, "The Politics of Big Business in Europe," Ph.D. diss., The American University, 1994. See also Cowles, "German Big Business: Learning to Play the European Game", *German Politics and Society*, Vol. 14, No. 3, Fall 1996.

³⁰ See Maria Green Cowles, "Setting the Agenda for a New Europe: The ERT and EC 1992," *Journal of Common Market Studies*, 33, 4 (December 1995): 501-526. See also Wayne Sandholtz and John Zysman, "1992: Recasting the European Bargain," *World Politics* 42 (October 1989): 95-128.

³¹ As one industry association points out, "CEOs hardly know GATT is going on.... they leave it to the sectoral and institutional groups" Interview with EU business association official, Brussels, July 1, 1996.

³² Commission officials told UNICE officials that if the associations were invited, the Americans would refuse to come to the meeting. As one association official remarked, "they [the Commission] were had by the Americans." Interview with EU business association official, Brussels, July 1, 1996.

³³ Interviews with EU business association officials, Brussels, July 1, 1996.

³⁴ Interview with Commission official, Brussels, June 26, 1996.

³⁵ See Theodore Lowi, "American Business, Public Policy, Case Studies and Political Theory," *World Politics* 16 (July 1964): 677-715.

³⁶ Intergovernmentalist interpretations tend to overemphasize the role of Member States in regulatory matters. As one Coreper member explained, in practice, EU regulatory issues are largely developed and set before the Coreper or Council ever votes on the issues. If Member States do disagree with regulatory issues at the voting stage, it is largely on the modalities on the legislation, and not the legislation itself. Interview with member of the Coreper, Brussels, July 2, 1996.

³⁷ The Commission's limited trade negotiating powers frustrate American trade negotiators. Because the Commission negotiates on behalf of the Member States -- and industry per se -- American officials maintain that the voice of European business is muted. This view was reinforced during the Uruguay Round when European farmers appeared to have a far greater say in the negotiation process than did European industry. In recent years, American ambassadors to the EU have met with European industry groups to encourage greater involvement in the Uruguay round. The American officials' promotion of TABD as a means to enhance the role of large European firms in the international trade negotiations was a logical next step. From the American perspective, once these companies developed a coordinated position at the European level, they could present a more united front to the Member States.

³⁸ On the contrary, European governments and businesses have tended to have a closer working relationship on external trade promotion than the US.

³⁹ European business leaders, for example, have not been willing to date to launch a major public campaign for the reform of the Common Agricultural Policy -- a stance puzzling to several American companies. As one European business leader explains, "You don't confront the enemy head on unless there is something very important to lose or risk. You talk more quietly to governments." Interview with EU business representative, Brussels, June 27, 1996.

⁴⁰ Ibid.

⁴¹ One European association member argued that ISAC members are "nominees" and are thus not true "representatives" of U.S. business. Interview with EU business association official, Brussels, July 3, 1996.

⁴² Interview with EU business representative, Brussels, July 3, 1996.

⁴³ In recent years Clinton administration added environmental and labor advisory committees.

⁴⁴ Interview with Commission official, Brussels, June 26, 1996. Some business believe that DG III has not articulated business interests as clearly to DG I as possible. Interview with EU business representative, Brussels, July 3, 1996.

⁴⁵ Interview with EU business representative, Brussels, July 3, 1996.

⁴⁶ Interview with EU business representative, Brussels, June 25, 1996.

⁴⁷ Ibid.

⁴⁸ See Guy de Jonquières and Lionel Barber, "Business meets to revive US-EU ties," *Financial Times*, November 10, 1995.

⁴⁹ See, for example, European Commission, "Europe and the US: the way forward"; Mark M. Nelson and G. John Ikenberry, *Atlantic Frontiers: A New Agenda for U.S.-EC Relations* (Washington, DC: Carnegie Endowment for International Peace, 1993); Wolfgang H. Reinicke, *Deepening the Atlantic: Toward a New Transatlantic Marketplace* (Gütersloh, Germany: Bertelsmann Foundation Publishers, 1996); The Brookings Institution and the Stiftung Wissenschaft und Politik Ebenhausen, "Perspectives on Transatlantic Relations: A Study Report Initiated by the Forward Studies Unit of the European Commission (November 1995).

⁵⁰ Of course, when the 3B letter was first sent out, U.S. business groups were concerned that TABD would be used precisely for these "political purposes."

⁵¹ Interview with EU business association official, Brussels, July 1, 1996.

⁵² Interview with another EU business association official, Brussels, July 1, 1996.

⁵³ For example, several members of the European Round Table of Industrialists, one of the most powerful industrial groups in Brussels, are Chairmen of the Board and not CEOs per se.

⁵⁴ See Vogel.

⁵⁵ See Maria Green Cowles, "The European Round Table of Industrialists: the Strategic Player in EU Affairs," in Justin Greenwood, ed., *European Business Alliances*, (Herts, UK: Prentice-Hall 1995): 225-236.

⁵⁶ EU business representative, email correspondence with the author, August 8, 1996.

⁵⁷ Interview with EU business association official, Brussels, July 3, 1996.

⁵⁸ Interview with EU business representative, Brussels, June 25, 1996.

⁵⁹ Interview with EU think tank official, Brussels, July 3, 1996.

⁶⁰ The night before the Seville meeting, the US and EU issue managers decided on a compromise draft paper which was then presented to people for discussion. The procedure was expeditious in that it also precluded contentious issues from reaching the floor -- a point with which not every participant agreed. Interview with EU business association official, Brussels, July 3, 1996.

⁶¹ Interview with EU business representative, Brussels, June 25, 1996.

⁶² Stuart Eizenstat, Undersecretary of Commerce, "Statement at the TABD Press Briefing." Brussels, May 23, 1996.

⁶³ The TABD is one component in building the New TransAtlantic Marketplace. The USTR and the Commission have agreed to undertake a joint study to identify other obstacles to trade. In certain respects, the joint study was designed to "buy time" during the US governmental elections and the EU intergovernmental conference. Most observers view TABD as the dynamic element behind the New TransAtlantic Marketplace.

⁶⁴ The Transatlantic Advisory Committee on Standards, Certification and Regulatory Policy (TACS), arguably the most politically important group, was further divided into 11 sectoral groups -- each with a US and EU business working chair. Two key individuals were brought in to lead the TACS: Ricardo Perissich, former director-general DG III in the Delors Commission who works with the Italian tire company, Pirelli; and Paula Stern, a former Commissioner and Chair of the US International Trade Commission.

⁶⁵ Interview with EU business association official, Brussels, July 3, 1996.

⁶⁶ As one European industry association official noted, "It is important to have both CEOs and organizations. You need the CEOs for the visibility but the work is done by sherpas and business organizations behind [the scenes]. The originality of the TABD process is that for the first time business and organizations are working together. All four sides speak together. That is the interest, the strength of the initiatives." Interview with EU business association official, Brussels, July 1, 1996.

⁶⁷ TABD coordination offices -- set up at the Ford office in Washington, DC and at the German Chemical Industry (of which BASF is a member) office in Brussels -- disseminated information and encouraged greater business participation. A TABD newsletter was launched for Seville participants and other interested parties.

⁶⁸ See Eizenstat. Frank Vargo of the Commerce Department was equally supportive in his statements to American business representatives at the Washington, DC, TABD Outreach meeting in June 1996. According to Vargo, the TABD process had been moved to the "dead center" of US government discussions. He cited Joan Spero, Undersecretary of State as saying that TABD "is the most positive part of the US-EU relationship. Everything that comes out of TABD must be looked at first." Presentation by Commerce Department official at TABD Outreach meeting, Washington, DC, June 6, 1996.

⁶⁹ Interview with EU business representative, Brussels, June 27, 1996.

⁷⁰ Interview with EU business association representative, Brussels, July 3, 1996.

⁷¹ Interview with Commission official, Brussels, June 26, 1996.

⁷² Some domestic groups have charged that the TABD was in violation of US Advisory Groups legislation.

⁷³ Interview with EU business association official, Brussels, July 1, 1996.

⁷⁴ Interview with EU business representative, Brussels, July 3, 1996.

⁷⁵ Interview with EU business representative, Brussels, June 25, 1996. One Commission official noted that one shortcoming of TABD is that it focused only on those issues on which business could agree.

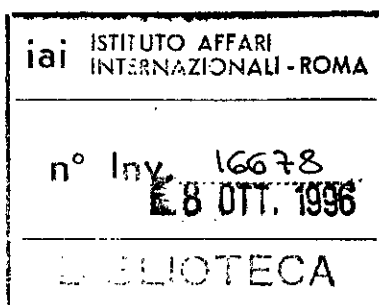
Interview with Commission official, Brussels, June 26, 1996.

⁷⁶ Interview with EU business representative, Brussels, June 26, 1996.

⁷⁷ Some European representatives, however, find merit in a permanent structure.

⁷⁸ Business representatives are confident that TABD will go forward whatever the results of the November 1996 US presidential election.

⁷⁹ Interview with business representative, Washington, DC, July 19, 1996.



Third ECSA World Conference 1996-Groupe de travail n° 8-rapport de M.F Labouz

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The European Union in a changing world

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Groupe de Travail n° 8
The EU and North America / L'UE et l'Amérique du Nord

A propos des lois américaines
Helms-Burton et d'Amato-Kennedy

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Version provisoire

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I Des enjeux américains

L'unilatéralisme des Etats-Unis tant décrié des européens reflète des enjeux à vrai dire récurrents de la politique américaine.

L'enjeu anti-castriste en période électorale

L'aggravation des sanctions financières américaines dans la loi Helms-Burton du 12 mars 1996 (*Cuban Liberty and Democratic Solidarity (Libertad) Act* (texte in I.L.M mars 1996 p 359 et en français in Documents d'Actualité Internationale 1996 n° 17 p 674-689), s'inscrit dans le contexte des relations politiques entre les Etats-Unis et Cuba ,marquées par l'application depuis 1960 par les Etats-Unis d'un embargo unilatéral contre Cuba, après la prise du pouvoir par Fidel Castro à la Havane en 1959 .L'embargo américain, plusieurs fois renforcé sous les administrations Kennedy, Reagan et Bush a été trois fois condamné par l'Assemblée générale de l'ONU (en 1993, 1994 et 1995) comme par diverses organisations gouvernementales et non gouvernementales, aussi bien dans son principe et dans sa poursuite anachronique que dans ses effets dévastateurs pour les populations civiles, soumises à des restrictions drastiques de denrées de première nécessité et de médicaments depuis plus d'un quart de siècle.

Le 24 février 1996 la chasse cubaine détruisait en vol deux appareils civils américains affrétés par une organisation anti-castriste (Los Hermanos del Rescate/ Brothers to the Rescue). Selon le Congrès américain, ces destructions seraient survenues dans l'espace aérien international, probablement entre 18 et 30 miles de la côte cubaine et au delà de la zone d'exclusion. Le Conseil de sécurité de l'ONU a chargé l'OACI d'enquêter sur les circonstances de cet incident qu'il condamne dans une simple Déclaration du 27 février. La Déclaration se fonde hâtivement sur la violation de l'article 3 bis de la Convention de Chicago, amendée à la suite de l'affaire du Boïng de la Korean Airlines, abattu en 1983 par la chasse soviétique. Or comme le soutient Cuba dans sa lettre au Secrétaire Général, cet amendement n'est pas encore entré en vigueur (**Documents d'Actualité Internationale 1996 n° 9 p 335-336**). Le Congrès a demandé sans conviction jusqu'ici, que les Etats-Unis saisissent de cet incident aérien meurtrier la Cour Internationale de Justice.

L'enjeu cubain date donc de la guerre froide mais il paraît aujourd'hui archaïque depuis la dissolution de l'URSS, la cessation de l'aide communiste à Cuba et surtout la relative libéralisation du régime castriste lui-même. La chaîne de télévision CBS a organisé le 9 septembre 1996 sur son canal en espagnol un débat historique entre Ricardo Alarcon, président de l'assemblée cubaine et Jorge Mas Canosa, chef de la Fondation cubano-américaine de Miami (**Le Devoir de Montréal du 8 septembre 1996**).

Le gouvernement cubain s'est engagé depuis le début des années quatre vingt dix avec plus ou moins de succès dans d'importantes réformes, d'abord constitutionnelles puis économiques en faveur de l'investissement direct étranger (lire différentes contributions d'observateurs ou d'acteurs : O.Garcia Fernandez, Cuba : Road corrections, in L.Perret (dir.), *Vers une Amérique sans frontières ? Towards a Borderless America ?*, Montréal, Wilson/Lafleur (La collection bleue), 1996 p 201-213 ; lire aussi Y.Huerta Casado, *The iberoamerican summits*, ibidem p 299-328 (sp 324-326); B.H.Barlow, *A borderless hemisphere : responses from the left*, id. p 367-382 (sp 380-381) et M.Majoli, *les effets sociaux du développement de la science et de la technologie : le cas cubain*, p 451-466).

La situation des droits de l'Homme y demeure préoccupante. A sa cinquantième session, l'Assemblée Générale de l'ONU tout en se félicitant de la libération de plusieurs prisonniers politiques, a déploré que la mission du Rapporteur spécial de la Commission des droits de l'homme soit toujours entravée et que persistent des violations des droits civils et politiques (**Documents d'Actualité Internationale 1996 n° 9 p 341**). L'on sait que le Président Clinton pressé par le Congrès presse à son tour ses alliés d'exiger la libéralisation politique du régime cubain préalablement à l'établissement ou à la poursuite de relations commerciales. Les Etats-Unis se félicitent à cet égard de la révision de la politique espagnole d'aide à Cuba (**AFP 10/9/96**).

L'enjeu cubain est aussi et surtout pour l'administration Clinton un enjeu de politique intérieure avant l'élection présidentielle de novembre 1996 , car tant le candidat républicain ,le sénateur Robert Dole ,que le président candidat Bill Clinton convoitent les suffrages des membres de la puissante communauté américaine d'origine cubaine , établie dans les Etats de Floride et du New Jersey dont le défenseur n'est autre que l'un des promoteurs de la loi, le sénateur républicain Jesse Helms (**International Herald Tribune** du 17 juillet 1996 qui désigne the " pivotal states ").

L'enjeu anti-terroriste

La loi d'Amato-Kennedy signée le 5 Aout 1996 se veut pour sa part une réponse américaine au terrorisme international qui frappe particulièrement des vies , des biens et intérêts américains et dont les commanditaires seraient selon les Etats-Unis , l'Iran et la Lybie. Mais cet unilatéralisme des Etats-Unis qui n'est certes ni nouveau ni soudain, comme le prétendent de bonne guerre les européens, contraste assurément avec les efforts très médiatiques de concertation engagés au sommet du G 7 puis lors de la réunion de Paris où fut adoptée une série de mesures de sécurité et de coopération policière et judiciaire (**cf la déclaration du ministre français délégué aux affaires européennes, Michel Barnier le 7 aout 1996**).

La politique juridique extérieure des Etats-Unis

Mais les lois Helms-Burton et d'Amato-Kennedy relèvent plus généralement d'une politique juridique constante des Etats-Unis . Celle-ci fait d'abord depuis une décennie de la politique commerciale américaine la véritable politique étrangère des Etats-Unis (**par ex lire C.Deblock et D.Brunelle, Une intégration régionale stratégique, le cas nord-américain, in Continentalisation , U.Q.A.M, sept 1992 ; B.Bellon (dir), La politique de l'Administration Clinton en matière de compétitivité industrielle (chapitre VII : Redéfinition de la doctrine et de la politique commerciale multilatérale p 130-151), Observatoire des Stratégies industrielles, janvier 1995**) . Cette politique juridique extérieure emprunte ensuite traditionnellement les voies de l'extraterritorialité législative comment l'illustrent les affaires du gel des avoirs iraniens en 1980 sous l'Administration Carter et du gazoduc euro-sibérien en 1982 sous l'Administration Reagan (**L.Lankarani, L'affaire du gazoduc eurosibérien , note sur le boycottage économique et dossier documentaire, Etude du CEDIN n° 2, 1987**). L'unilatéralisme américain dans le domaine commercial se conjugue par ailleurs avec la pratique sélective du bilatéralisme comme avec les engagements multilatéraux du GATT et de l'OMC. On songe alors aux contre-mesures fondées sur les *sections 301* et *super 301* du *Trade Act* de 1974 et de l'*Omnibus Trade and Competitiveness Act* de 1988 (

J.Garten, *American trade law in a changing world economy*, *The International lawyer* , vol 29, n° 1, spring 1995)

L'opposition aux lois américaines pourrait sans doute se doubler d'un contentieux national devant les tribunaux américains si sont citées à comparaître les entreprises étrangères implantées aux Etats-Unis y compris les sociétés européennes commerçant ou investissant à Cuba, et dans ce cas à l'expiration de la suspension de mise en oeuvre pendant six mois du titre 3 de la loi Helms-Burton par le Président Clinton , prononcée le 17 juillet 1996.

Dans le cas de l'Iran et de la Lybie, les sociétés concernées sont celles qui investissent dans le secteur énergétique , pétrolier et gazier .Selon le sénateur républicain Alphonse d'Amato , la compagnie française TOTAL est particulièrement visée bien que la loi ne soit pas rétroactive car elle devrait selon lui s'appliquer aux suites des contrats signés en 1995 pour un investissement de 600 millions de dollars portant sur les champs iraniens offshore de Sirri (**AFP du 10/9/1996**).Le contentieux que pourrait faire naître l'application de la loi d'Amato-Kennedy sur l'aggravation des sanctions américaines contre la Lybie et l'Iran impliquerait vraisemblablement un grand nombre d'entreprises européennes , sans oublier les sociétés américaines qui auraient contrevenu déjà à l'embargo commercial décrété par les Etats-Unis contre l'Iran .

II Les dispositions controversées de la loi Helms-Burton

Selon les motifs du titre III intitulé *Protection of property rights of United States nationals*, le gouvernement cubain qui accueille les investisseurs étrangers et s'associe avec eux dans des entreprises conjointes est en effet soumis à la pression de l'embargo général des Etats-Unis . Celui-ci est destiné selon le texte de la loi à " *apporter des institutions démocratiques* " à Cuba .

La loi Helms-Burton , toujours selon son titre III , met aussi en cause " *le système judiciaire international qui manque de solutions pleinement effectives* " au bénéfice des titulaires de droits de propriété victimes d'expropriations et d'enrichissements sans cause , opérés par des gouvernements étrangers et des entités privées .La loi vise donc à protéger les réclamations de citoyens américains dépossédés de leurs biens en 1959 par le régime castriste, sans indemnisation.

Pour ce faire,la loi reconnaît aux citoyens américains lésés , y compris donc les exilés cubains ayant acquis depuis 1959 la nationalité américaine, le droit d'agir en dommages et intérêts devant les juridictions

américaines., selon une procédure qui exclut l'application de la doctrine de l'*Act of State*. On sait que depuis l'arrêt *Banco Nacional de Cuba v. Sabbatino* du 23 mai 1964, réécrit dans le *Restatement*, les juges américains n'apprécient pas en principe la validité d'une confiscation de propriété faite par un Etat tiers sur son propre territoire (J.Combacau, *La doctrine de l'Act of State aux Etats-Unis*, *Revue Générale de Droit International Public* 1973 p 35-91; F.Rigaux, *Droit public et droit privé dans les relations internationales*, Paris, Pedone, 1977, 486p (sp 239 et s sur les nationalisations cubaines); B.Stern, *L'extraterritorialité revisitée*, op.cit. p 306; E.Friedel-Souchu, *Extraterritorialité du droit de la concurrence aux Etats-Unis et dans la Communauté Européenne*, Paris, L.G.D.J 1994, 494p (sp 266-275).

Le titre III de la loi Helms-Burton prévient aussi la contestation probable par les Etats tiers de l'effet extraterritorial de la loi en disposant que le droit international reconnaît la capacité d'édicter des règles juridiques de cette sorte " *with respect to conduct outside its territory that has or is intended to have substantial effect within its territory* ".

Le Congrès a néanmoins réservé le droit du Président de suspendre la mise en oeuvre du titre III pour six mois renouvelables, au nom des intérêts de sécurité. Cette prérogative exercée par Bill Clinton, sous la pression diplomatique, notamment du président Santer de la Commission européenne, pourrait toutefois céder selon les dispositions de la loi Helms-Burton, devant une résolution contraire du Congrès US. Le renouvellement de la suspension ou la mise en oeuvre des actions du titre III en février 1997 sont donc étroitement liés aux résultats de l'élection présidentielle américaine de novembre 1996.

La loi Helms-Burton fixe par ailleurs un critère financier de recevabilité des réclamations judiciaires supérieur à 50.000 dollars US, destiné à limiter l'afflux des actions en justice. Bien que la loi se réfère systématiquement aux nationaux des Etats-Unis ou encore aux citoyens américains, les commentateurs ont à juste titre insisté sur le cas de figure le plus dommageable pour les entreprises étrangères : l'action en justice qui pourrait être entreprise par les sociétés américaines installées avant la révolution de 1959 à Cuba et dont les avoirs ont été depuis, repris ou exploités, totalement ou partiellement par des sociétés étrangères.

Dependant certains commentaires outre-atlantiques mettent aussi l'accent sur l'état d'esprit des firmes américaines. Elles sont dans leur grande majorité favorables à une politique alternative de négociations commerciales et financières depuis l'amorce d'une libéralisation du régime cubain. Bon nombre d'entre elles ont choisi une stratégie d'anticipation sur une prochaine ouverture du marché cubain déjà ouvert à la concurrence étrangère, notamment canadienne, mexicaine et européenne. Une centaine d'entreprises américaines aurait ainsi en 1995 visité Cuba et signé des lettres d'intention (*non binding letters of intend*) dans les secteurs du

tourisme, de la médecine, des biotechnologies, des télécommunications (**Shari-Ellen Bourque, The Illegality of the Cuban embargo in the current international system, Boston University International Law Journal, spring 1995, n° 1 p 206** ; en ce sens aussi le **Guardian Weekly** du 17 mars 1996 reproduit par le **Washington Post** selon lequel les compagnies américaines expropriées en 1959 de leurs actifs à Cuba dans les secteurs du sucre et du tabac "lorgneraient" sur **British American Tobacco et Pernod**). Dès lors, derrière la menace judiciaire, se profileraient pour les européens les manœuvres commerciales des firmes américaines contre des sociétés accusées de " *trafic* " (art.301).

Les autorités américaines ont d'ors et déjà établi la liste des entreprises étrangères susceptibles de faire l'objet de telle actions en justice. Le Département d'Etat est par ailleurs autorisé par le titre IV de la loi Helms-Burton à refuser dès le 1 Aout 1996 l'accès au territoire américain des dirigeants des sociétés figurant sur cette " *liste noire* ". Une société canadienne, Sherritt International qui exploite le nickel cubain, une société mexicaine et plusieurs entreprises européennes, principalement espagnole, italienne et française ainsi qu'un complexe agro-alimentaire israélien sont ou seraient susceptibles d'être concernées par la mise en oeuvre immédiate du titre IV qui ne peut être suspendu comme le titre III de la loi (**Agence Europe n° 6747 du 13 juin 1996**). Certains dirigeants d'entreprises européennes se sont déjà vus refuser leur visa d'entrée aux Etats-Unis, sur la base de la loi Helms-Burton.

III Les dispositions controversées de la loi d'Amato-Kennedy

Elles sont en apparence moins sévères que celles de la loi Helms-Burton si l'on excepte le seuil d'investissement susceptible de déclencher la procédure de sanctions : 40 millions de dollars US contre 50 dans la loi sur Cuba. Les dispositions de la loi d'Amato-Kennedy sont surtout présentées comme " *édulcorées par rapport à une version d'origine* " (**Le Monde du 7 Aout 1996**). Contrairement à la loi Helms-Burton, la loi d'Amato-Kennedy selon les informations disponibles, ne couvre pas le refus de visa aux Etats-Unis des dirigeants d'entreprises étrangères suspectes. La loi ne s'applique pas par ailleurs aux contrats en cours et ne régit dans ses dispositions ni le secteur para pétrolier ni l'importation de brut.

Les entreprises qui investiraient au delà de 40 millions de dollars US s'exposeraient à des sanctions telles que le refus de prêts bancaires à l'import-export, le refus de licences d'exportation (surtout de technologie US) à l'exception des denrées de nécessité (**International Herald Tribune du 6 Aout 1996 ; Les Echos du 6 Aout 1996**).

IV Les protestations diplomatiques

- les protestations contre la loi Helms-Burton

L'Union européenne s'est opposée à la loi Helms-Burton comme l'a fait la plupart des pays membres de l'O.E.A et du Groupe de Rio (cf le récent sommet de Cochabamba (**Le Devoir, Montréal du 4 septembre 1996**) et au premier chef les deux autres parties contractantes de l'Accord de Libre-Echange Nord-Américain, le Canada et le Mexique. Les protestations diplomatiques , focalisées sur l'effet extraterritorial de la loi du 12 mars 1996, témoignent d'une remarquable convergence mais elles paraissent peu dissuasives. En effet tous les instruments des Etats-Unis sur Cuba depuis l'édiction de l'embargo unilatéral de 1960, y compris donc les précédents renforcements de l'embargo en 1962 et en 1992 (Torricelli Bill et Mark Admendment (**S.E Bourque, op.cit.**) ont été combattus avec vigueur mais sans succès par le Canada et la CEE, puis l'Union Européenne au nom des principes du droit international public comme des intérêts économiques.

L'opposition intérieure américaine à l'embargo cubain, quant à elle, pour être très minoritaire n'en a pas moins été constante aux Etats-Unis comme le montre la littérature juridique et économique en faveur de solutions alternatives telle la conclusion d'un traité bilatéral d'investissement américano-cubain mais tout aussi impuissante à générer un changement radical de la diplomatie commerciale des Etats-Unis qui reste l'oeuvre du Congrès autant que celle du Président (**en ce sens J.Garten, op.cit.; pour plus de nuances sur le système politique américain , M.F Toinet cité par J.P Lassale, Les institutions des Etats-Unis, documents d'étude n° 1.01, La Documentation Française, 1993, p 32**). Cette opposition américaine qui est aussi celle de nombreuses organisations non-gouvernementales dont certaines anti-castristes virulentes emprunte aujourd'hui les sites d'Internet

Mais en vérité l'opposition internationale à la loi Helms-Burton n'est que le sommet médiatique d'une lutte de plus de trente ans contre l'unilatéralisme américain et ses effets extraterritoriaux que la mondialisation des échanges rend plus dommageables aujourd'hui pour les entreprises des pays tiers, y compris pour les pays des Caraïbes et pour Cuba spécifiquement ,dont l'économie mixte dépend de la diversification de ses échanges .Le maintien de l'embargo et son renforcement lèse aussi bien des entreprises américaines évincées de ce marché de proximité et dont par ailleurs les investissements directs à l'étranger , notamment en Europe , les rendent elles aussi vulnérables en retour.

Déposé en février 1995, le projet de loi US a fait l'objet d'une levée de boucliers après son vote en mars et son approbation présidentielle en mai 1996, sans préjuger de l'envoi de notes diplomatiques précoces et évidemment plus discrètes que les condamnations publiques . C'est en effet en mars 1996 que le Canada a mobilisé à Grenade les Etats des Caraïbes contre le projet de loi, peu avant la visite du vice-président Brittan à Ottawa.L'Union européenne comme le Canada ont fait le choix d'une opposition de principe ferme quoique attentiste dans ses

manifestations, qui a pu être qualifiée hâtivement de *molle protestation* par la presse. Mais ces deux partenaires transatlantiques ont escompté non sans raison la suspension du titre III de la loi du 12 mars, obtenue le 17 juillet. Ils misent ensuite sur la réélection en novembre prochain du président Clinton.

Ainsi, le Sommet euro-américain du 3 décembre 1995 en faveur d'un Plan d'action transatlantique, faisant suite à la réunion de Séville des dirigeants économiques en novembre, ne dit mot du différend sur Cuba alors qu'il fait une nouvelle fois profession d'ouverture des marchés au commerce et aux investissements, de renforcement du système commercial multilatéral, de soutien à l'Organisation Mondiale du Commerce (**Documents d'Actualité Internationale, n° 3, 1 Février 1996 p 111**).

Pourtant la protestation officielle de l'Union européenne a bien pris la forme d'une Déclaration de la Présidence du 11 octobre 1995 selon laquelle l'Union européenne juge négativement le projet américain et "*rappelle à cette occasion son opposition à l'adoption de toute mesure de portée extraterritoriale et allant à l'encontre des règles des organisations internationales, notamment celles de l'O.M.C* " (**Documents d'Actualité Internationale n° 2, 15 janvier 1996 p 78-79**). La Déclaration sera suivie en mars 1996 du vote d'une résolution de condamnation par le Parlement européen.

Il est vrai que l'Union européenne doit prioritairement régler ce différend avec les Etats-Unis, au moment où elle s'engage, après l'entrée en vigueur des accords de Marrakech sur l'O.M.C à la redefinition de ses stratégies globales à l'égard de ses deux principaux partenaires régionaux, nippon-asiatique et nord-américain (**M.F Labouz, L'Union européenne et le Japon, in Jurisclasseur Europe, fascicule 2210, 1996 ; L'Union européenne et l'ALENA, rapport introductif à la table ronde du Symposium international de l'Université de Paris-XI des 16 et 17 octobre 1995 sur L'Union européenne et les organisations internationales, à paraître D.Dormoy (dir.) Bruxelles, Bruylant, 1997**).

L'Union européenne a fait aussi le choix d'une négociation commerciale avec Cuba qu'elle n'entend pas compromettre par une aggravation du différend avec les Etats-Unis de sorte que si la question de l'illégalité internationale de l'effet extraterritorial de la loi Helms-Burton, comme de la loi d'Amato-Kennedy retient encore l'attention en dépit de son classicisme, c'est bien plutôt la légalité internationale des "*mesures de blocage anti-extra-territoriales*" et leur piètre efficacité économique qui sont en cause.

- les protestations contre la loi d'Amato-Kennedy

L'opposition européenne officiellement exprimée le 8 août 1996 (**Le Monde du 10 août 1996**) se fonde ici sur le même argumentaire juridique à savoir

: la prohibition de l'effet extraterritorial, la violation des règles du commerce international. Il semble cependant que les arguments de droit international contre la loi d'Amato-Kennedy sont intrinsèquement aussi faibles que dans le cas de la loi Helms-Burton. Mais ils sont encore probablement moins favorables à l'Union européenne si l'on raisonne sur l'emploi de la méthode du *balancing test of interests*. Une telle méthode judiciaire privilégierait sans doute pour les autorités américaines la sécurité publique et la menace terroriste encourue par les Etats-Unis. L'insuffisance des preuves en l'état de la coopération antiterroriste dans le cadre du G7 ou encore l'argument du " *deux poids, deux mesures* ", évidemment réversible semblent de piètres défenses pour l'Union européenne, à vrai dire plus politiques que juridiques.

Dans une Déclaration conjointe Santer-Brittan du 17 juillet 1996 à propos de la loi Helms-Burton sur Cuba, mais applicable aussi à toutes les lois similaires (**Agence Europe n° 6772 du 18 juillet 1996** , et **Documents d'Actualité Internationale 1996 n° 17 p 712**) l'accent diplomatique est d'ailleurs mis sur une autre politique dans la mesure où l'Union européenne " *ne pense pas que menacer de sanctions les alliés de confiance de Washington* " soit la meilleure façon pour les Etats-Unis de parvenir à leurs fins .

V L'extraterritorialité devant le droit international

Bien que les pays latino-américains aient particulièrement souffert dans leur histoire des manifestations extraterritoriales des lois et jugements des Etats-Unis , qu'ils ont condamné à la fois au nom du droit international général et régional (la Charte de l'OEA), l'Assemblée générale de l'Organisation des Etats Américains a choisi dans sa résolution du 4 juin 1996 parrainée par 32 Etats membres de mandater le comité juridique interaméricain pour lui faire rapport sur la question toujours controversée de l'extraterritorialité de la compétence des Etats-Unis dans l'affaire cubaine. Le 27 août 1996, le comité juridique de l'OEA a estimé à l'unanimité que la loi Helms-Burton n'était pas conforme au droit international (**Le Monde du 29 août 1996**).

La littérature juridique sur l'extraterritorialité aussi bien des normes étatiques que des organisations d'intégration économique comme la Communauté européenne met en lumière la complexité des situations susceptibles de relever de la jouissance comme de l'exercice extraterritorial des compétences ainsi que la généralité des principes du droit international que l'interprétation juridique dominante présente comme permissifs, au contraire de la vulgate médiatique qui va répétant que le droit international prohibe l'effet extraterritorial !.

Le droit coutumier en vérité depuis l'arrêt rendu par la Cour Permanente de Justice Internationale le 7 septembre 1927 dans la célèbre affaire du Lotus , s'appuyant sur la souveraineté des Etats et leur large liberté d'action, formule bien un certain principe d'extraterritorialité de la compétence étatique , mais il l'assortit de limites elles aussi posées par le droit international quoique sans criterium fixe (**résumé de l'arrêt et des opinions dissidentes in K.Marek, Précis de la jurisprudence de la Cour Internationale, vol. 1 CPIJ, La Haye, Martinus Nijhoff, 1974, p 343-373**).

Or l'interprétation élastique de ces limites , ici extensives, là restrictives, limites au delà desquelles l'Etat excéderait la compétence que lui reconnaît le droit international de légiférer et de juger s'il le veut pour des situations nées hors du territoire national relance périodiquement la controverse entre Etats, avivée depuis quelques années par l'ampleur des intérêts économiques en jeu .

Seule en effet la limite tenant à l'interdiction -sauf dérogation expresse- de la compétence d'exécution de l'Etat hors de son territoire semble admise avec certitude en droit international au nom de la souveraineté sinon unanimement respectée au nom toujours de la souveraineté... (**sur l'arrêt de la Cour Suprême des Etats-Unis dans l'affaire Alvarez-Machain, Brigitte Stern , L'extraterritorialité revisitée... Annuaire Français de Droit International 1992 p 268 et s**).

La doctrine fait d'ailleurs justement remarquer la difficulté de toujours distinguer les mesures de contrainte immatérielle telles les menaces de sanctions relevant de l'extraterritorialité normative autorisée par le droit international dans sa grande permissivité (*jurisdiction to prescribe* dans le droit procédural américain) des actes de contrainte matérielle (*jurisdiction to enforce*) en territoire étranger proscrits par le droit international du chef de l'exclusivité des compétences du souverain étatique (**P.Demaret, Les affirmations de compétence extraterritoriale aux Etats-Unis in L'application extraterritoriale du droit économique, cahier du CEDIN N°3, Paris Montchrestien, 1987, p 41-49**). Les auteurs en particulier semblent divisés sur la question de la notification d'un ordre de communiquer à la justice US informations et documents (**B.Stern, A.F.D.I 1992 op.cit ; E.Friedel, op.cit.**), voire de l'exercice de la contrainte en territoire américain à l'encontre de sociétés étrangères.

En revanche, pour la compétence normative à effet extraterritorial admise dans son principe, le critère du rattachement de la situation étrangère à la compétence nationale qui en fonde la légalité reste flou sinon dans sa définition ,du moins dans ses applications sélectives. Comme l'explique encore Brigitte Stern, " *en principe, un Etat exerce ses compétences sur son territoire,il peut cependant exercer une certaine compétence normative hors de son territoire, en se fondant sur un certain rattachement territorial, ou sur le rattachement personnel fondé sur la*

nationalité ou sur ce que l'on appelle le principe de protection et le principe d'universalité inhérents à l'existence de sa souveraineté " (*L'extraterritorialité revisitée*, op.cit. p 251; lire du même auteur : Une tentative d'élucidation du concept d'application extraterritoriale , *Revue Québécoise de Droit International* 1986 p 49-78 et Quelques observations sur les règles internationales relatives à l'application extraterritoriale du droit , *Annuaire Français de Droit International* 1986 p 7-52; P.Demaret, *L'extraterritorialité des lois dans les relations transatlantiques : une question de droit ou de diplomatie ?* , *Revue Trimestrielle de Droit Européen* 1985 p 1-39.).

Or comme le rappelle B.Stern notamment, la Commission européenne qui avait protesté contre l'effet extraterritorial de l'embargo US dans l'affaire du gazoduc eurosibérien en 1982 en rejetant la théorie des effets dans l'ordre interne l'a invoqué dans l'affaire Pâte de Bois cependant que la Cour de Luxembourg dans cette même affaire la rejetait en 1988, non sans ambiguïté (*B.Stern, L'extraterritorialité revisitée* op.cit p 288 et s ; *J.Dutheil de la Rochère, Réflexions sur l'application extra-territoriale du droit communautaire, à propos de l'arrêt rendu par la C.J.C.E dans l'affaire Entreprise de pâte de bois contre Commission des Communautés européennes, affaires jointes 89/85, arrêt du 27 septembre 1985 in Mélanges Michel Virally, Paris, Pedone, 1991, p 281-295*).

Enfin, il semble admis que l'exercice extraterritorial par l'Etat de sa compétence est soumis , comme l'a indiqué la Cour Internationale de Justice dans son arrêt *Barcelona Traction* en 1970, à une "*obligation de modération et de mesure*" (*B.Stern, L'extraterritorialité revisitée*, op.cit.p 253) assez voisine du principe de proportionnalité en droit communautaire mais qui n'est pas vraiment détachable de l'appréciation du lien territorial ou personnel de rattachement d'une situation à l'ordre interne .

Les auteurs ont cependant souvent souligné la part d'indétermination liée à l'absence d'une règle conventionnelle de conflit entre obligations contradictoires ou entre types de compétence ou encore la difficulté d'inférer de décisions de justices nationales , notamment américaines ou de décisions communautaires, reposant sur le procédé du *balancing test of interests* dans le cadre de la règle de raison (*sur ces questions D.Fasquelle, Droit américain et droit communautaire des ententes, étude de la règle de raison, Paris, Editions Joly, 1993 ,290p ; E.Friedel-Souchu, op.cit.)* , l'existence d'une véritable règle coutumière prohibant la compétence extraterritoriale excessive (lire *L'application extraterritoriale du droit économique, Paris, Montchrestien, 1987, 254p*).

En 1986, Patrick Juillard estimait déjà que "*l'extrême témérité de ce que l'on appelle les éléments de rattachement à l'ordre juridique de droit interne ne fait pas obstacle à la poussée extraterritoriale*" (*P.Juillard, in L'Application extraterritoriale du droit économique, op.cit. p 27*). Le phénomène est bien sûr lié à la mondialisation des échanges (*R.Reich, L'économie mondialisée, Paris , Dunod, 1993, 336p, édition originale sous le titre The work of nations, New York, A.Knopf,1991; Kenechi Ohmae, De l'Etat-Nation aux Etats-Régions,*

comprendre la logique planétaire pour conquérir les marchés régionaux, Paris, Dunod, 1996, 214 p, 1ère éd. *The end of the Nation State*, New York, The Free Press ; J. Adda, *La mondialisation de l'économie*, Paris, La Découverte, tome 1 la genèse, tome 2 les problèmes, 1996) et au désir légitime des Etats et des Organisations économiques de maîtriser leurs politiques intérieure et extérieure et de leur donner effet utile (*L'application extraterritoriale du droit économique*, op.cit. p 27).

Dès lors le législateur US a-t-il excédé comme le prétendent notamment les autres Etats américains et l'Union européenne sa compétence au regard des principes du droit international ? oui soutiennent d'ailleurs déjà quelques juristes nord-américains comme Shari Ellen Bourque qui paradoxalement déduisent de l'arrêt du Lotus un principe général de prohibition de l'effet extraterritorial sauf exceptions d'interprétation restrictive (tel le principe de nationalité et la théorie du *detrimental effect*) et pour qui de ce fait toutes les manifestations extraterritoriales des mesures de renforcement de l'embargo cubain y compris la loi Helms-Burton, comme l'embargo lui-même, parce qu'elles n'entrent pas dans le champ des exceptions à la prohibition sont illicites : "*The embargo is not directed toward a foreign entity present in the United States territory ; the embargo does not target only conduct overseas that has an adverse effect within the United States ; and finally the embargo was not instituted to regulate the conduct of US citizens located abroad.*" (Shari-Ellen Bourque, *The illegality of the Cuban Embargo.. Boston University International Law Journal* n° 1, spring 1995 op.cit p 213).

Les prémisses du raisonnement de cet auteur sur la prohibition de l'effet extraterritorial illustrent parfaitement les remarques de Patrick Juillard et de Brigitte Stern sur la conception elle aussi duale de l'extraterritorialité en droit américain. Si *les Restements of Foreign Relations Law of the United States* formulent bien une théorie restrictive de l'extraterritorialité, les tribunaux américains font preuve d'une plus grande mansuétude à l'égard de l'effet extraterritorial de la loi US, qu'il s'agisse d'une application controversée de la règle de raison, ou du mépris affiché par la Cour Suprême à l'endroit des engagements internationaux des Etats-Unis.

Si le recours à un *balancing test* européen (ou canadien ou mexicain) dans le cas des sanctions de la loi Helms-Burton sur Cuba peut privilégier finalement l'ampleur disproportionnée des dommages occasionnés aux sociétés étrangères, au regard des objectifs assignés par la loi et aux effets raisonnablement escomptés (la démocratisation du régime cubain), il est vraisemblable que ce même *balancing test* pratiqué cette fois aux Etats-Unis prendrait en compte de manière déterminante l'obsession de sécurité liée à la perception d'une menace cubaine réelle ou supposée dans l'opinion et la vie publique américaines.

Il en serait ainsi semble-t-il pour l'examen de la loi d'Amato-Kennedy selon ce même paradigme, si peu juridique. En Europe particulièrement, la méthode du *balancing test* conduirait à privilégier plus encore que dans le cas cubain les

intérêts économiques supérieurs de plusieurs Etats membres et de nombreuses entreprises européennes en Irak et en Lybie (France, Royaume-Uni, Italie, Allemagne) qui pourraient être affectés fussent indirectement par les effets extraterritoriaux de la loi (les *suites* des contrats en cours, les effets dissuasifs)

Et plus encore que dans le cas cubain, où l'obsession des américains relève ,de l'avis des spécialistes , en partie du mythe et de la propagande , du moins à l'échelle de la sécurité des Etats-Unis et de la dangerosité supposée d'un régime castriste vieillissant, on peut penser qu'un *balancing test* pratiqué aux Etats-Unis dans l'affaire des sanctions contre l'Iran et la Libye pourrait au contraire fonder pour les Etats-Unis la légalité des mesures extraterritoriales sur la lutte anti-terroriste après l'attentat de 1996 contre la base militaire US de Dahran en Arabie Saoudite, venant après celui de Lockerbie de 1988, même si l'insuffisance des preuves ne parait pas conduire toujours à des imputations formelles dans d'autres faits récents restés inexplicables (**sur les aspects juridiques soulevée par l'affaire de Lockerbie , voir J.M Sorel, Les ordonnances de la Cour Internationale de Justice du 14 avril 1992 (Libye c.Royaume-Uni et Libye c.Etats-Unis) , Revue Générale de Droit International Public 1993-3 p 689-726;B.Stern, Chronique de jurisprudence , Journal du Droit International 1993-3 p 651-674; T.Franck,The powers of appreciation : who is the ultimate guardian of U.N legality ? , American Journal of International Law , juillet 1992 p519-523)..**

L'Union européenne risque alors d'objecter mais grand sans succès qu'une action unilatérale américaine discrédite les efforts de coordination du G7 dans la lutte anti-terroriste , ou encore que la Chine se voit épargnée par les Etats-Unis ,pour qui l'octroi de la clause de la nation la plus favorisée peut aussi tenir lieu de politique de défense des droits de l'homme. L'argumentaire est en vérité foncièrement politique et nécessairement sélectif des deux côtés de l'Atlantique dès lors que le critère de rattachement de la situation à l'ordre juridique interne a trait aux attributs mêmes de la souveraineté.

On comprend aussi sur cette base la nécessité pour l'Union européenne de disposer d'un relais de riposte assuré par les Etats membres qui se conjuguera avec la défense elle aussi politique par l'Union d'une autre diplomatie , celle du "*dialogue critique*" avec l'Iran et la Libye, réconciliant tant bien que mal les droits de l'homme et le marché, tout comme la politique des Etats-Unis à l'égard de la Chine (pour une problématique générale, B.Stern, **La dialectique entre le marché et la nation in 2ème Conférence ECSA World, Bruxelles, 1994 et Marché et Nation, Regards croisés, CEDIN Paris 1, Perspectives internationales, Montchrestien, 1996)**

L'argumentaire économique lui aussi relève donc de la problématique politique des intérêts en présence et il parait là encore de peu d'intérêt juridique d'évoquer les arrières -pensées des firmes américaines, contraintes de perdre des marchés au Moyen-Orient au profit des entreprises européennes, après le premier durcissement de l'Administration Clinton à l'égard de l'Iran et de la Lybie.

Compte tenu d'une part de la problématique duale de l'extraterritorialité à savoir soit un principe permissif (c'est l'opinion majoritaire) assorti tout de même de limites (une sorte de oui à l'extraterritorialité normative mais ...) soit au contraire un principe prohibitif (c'est l'opinion minoritaire) assorti tout de même d'exceptions (une sorte de non mais...) et compte tenu d'autre part de l'indétermination desdites limites ou exceptions à l'aune du *balancing test of interests* de la règle de raison (qui peut aussi épouser la raison d'Etat), il semble à vrai dire que les effets extraterritoriaux de la loi Helms-Burton et de la loi d'Amato-Kennedy puissent recevoir ou non un certificat de conformité au droit international selon qu'ils seront appréciés aux Etats-Unis ou en Europe .

Cette circonstance renforce l'intérêt d'une réflexion sur l'applicabilité éventuelle d'un mode international de règlement du différend et sur la vanité au moins juridique des lois et mesures de blocage, ces " *tigres de papier* " selon l'expression de Patrick Juillard , en l'absence d'accords de coopération conciliant les intérêts tel l'accord de coopération de 1991 entre les Etats-Unis et la Communauté européenne dans le domaine de la concurrence.

Le caractère volatile du critère juridique de rattachement des situations à l'ordre interne pour fonder le cas échéant la légalité ou l'illégalité internationale de l'extraterritorialité normative pourrait recevoir une nouvelle illustration devant le tribunal irano-américain des différends sur plainte de l'Iran, déposée le 13 août 1996 contre la loi d'Amato-Kennedy (sur le tribunal mixte de la Haye , le colloque du CEDIN au Palais du Luxembourg le 19 avril 1984, Cahiers du CEDIN n° 1, Imprimerie de l'Université de Paris X et les annexes).

Dans un article publié par le journal Le Monde du 12 septembre 1996 Brigitte Stern, professeur à l'Université de Paris I Panthéon-Sorbonne , spécialiste à la fois des questions d'extraterritorialité et du contentieux devant le tribunal irano-américain de la Haye fournit sans doute de manière non délibérée, la contre-épreuve de l'ambivalence de l'extraterritorialité en dénonçant " *l'impérialisme* " des lois extraterritoriales des Etats-Unis sur fond de guerre commerciale et de mondialisation des échanges plutôt qu'en convaincant par un argumentaire juridique que l'on a vu fragile et réversible en l'état encore lacunaire du droit international positif, à preuve d'ailleurs " *la réflexion dans laquelle s'est engagée l'OCDE* " (**Les Etats-Unis et le droit impérialiste , Le Monde du 12 septembre 1996**).

L'on ne saurait mieux démontrer la nature foncièrement politique du concept d'extraterritorialité , par définition diversement apprécié ici et là selon les intérêts défendus comme le montre à satiété les joutes diplomatiques ; un concept pour l'instant largement rebelle à l'appréhension par le droit international positif, n'en déplaît à la doctrine européenne. Il est donc loisible à défaut d'un requisitoire juridique incertain de faire le procès politique de la législation US et plus convaincant encore d'en faire le procès économique , en dénonçant la dénaturation du conflit interétatique en responsabilité en un conflit interne où l'investisseur

liers à Cuba et aux Etats-Unis est à la merci de son concurrent américain qui peut ou non l'assigner en justice , convenir ou non avec lui d'un règlement amiable autorisé par la loi Helms-Burton (**Pascal Gastineau, Cabinet Clifford Chance Paris, L'entreprise, nouvel instrument de la diplomatie, Les Echos du 11/9/1996**).

VI De la saisine de l'OMC

La Communauté européenne a demandé le 3 mai 1996 à l'Organisation Mondiale du Commerce l'ouverture de consultations avec les Etats-Unis. Dès la réunion du Conseil du commerce des marchandises le 19 mars, les Etats-Unis mis en cause par plusieurs Etats saisissant l'occasion de cette réunion (Cuba, Mexique, Canada) ainsi que la Communauté Européenne de protester contre les effets extraterritoriaux de la loi Helms-Burton , bien que notamment en matière d'investissement , indiquaient que le domaine de la loi n'était pas celui couvert par ledit commerce et plus généralement par le système commercial multilatéral.

Selon le Memorandum d'accord relatif aux règles et procédures régissant le règlement des différends (MA) la constitution d'un groupe spécial (panel) bien qu'automatique à la demande du plaignant doit résulter de l'échec d'une première phase consacrée aux consultations durant soixante jours. Comme l'a indiqué le ministre français des affaires étrangères Hervé de Charette, les négociations avec la partie américaine n'ont pas abouti et " *il faudra donc probablement passer à la phase contentieuse avec la constitution d'un panel* " (**Les Echos du 28 août 1996**). Cependant, les ministres des affaires étrangères réunis en Irlande à Tralee les 8 et 9 septembre 1996 ont différé courant octobre l'adoption éventuelle de contre-mesures par le Conseil y compris la demande de constitution d'un groupe spécial à l'OMC (**Financial Times, 9/9/1996 ; The Wall Street Journal, 10/9/1996; International Herald Tribune, 10/9/1996**).

Or l'état des différends commerciaux soumis à l'OMC montre une augmentation du nombre des groupes spéciaux en activité . Si les Etats-Unis ont même été les premiers à être condamnés par l'Organe d'Appel dans l'affaire de l'essence sur plainte du Venezuela, ils ont obtenu contre l'Union européenne la constitution d'un panel sur la politique communautaire d'importation de bananes. Ces pratiques multilatérales inciteraient -elles à un certain optimisme touchant le nouveau mécanisme de l'OMC ? .

Outre le fait que les saisines de l'OMC impliquent surtout des différends quasi-intercontinentaux , tendant à faire de l'Organe de Règlement " *une caisse de résonance* " plus politique que juridique entre ensembles régionaux compte tenu de la présence fréquente comme demandeur et/ou défendeur des Etats-Unis, du Japon, de l'Union européenne (**article de J.C Buhrer, Le Monde , reproduit par le Devoir, Montréal, 17 juillet 1996 et la vue d'ensemble des différends**

commerciaux soumis à l'OMC au 1 avril 1996 in *OMC Focus*, mai 1996 n° 10 p 10)), il faut garder en mémoire que les Etats-Unis n'ont accepté la juridictionnalisation des panels dans le MA qu'à contrecœur.

Les Etats-Unis craignaient en effet que les garanties accordées à la partie plaignante et les règles relatives à la constitution des groupes comme à l'adoption par consensus négatif de leurs rapports ne desservent leurs intérêts. (**E.Canal-Forgues, Le système de règlement des différends de l'O.M.C in La réorganisation mondiale des échanges, colloque de Nice de la S.F.D.I, 1995, Paris Pedone, 1996 p 281-292 ; Y.Renouf, Garantir les droits de la défense, quelques remarques préliminaires sur la nécessité de développer les règles de procédure dans le règlement des différends de l'O.M.C, ibidem p 293-307**). Si bien qu'un accord politique Clinton/Dole prévoit bien la possibilité pour le congrès américain de reconsidérer l'engagement des Etats-Unis en cas de survenance de trois condamnations successives à l'OMC, une organisation en l'occurrence dûment surveillée, voire déjà suspectée par les Etats-Unis (**G.Burdeau, Aspects juridiques de la mise en oeuvre des Accords de Marrakech, in La réorganisation mondiale des échanges, op.cit. p 232**)

Alors que l'on s'attendait à tester les mécanismes de l'OMC à propos des contre-mesures du Trade Act US avant que l'accord automobile nippo-américain ne conduise au retrait de la plainte japonaise, c'est dans le cadre des litiges relatifs à la loi Helms-Burton et à la loi d'Arnato-Kennedy sur les effets extraterritoriaux des embargos unilatéraux que le mécanisme de règlement des différends de l'OMC pourrait être évalué.

Mais les accords de Marrakech de 1994 ne disposent pas expressément sur la conformité ou non des effets extraterritoriaux d'embargos étatiques contrairement à l'Accord de Libre-Echange Nord-Américain de 1992 qui stipule en matière d'investissements en son article 1113 une sorte de norme anti-anti-extraterritoriale ou norme de contre-blocage semblant couvrir le cas cubain.

Il faut réserver ici les dispositions éventuellement applicables sur l'admission temporaire des gens d'affaires (chapitre 16 de l'A.L.E.N.A) ainsi que l'application des divers mécanismes de règlement des différends à savoir : outre les chapitres 19 (antidumping) et 20 (régime général) inspirés de l'Accord canado-américain de 1988, les chapitres 11, section B sur l'investissement, 14, art. 1414 sur les services financiers, 16, art. 1606 sur les gens d'affaires ; sur ces mécanismes complexes, voir notamment, **E.Feldman et J.D.Cahn, The adjudication of trade disputes and management of the Free Trade Agreement between Canada and the United States, in La régulation juridique des espaces économiques, Septièmes Entretiens du Centre Jacques Cartier (1994), Lyon, 1996 p 23-65 ; A.de Mestral et J.Winter, Disputes settlement under the North American Free Trade Agreement and the Treaty of the European Union in Journal of European Integration/ Revue d'intégration européenne, vol 27, n°2-3, 1994 p, 235-266 ; J.MacKinney et M.R. Sharpless (dir.), Implications of a North American Free Trade Region, Waco, Texas, Baylor University, 1992 (cf chapitre III the legal relationship p 93 et s ; J.Mac Kinney et M.A.Essary, Free Trade Area**

for the Americans, Waco, Texas, Baylor University, 1995 (cf le chapitre sur le règlement des différends p 89 et s).

Selon l'article 1113 de l'A.L.E.N.A. " Une partie pourra refuser d'accorder les avantages du présent chapitre à un investisseur d'une autre Partie qui est une entreprise de cette autre Partie et aux investissements de cet investisseur, si des investisseurs d'un pays tiers possèdent ou contrôlent l'entreprise et si la Partie qui refuse d'accorder les avantages : a) n'entretient pas de relations diplomatiques avec le pays tiers; ou b) adopte ou maintient, à l'égard du pays tiers, des mesures qui interdisent toute transaction avec l'entreprise ou qui seraient violées ou contournées si les avantages du présent chapitre étaient accordés à l'entreprise ou à ses investissements.... " (version en français du Ministère des Approvisionnements et services Canada, 1993)

Cette disposition a bien fait l'objet d'un résumé dans l'examen des mesures de mise en oeuvre de l'A.L.E.N.A par le Canada (**Gazette du Canada, Partie I, 11/11/1994 p 152**) mais elle n'est pas suivie d'un commentaire du gouvernement d'Ottawa. En revanche, le Québec l'interprète officiellement comme suit : " Un pays de l'A.L.E.N.A peut aussi, sous certaines conditions, refuser d'accorder les avantages du chapitre sur l'investissement à une entreprise détenue ou contrôlée par des investisseurs d'un pays hors-A.L.E.N.A qui opérerait à partir du territoire d'une autre pays de l'A.L.E.N.A uniquement afin de contourner un embargo " (**Ministère des Affaires Internationales, Direction générale de la politique commerciale, Québec, 1993 p 42**).

Les opposants aux lois américaines pourront certes invoquer dans le cadre du G.A.T.T/O.M.C l'accord spécial sur les mesures d'investissement liées au commerce (M.I.C) en soutenant que les mesures américaines enfreignent ici non pas l'article III (traitement national) mais a fortiori l'article XI du G.A.T.T (restrictions quantitatives) . Les Etats-Unis ne manqueraient pas alors de faire valoir l'objet de cet accord destiné surtout à la libéralisation des relations nord/sud , qui visent les seules mesures d'investissement liées au commerce et qui ne couvre pas les politiques d'investissement, tributaires de la politique étrangère des Etats (sur l'Accord M.I.C , P.Juillard, in **La réorganisation mondiale des échanges, , op.cit, p 113-130**).

Plus difficile paraît de prime abord l'invocabilité du G.A.T.S , l'accord général sur le commerce des services, que la Commission européenne semblerait pourtant évoquer (**Agence Europe n° 6747 du 13 juin 1996**). Les quelques remarques qui suivent , en l'état des informations disponibles, sont préliminaires. L'Accord général sur le commerce des services consigne bien un engagement de *standstill* des Etats qui ne peuvent apporter de nouvelles discriminations et restrictions . Mais le champ de l'accès au marché figure dans les listes nationales d'engagement. De plus les services financiers font l'objet d'un memorandum permettant aux Etats sur une base optionnelle de souscrire des engagements spécifiques.Or les Etats-Unis n'ont pas signé l'accord intérimaire du 28 juillet 1995 (**A.Piquemal, La libéralisation des services financiers dans le cadre du**

G.A.T.T et de l'O.M.C , in *La réorganisation mondiale des échanges*, op.cit. p 163-194 ; P.Metzger, *les services bancaires* , *Revue du Marché Unique Européen* 1996 n°2 p 107-126).

Quant à l'applicabilité de la procédure de consultations décrite dans le Memorandum d'Accord de 1994, entré en vigueur le 1/1/1995, il suppose résolue la question préalable du champ d'application: le différend doit en effet se rapporter aux accords énumérés. Et en toute hypothèse, l'engagement des Parties d'appliquer la procédure de consultations n'existe qu'à partir de " *représentations* " d'autres Parties, accueillies alors avec " *compréhension* " (art 4). L'engagement ne porte donc aucunement sur des consultations préalables à l'édiction de mesures nationales.

VII Des mesures de blocage

La riposte juridique à l'extraterritorialité américaine emprunte depuis le début des années quatre vingt la technique des lois dite de blocage ou *Blocking Statutes*. En Europe, le Royaume-Uni s'est le premier doté d'une telle législation (*Protection of Trading Interests Act* de 1980). La législation britannique fait ici figure de modèle.

Le modèle britannique

La loi de 1980 est d'abord la plus sévère et comme l'expliquait Trevor C.Hartley en 1986 après l'énoncé de quelques affaires judiciaires: " *... The English Courts are able to use traditional legal concepts to provide a remedy against extraterritorial actions. It also shows the potential dangers inherent in such situation as far banks are concerned : if the bank had failed to produce the documents it could have been subject to penalties in the United States, but if it did produce them, it could be subject to penalties in England* " (T.C.Hartley, **Extraterritoriality : the british response in CEDIN**, *L'application extraterritoriale du droit économique* , op.cit. p 113). De telles législations présentent donc aussi des inconvénients.

Ceux-ci ne concernent pas seulement les obligations contradictoires auxquelles sont confrontées les entreprises britanniques en l'occurrence mais portent sur la faible prise en compte de telles lois aux Etats-Unis comme l'a montré Emmanuel Gaillard. Elles n'empêchent pas les juges américains de prendre des injonctions ni même de sanctionner aux Etats-Unis le refus des sociétés étrangères de communiquer informations et documents . Leur effet utile est donc réduit (cf l'administration de la preuve de la force majeure) sauf à considérer leur vraie fonction : non pas tant le blocage judiciaire des lois extraterritoriales que la protestation diplomatique qu'elles expriment. Et Emmanuel Gaillard de conclure " *... il serait naïf d'espérer que l'on puisse leur faire jouer un rôle de véritable force majeure qu'elles n'ont pas effectivement* " (E.Gaillard, *La réaction américaine aux lois de blocage étrangères*, in *L'application extraterritoriale du droit économique*, op.cit. p 123 ; en ce sens B.Stern, *L'extraterritorialité revisitée*

, op.cit. p 312 ; pour une opinion plus positive sur la prise en compte des lois de blocage par les juges américains , il est vrai dans le domaine de la concurrence , E.Friedel-Souchu, op.cit. p 335 et s).

La loi britannique est cependant le modèle de référence pour la Commission européenne qui a mis en préparation un projet de règlement anti-boycott. L'efficacité des lois de blocage est en effet liée comme la doctrine française notamment l'a très montré à la production d'effets recursoires extraterritoriaux. Or la législation britannique en produit comme l'explique encore E. Gaillard : c'est le cas de l'injonction faite en retour par le juge national à la société britannique assignée devant le juge américain de se désister du procès américain. Il y a là écrit l'auteur : " *un rapport de force pur et simple à l'occasion duquel l'intervention des autorités politiques, sous la forme diplomatique, est très utile*" (*ib.* p 134). Ces lois ne seraient-elles donc pas finalement des " *tigres de papier* " ?

Le projet de règlement du Conseil de l'Union européenne

Dès le 22 avril 1996, le Conseil a adopté des conclusions sur les répercussions extraterritoriales de la loi Helms-Burton et d'autres législations similaires alors que se profilait le vote de la loi d'Amato-Kennedy. Tout en maintenant ouvert le Dialogue Transatlantique toujours prioritaire et en tenant compte des relations d'affaires , le Conseil a annoncé la mise à l'étude juridique , parallèlement à la saisine de l'OMC-effective en mai - d'éventuelles mesures de rétorsion à l'égard de celles des entreprises américaines qui plaignantes aux Etats-Unis contre des sociétés européennes ont des activités dans les Etats membres de l'Union européenne (**Agence Europe n° 6713 des 22 et 23/4/1996**).

L'envoi par les autorités américaines d'une lettre de mise en garde à la société de télécommunications italienne STET sur la base de la loi Helms-Burton en juin 1996 a conduit le Conseil de l'Union à accentuer le 15 juillet 1996 sa pression diplomatique sur les Etats-Unis en inventoriant les contre-mesures annoncées en avril. L'effet d'annonce en dépit de son imprécision matérielle a débouché sur la décision de suspension du titre III de la loi Helms-Burton par le Président Clinton le 16 juillet (**Déclaration du Président Clinton in Documents d'Actualité Internationale 1996 n°17 p 711-712**) et le compromis finalement réalisé au Congrès sur le projet de loi d'Amato-Kennedy entre la Chambre des représentants (**Agence Europe n° 6753 du 21 juin 1996, n° 6773 du 18 juillet 1996**) et le Sénat pourrait profiter aux entreprises européennes dans la mesure où la loi finalement signée par Bill Clinton le 5 Aout 1996 réserverait au Président une marge d'appréciation au cas par cas plus importante que ne le voulait le Sénat .

Les orientations du Conseil adoptées le 15 juillet 1996 portent essentiellement sur trois contre-mesures : une réglementation de blocage des lois extraterritoriales sortant elle-même des effets extraterritoriaux sur les entreprises américaines visées ; le boycott des produits et des services de ces sociétés américaines , enfin le

refus de visa aux dirigeants de ces entreprises (**Les Echos** du 16 juillet 1996, **Agence Europe** n° 6774 du 19 juillet 1996). Deux remarques s'imposent, l'une sur la nature de la compétence, l'autre sur la base juridique. Ces observations sont assez générales en l'état des informations disponibles, compte tenu de la date à laquelle la Commission européenne a approuvé le projet de règlement de blocage, le 30 juillet 1996.

Certains Etats membres ont manifesté leur volonté de se doter d'une loi de blocage appropriée, sans pour autant dénier à l'Union européenne compétence pour riposter dans son champ d'attributions. On sait que l'avis 1/94 de la Cour de Luxembourg sur la conclusion du G.A.T.T/O.M.C rendu le 18 novembre 1994 a réduit le volume de la compétence exclusive de la Communauté européenne dans le domaine de la politique commerciale commune, autrefois considérée comme son domaine d'excellence.

Il faut désormais comprendre qu'en dehors du noyau dur de la PCC de compétence exclusive mais qui exclut les fournitures de services régis par le GATS et le domaine du TRIPS sur les droits de propriété intellectuelle liées au commerce, la Communauté européenne a des compétences concurrentes, régies pour leur exercice cette fois, par le principe de subsidiarité (**sur l'avis 1/94 D. Simon, La compétence de la Communauté pour conclure l'accord OMC, Europe décembre 1994 ; J. Dutheil de la Rochère, L'ère des compétences partagées, à propos de l'étendue des compétences extérieures de la Communauté européenne, Revue du Marché Commun et de l'Union européenne n°390, aout-septembre 1995 p 461-470**).

Il y aurait cependant place pour un règlement de blocage du Conseil, fondé sur l'article 113 CE au titre de la défense commerciale, sous la forme vraisemblable d'un instrument-cadre, destiné à canaliser les réactions législatives nationales aux effets extraterritoriaux des lois Helms-Burton et d'Amato-Kennedy.

Le règlement 3286/94 du Conseil C.E sur les obstacles au commerce du 22 décembre 1994, entré en vigueur le 1 décembre 1995 pourrait-il fournir une base juridique matérielle ? Son objectif est en effet " *de réagir aux obstacles au commerce* " qui ont un effet sur le marché communautaire et sur le marché d'un pays tiers, en éliminant le préjudice ou les effets commerciaux défavorables (art. 1). L'obstacle au commerce s'entend de " *toute pratique commerciale adoptée ou maintenue par un pays tiers au regard de laquelle le droit d'intenter une action est consacré par les règles commerciales internationales. Un tel droit existe lorsque les règles commerciales internationales interdisent expressément une pratique ou reconnaissent à la partie lésée par la pratique le droit de chercher à éliminer l'effet de la pratique en question.* " (art 2).

A supposer établie l'applicabilité du règlement de 1994 sur les obstacles au commerce, liée précisément à l'identification préalable des règles du commerce international applicables, son article 12-2 subordonne de surcroît l'édiction de

mesures appropriées par le Conseil (à la majorité qualifiée selon l'art.13) au déroulement complet de la procédure internationale de consultations ou de règlement du différend, s'il advient qu'une telle procédure a été mise en oeuvre.

C'est dire que la saisine de l'OMC par l'Union européenne pour ouverture de consultations avec les Etats-Unis et l'éventuelle demande de constitution d'un groupe spécial comme l'a souhaité la Commission exige du Conseil de l'Union européenne, une fois le panel OMC constitué, d'attendre l'issue de la procédure et de tenir compte de ses résultats, avant le cas échéant de décider des mesures de réaction (**texte du règlement in L.Dubouis et C.Gueydan, Grands Textes de droit communautaire et de l'Union européenne, Dalloz, 4ème éd. 1996 p 911-920**).

En juillet 1996, la Commission paraissait s'orienter vers un projet de règlement (voire de directive) autorisant les entreprises européennes attaquées devant les juridictions des Etats-Unis par des entreprises américaines et condamnées aux Etats-Unis à assigner ces mêmes firmes devant des juges nationaux des Etats membres pour obtenir des compensations équivalentes. Ce type d'action récursoire à effet extraterritorial est destiné à neutraliser à vrai dire préventivement les poursuites judiciaires US et surtout les condamnations de sociétés européennes aux Etats-Unis, en brandissant à son tour la menace de poursuites et condamnations similaires, rendue crédible par le volume et la structure des investissements américains en Europe (**Agence Europe n° 6774 du 19 juillet 1996**).

Quant à l'éventuel refus de visa qui décalque la législation américaine (*législation miroir*), la mesure de coopération dont il pourrait faire l'objet relève du 3ème pilier du traité sur l'Union européenne consacré aux affaires intérieures et de justice. Or l'art K 1 du TUE qui énonce parmi les questions d'intérêt commun " *les conditions d'entrée et de circulation des ressortissants des pays tiers sur le territoire des Etats membres* " ne fournit que des définitions génériques selon l'expression d'Henri Labayle (**La coopération dans le domaine de la justice et des affaires intérieures, in M.F Labouz (dir), Les Accords de Maastricht et la constitution de l'Union européenne, Paris, Montchrestien, 1992, Cahier du Cedin n° 7, p 171 et s**). Surtout comme l'écrit ce même auteur, il faut tenir compte des instruments institutionnels et de la procédure prévus par le titre VI du traité sur l'Union européenne : comité de coordination de l'art. K 4 et unanimité au Conseil pour les positions et actions communes, et finalement rôle incertain de la Commission en dépit du texte qui " *l'associe pleinement* " aux travaux intergouvernementaux (**op.cit. p 175**). La presse se fait l'écho depuis la réunion de Tralee de l'attitude dilatoire de certains Etats membres et même de la probable opposition britannique (**Les Echos du 10/9/1996**)

Il semble donc que l'Union européenne ait une partie difficile à jouer sur un terrain juridique, assez friable. Comme il a été vu, le droit international général ne prohibe aucunement la compétence extraterritoriale et même il ne l'encadre que faiblement. Le droit conventionnel issu des accords de Marrakech ne présente pas de garanties indiscutables quant à l'opposabilité aux Etats-Unis des règles de fond du commerce multilatéral dans cette affaire et partant quant à l'applicabilité de la procédure de règlement des différends, au stade de la constitution d'un groupe spécial. Les contre-mesures de blocage mises à l'étude par ailleurs seront d'un usage plus délicat pour l'Union et en son sein la Communauté européenne que pour les Etats membres agissant pour leur propre compte. Ceci résulte notamment de l'applicabilité du premier et du troisième pilier -pour le moins- du traité sur l'Union européenne. Enfin, la Communauté européenne a les mains liées par son règlement sur les obstacles au commerce. Il reste donc à espérer qu'un différend de cette nature, plus diplomatique que juridique, puisse trouver une solution de compromis politique. Il y a dix ans déjà, le professeur George A. Bermann de l'Université Columbia concluait son rapport sur les mesures de restriction aux exportations d'application extraterritoriale dans les relations entre l'Europe et les Etats-Unis, présenté au colloque d'Aix en Provence de la C.E.D.E.CE en souhaitant que le malentendu politique ne s'ajoute pas à l'incertitude commerciale et en préconisant l'institutionnalisation de la concertation (*in Les relations Communauté européenne/ Etats-Unis, Paris, Economica, 1987 p 169-177*). L'Union européenne devrait s'employer une nouvelle fois à en convaincre son partenaire américain mais au préalable il lui faudra mieux conjuguer sa politique commerciale et sa politique étrangère (*en ce sens le rapport de la Commission européenne du 10 mai 1995 sur le fonctionnement du traité sur l'Union européenne*) et gagner encore en crédibilité.

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The US-EU Mutual Recognition Agreements.

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Comments welcome

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Exploring a New Paradigm for Trade Diplomacy:
Managed Mutual Recognition between the United States and the European Union.

by Kalypso Nicolaïdis and Joelle Schmitz

Introduction

Global trade diplomacy is changing rapidly. International negotiations over market openness increasingly consist in agreement upon “acceptable differences” between domestic regulatory systems, be it in the fields of labor and environmental standards, competition law, or in the more traditional area of regulations applicable to goods and services. Indeed, since the end of the Tokyo round in 1979, governments have been concerned with the need to address technical barriers to trade, including disparities between national standards and regulations as well as national conformity assessment procedures. Until recently, the dominant approach has been what one may call “policed national treatment” whereby regulations are required to apply in a non-discriminatory manner to imports and are held up to criteria of least restrictive means, proportionality and the likes. But such policed national treatment does not eliminate the cost of having to adapt to multiple standards and regulations for exporters of goods and services. Thus, governments have come under pressure to pursue greater harmonization of their regulatory systems and significant progress along these lines has been achieved, in particular under the International Standards Organization.

Most importantly, even agreement over harmonized standards does not necessarily imply the opening of markets. In cases where standards have not become identical but fulfill similar objectives, and even when there are harmonized standards, host countries often continue to require approval by their own conformity assessment bodies, forcing importers to undergo redundant testing and certification procedures and exposing them to the potential arbitrary decision of authorities that may be captive to home producers’ interests. When it comes to the task of assessing conformity and compliance, transfer of authority to the home country constitutes the only mechanism for eliminating potential or actual protectionist behavior.

This backdrop highlights the need for a new model of trade liberalization that will spare producers from redundant regulatory oversight without forcing regulators to converge around one specific global regulatory system. Such a model has been created, refined and promoted by the European Union in the last two decades in its drive to complete the single market and is centered on the principle of mutual recognition. Notwithstanding fundamental differences in its scope of application, mutual recognition has now proven contagious. In 1993, the signatories of the Uruguay Round called for the bilateral or plurilateral negotiation of MRAs both in the agreement on Technical Barriers to Trade (TBT) and in the General Agreement on Trade in Services (GATS). MRAs are being negotiated or considered both bilaterally -e.g. between the United States and the European Union, Australia and New Zealand- plurilaterally -the G4 countries- and regionally -within APEC, ASEAN, NAFTA, MERCOSUR and the FTAA. Mutual recognition is a paradigm in the making for trade diplomacy at the turn of the century.¹

What is the driving force behind the general adoption of this new paradigm for trade diplomacy and how can we account for the specific characteristics of agreements reached on the basis of mutual recognition? This paper addresses this question by focusing on the current US-EU negotiations over MRAs in 5 strategic sectors which are near completion.

¹ For a recent overview of this worldwide trend, see “Mutual Recognition of Regulatory Regimes : Some Lessons and Prospects,” by Kalypso Nicolaïdis, OECD Trade Symposium on Regulatory Reform and International Market Openness, Symposium Paper no7, July 1996

Such a focus is warranted both by the importance of Euro-American trade and by the fact that these negotiations have proven more conflictual than other similar bilateral negotiations. Mechanisms found to overcome negotiation hurdles in these negotiations may constitute precious examples for other contexts. The theoretical issue here is to better understand what factors drive EU external trade relations, and whether similar factors are at play in the emergence of new approaches to trade liberalization at the world level.

The paper provides two main lines of argument. The first goal is to explain policy initiation and the emergence of mutual recognition as a new trade paradigm. Here, we argue that although the same factors are at play in the adoption of mutual recognition for internal and external EU trade, their relative weight differs. Internally, political impetus coming from the top was key; institutional factors played a facilitative role. Externally on the other hand, supranational actors were able “ride the wave” of the internal market. Thus, we argue that mutual recognition is “contagious” as a result of an external spillover effect. External spillover operates by changing both the incentives and the capacities for the EU to enter into agreements externally similar to those pursued internally. It can be broken down into three separate components: normative, strategic and institutional. Conceptually, Europeans had been able to bring mutual recognition out of its technical ghetto and transform it as an emblem of economic integration that ought logically to apply to external as well as internal trade. Strategically, exporting mutual recognition made sense both to deflect criticism over fortress Europe and to use the single market as a bargaining chip to open new markets, especially the American market. Institutionally, the very success of the internal market program leads to policy entrepreneurship on the part of the Commission relayed and amplified by the shifting political agendas and private sector pressure.

The second argument concerns the explanation of actual policy outcomes and their variation across partners and sectors. Here we employ a more traditional framework of analysis: respective interest alignment and bargaining dynamics. When MRAs actually came to be negotiated, it became clear that the European approach could not be exported wholesale. Instead, the actual attributes of external mutual recognition needed to be adapted to the regulatory systems and the political constraints of EU’s partners. As within the EU, mutual recognition was not adopted in its pure form but in a managed form, requiring a high degree of both ex-ante confidence building and ex-post regulatory cooperation. The question over outcome therefore becomes, why are particular type of managed MR adopted in alternative cases. We argue that it is a function of two types of factor: 1) asymmetries in regulatory systems, policies and cultures between trading partners, and 2) the way in which the negotiations themselves affect the internal balance between trade and regulatory interests.

I. External spillover: initiating MRAs on the external front

A. Mutual recognition in the internal market

Most accounts of the emergence and (quasi) completion of the European Single Market stress the central role of mutual recognition, to such an extent that by the late 1980s, the two seemed to have become co-terminous. As defined elsewhere:²

Mutual recognition can be defined as a contractual norm between governments whereby they agree to the transfer of regulatory authority from the host country (or jurisdiction) where a transaction takes place, to the home country (or jurisdiction) from which a product, a person, a service or a firm originate (jurisdictions are generally sovereign states but they can also be sub-national units

² See Nicolaïdis (1996), p2

in federal entities). This in turn embodies the general principle that if a product can be sold lawfully in one jurisdiction, it can be sold freely in any other participating jurisdiction, without having to comply with the regulations of these other jurisdictions.³ The “recognition” involved here is of the “equivalence”, “compatibility” or at least “acceptability” of the counterpart’s regulatory system; the “mutual” part indicates that the reallocation of authority is reciprocal and simultaneous. Finally, mutual recognition agreements (MRAs) are specific instances of application of this general principle, between specific parties, applying to specific goods and services and including more or less restrictive constraints and caveats.⁴

For the purpose of this paper, it is crucial to underscore the distinction between recognition of the actual substantive regulations of the home country and the recognition of regulatory control exercised by the home country, which in the European context were dealt with in two separate steps, referred to respectively as the “new approach” and the “global approach.”⁵ While, both dimensions of recognition had been addressed well before the mid-1980s, the overall framework for the first was agreed upon in 1984, for the second in 1989. Mutual recognition has a different role in each of these two dimensions. To a great extent, the accelerated completion of the European single market was made possible by the realization that “equivalence” between national standards ought to be a sufficient precondition for free movement of goods and services. Nevertheless, single market directives usually involved some degrees of harmonization with residual differences being mutually recognized. But even when standards or regulations have been mutually recognized and/or partially harmonized, exporters must often continue to comply with certification by those regulators or, increasingly, by quasi-public or private entities operating on their behalf.⁶ Along this second dimension of regulatory regimes, mutual recognition is the core paradigm by necessity.

Thus, European governments spelled out “essential requirements” for product safety under the new approach, but left it up to private bodies to develop specific standards that would conform to these requirements. While conformity to the more specific standards developed by private standardization bodies is not required, it is often the easiest way to prove that a product meets the relevant essential requirements. In turn, under the “global approach to testing and certification,” if third party assessment of conformity to EU directives approval is required by law (e.g. “regulated”), product approval (and the “CE mark”) can only be granted by entities “notified” to the EU Commission as technically competent by the governments in which they operate (a form of coordinated accreditation). Thus the global approach is as a coordinated system for MR of conformity assessment within Europe. The European Organization for Testing and Certification (EOTC) has been created to provide a framework for cooperation through MRAs between these notified bodies as well as all entities involved in conformity assessment.

³ The formula was originally stated by the European Court of Justice in its *Cassis de Dijon* ruling of 1979. It is usually used to describe mutual recognition. See for instance “A proposal for the Trans-Tasman mutual recognition of standards for goods and occupation,” 1995.

⁴ The term “mutual recognition agreements” was not actually used in the internal context for government-to-government agreements, where the principle of mutual recognition was embedded in directives, regulations or judgments by the European Court of Justice.

⁵ These two steps applied specifically to product standards and conformity assessment. The equivalent distinction for services (regulation vs home country control) was not reflected by a similar procedural breakdown.

⁶ Conformity assessment is the set of procedures by which products and processes are evaluated and determined to conform to particular standards or regulations.

As one of the authors has argued elsewhere, the functional benefits of mutual recognition come at a high cost for public authorities which have to contend with the consequence of transferring regulatory sovereignty horizontally to other public authorities or private bodies over which they generally have little control.⁷ We can even see such horizontal transfer of sovereignty is ultimately more radical than vertical transfer of sovereignty to supranational bodies or common transnational bodies. Moreover, the adoption of mutual recognition may also lead to dynamics of regulatory competition whereby standards setting bodies or conformity assessment bodies lower their requirements in order to increase their market share respectively as territories of production or as chosen entities for testing and certification. While the general contention in the mid-1980s by European policy makers that economic benefits would outweigh regulatory costs was grounded in widespread concerns over European competitiveness, there was little a priori reason for the same reasoning to apply externally. Whether and how to extend the EU mutual recognition approach to its external trade relations was an open question. How then did the bilateral discussions on MRAs between the EU and the United States come about?⁸

B. "A small conceptual step": MRAs as normative spillover

During the overall single market exercise, the issue of market access for third country products and services was often treated as an afterthought. The tensions and misunderstanding around "fortress Europe" seemed to have been as much a byproduct of neglect as a result of intent protectionist biases in the new European laws. Indeed, halfway through the process, European authorities sought to reassure their trading partners that "any product, which is introduced on the Community territory, as long as it satisfies the legislation of the importing member country, and is admitted on its markets, will be entitled, as a matter of principle, to the benefits of free circulation in the Community."⁹ This overall principle was set forth against the wishes of the most highly regulated member states who feared the effects of regulatory competition among ports of entry.¹⁰ But it also had to be read in light of the new requirements for participating in the single market incumbent upon member states. As we saw, in order to assert the delegated character of third-party (non-governmental) certification, only bodies notified by member state governments to the Commission had the authority to grant an EC mark. But in addition, these notified bodies had to be located in Europe. This clause was the proximate cause for

⁷ Nicolaidis (1993)

⁸ For a presentation of the issues from both sides' viewpoint one can contrast Charles Ludolph (1994; 1995) and John Clarke (1996).

⁹ "Europe 1992: Europe world partner" Communiqué of the European Commission, Brussels, 19 October 1988, p3

¹⁰ Some member states argued early on that they should be allowed to apply article 115 in cases when third country merchandise was introduced through a member state with lower levels of consumer or environmental protection. But others argued that if article 115 was to apply in areas pertaining to article 30-36 and 100a (e.g. remedies to trade barriers inside the EU) this would implicitly give technical regulations a commercial dimension which they are not supposed to have and/or to base the application of article 115 on considerations other than economic. In other words, if the low level of regulation in a member state justifies the application of article 36 for goods or 56 for services (e.g. exceptions to free movement), the application of host country control must be done *erga omnes*, against both foreign products having entered the Community through that state and products originating from that state. The second view prevailed in Commission-Council debates.

the EU external MRA negotiations: MRAs was a precondition for entry into the single market without EU-based certification.¹¹

Indeed, the 1989 Directive on the new global approach duly addressed the issue of market access by third country parties. It provided that the EU would endeavor to promote its relations with third countries, in particular by concluding MRAs on the basis of article 113 of the Treaty.¹² Presumably, the conceptual rationale for the locational limitation was that European governments could only delegate regulatory authority with confidence to bodies within their geographical reach. The need to communitarize external trade policy with the advent of the single market meant that if things were to be otherwise that would have to be a collective decision. A concurrent rationale -albeit implicit- was that if individual EU members were allowed to notify foreign bodies, their requirement would naturally vary and they may be tempted to enter into port of entry competition. Conceptual consistency required that foreign certification bodies providing the same regulatory guaranties as their European counterpart be allowed "into" the system. From a European viewpoint, the announcement of the EU's intention to allow third country conformity assessment bodies to participate in the new European system on the same basis as European bodies was allegedly a "a small conceptual step."¹³ The Europeans had found a method to accelerate trade liberalization and were willing to extend it to the rest of the world. Indeed, trustworthy partners such as the EFTA countries were immediately offered extended MR (Temper meeting, 1988).

Underscoring the assumption that regulatory compatibility ought to be the core condition for the extension of mutual recognition to third party, the 1989 Directive laid down the conditions to be fulfilled in order for third country's operator be considered on a par with their EU counterparts and for MRAs to be concluded: 1) testing and certification was to be done on the basis of European standards; 2) parties to the agreement [e.g. governments] were required to have an agency with the necessary authority and competence to notify the competent bodies [e.g. accredit labs or recognize accreditors]; 3) the notifying authorities were required to have the power to withdraw notification where the notified bodies would cease to meet the relevant criteria. Two years later, the EU Commission put forward a Communication to the Council of Ministers which discussed in greater detail the softer conditions for entering into MRA discussions, including the fact that negotiations could only be opened with countries with technical and industrial competence comparable with that of the EU.¹⁴ The Commission also emphasized the need to create mechanisms to inspire mutual confidence between parties that would enter into MRAs. Recognition of foreign regulatory authority was to be based on the same principles of trust and cooperation as had been the case internally. On this basis, on 26 September 1992, the Council of Ministers issued a decision authorizing the negotiation of MRAs with a number of countries, including the United States.¹⁵

¹¹ It is important to stress that consideration of external mutual recognition by the EU was limited from the start to recognition of conformity assessment in the field of goods whereby bodies accredited in the country of origin are to be allowed to certify to rules of the country of destination. MRAs have not involved (at least formally) the recognition of underlying standards.

¹² Council Resolution of 21 December 1989 (OJ 1990 C10/1)

¹³ See Clarke (1996)

¹⁴ Reference, June 1992

¹⁵ The list of countries was the following: United States, Canada, Japan, New Zealand, Australia, Hong Kong, Israel, Singapore, Korea, Philippines. In addition, Turkey, South Africa, Thailand, China, Malaysia and Indonesia were referred to on the assumption that these countries would sign the GATT TBT code. In addition other countries had expressed interest in MRAs: Taiwan Czechoslovakia, Hungary, Yugoslavia, Poland, Romania, Brazil, Mexico and India Cited in Sebastian Farr, *op cit.*, 1992

In normative terms, MRAs can thus be seen as a typical instance of proselytizing on the part of EU regulators and Commission officials; mutual recognition is a European normative export, a natural extension of its internal process of trial-and-error integration. Even American officials will concede that "MRAs are a European invention unlike anything before."¹⁶ As a matter of fact, EU officials point out, the first two years of discussion between themselves and American officials were mainly devoted to an explaining the EU norm and to giving time to US negotiators to relay the message internally. To be sure, if it took until 1994 for the EU to initiate formal negotiations with the US and other countries, it is both because an informal phase of familiarization with the EU system was needed and because this system itself was still in the making.

C. Dealing with asymmetric market access: strategic spillover

Were MRAs introduced as a quasi-automatic extension of EU internal liberalization bound only by the requirement of regulatory consistency? A more realistic interpretation of the events highlights the complementary -and arguably dominant- impact of what we may call "strategic spillover": the new EU directives on the single market changed the strategic environment of the actors involved and the initiation of MRAs were the outcome of a strategic game in which each actor sought to increase market potentials subject to regulatory constraints.

Under this reading, the locational requirement introduced in the EU's global approach to certification was not only meant to ensure regulatory quality but was primarily guided by concerns about reciprocity. The main reason for including provisions for MRAs in the first place was to ensure that EU notified bodies would be able to certify EU products to third country requirements, thus opening markets for the EU on two fronts: EU products would be exported on the basis of a single certification and EU certification bodies and laboratories would gain export markets. While one can speculate on the relative weight of regulatory quality vs market access concern as factors guiding the initial EU move, the latter concern seems to have increased with time as EU negotiators came to take full measure of their new bargaining chip.

Indeed, the locational provision did not fail to provoke a reaction on the part of US trade officials, although originally muted. As stated by an official document at the time, "In view of the benefits the EC derives from the open and non-discriminatory nature of US conformity assessment systems, the United States believes that the new EC regulations pertaining to conformity assessment should provide for the recognition of product testing in third countries."¹⁷ Recognizing the reciprocity dimension of the European strategy, the US expressed concern that "the EU may require reciprocal commercial guarantees for mutual recognition....beyond what is necessary to ensure safety and protect consumers."¹⁸ EU officials, although reaffirming their willingness to negotiate MRAs with third parties did not fail to point out that the US conformity assessment system -or lack thereof- was not organized sufficiently to ensure uniform market access throughout its territory. Thus, whatever had been the initial EU motivation, the issue was cast as one where reciprocal access could not be separated from regulatory compatibility.

¹⁶ See Charles Ludolph (1994)

¹⁷ See United States Government Task Force on the EC Internal Market, EC 1992-An Assessment of the Economic Policy Issues raised by the European Community's Single Market Program, mimeo, Washington D.C., April 1990, pp 16

¹⁸ *Ibid.*, p17

Internal mutual recognition in the EU had two contradictory effect on market access for third parties. On one hand, it eliminated the need for redundant testing within Europe for European and non-European producers alike. Third parties were promised access to EU certification bodies on a non-discriminatory basis and the regulatory requirements on which testing was to be based were made transparent and unified under the new approach. Moreover, EU notified bodies were allowed to sub-contract part of their work to non-EU bodies (within clearly defined limits and on the basis of regular checks of the competence of the foreign body). On the other hand, the fact that condition for access from third countries had to be made uniform and included the locational requirement meant that approval was now required for entry into some member states where no approval may have previously been the norm (pre-existing bilateral agreements were to be renegotiated at the EU level). Thus even if it was difficult to make the case that on balance US exporters were worse off than in the previous period, it is clear that discrimination against non-EU producers and improved conditions for EU producers now put them at a disadvantage vis-à-vis their European competitors. Not only did US trade officials seek equal competitive conditions for their products, they also were convinced that US labs could compete advantageously for a share of the European certification market. From an American viewpoint, the issue was not one of absolute but relative gains.

The Europeans, on the other hand, pointed out that conditions for access on the US side were less clear cut than US officials claimed. The United States had an extensive and increasingly complex conformity assessment system which evolved in a decentralized and uncoordinated manner over time and presented an often confusing picture for foreign producers.¹⁹ While American standards tended to be more often voluntary than in Europe, markets often mandated compliance, in turn an easier proposition for US producers. Third-party assessment (as opposed to self-certification), although still less widespread than in Europe had grown over the years with the demand for health and safety as well as environmental impact assessment. Private certification programs had emerged to forestall government regulatory intervention, but the division of labor between public and private sector responsibility did not seem to follow any recognizable pattern.²⁰ Haphazard growth had led to a high degree of redundancy in the system. Certification and testing bodies were often required to seek accreditation (the equivalent of the EU's notification) in every state and some agencies at the federal level (like the FCC) did not necessarily recognize accreditation by other bodies.²¹ To be sure, the United States accreditation programs often did not discriminate between domestic and local applicants, thus practicing an initial degree of unilateral recognition. But this was often limited to the recognition of test data and reports, leaving the final market approval to US bodies.²² In any case, at best European

¹⁹ For an overview, see National Research Council (1995) Standards, Conformity Assessment, and Trade, National Academy Press, Washington, 1995

²⁰ There are more than 110 private-sector certifiers in the US where certification is an estimated 12 billion industry by end of 1995. The UL label (Underwriters Laboratories product safety certification). There are also 84 certification programs run by federal agencies, including: USDA which certifies to meat and poultry; the Federal Aviation Administration; FDA for pharmaceuticals; the Occupational Safety and Health Administration (OSHA). There are also more than 100 public and private accreditation bodies

²¹ Accreditation and certification both part of conformity assessment systems. Certification is the formal verification by an unbiased third party that a product conforms to specific standard or that a manufacturing process itself does. It results in a formal statement of conformity. Third party testing is usually an integral component of such certification, with testing and certification usually but not always carried out by the same body. Accreditation is the evaluation of the competence of certification bodies by an independent party. In the case of mandatory requirements, the ultimate power of control resides with the locus of accreditation.

labs and certification bodies still had to seek accreditation in the US and were often subject to redundant accreditation requirements. And in cases, where there was no mutual recognition within the US, European exports did not benefit from the "certified once, accepted everywhere" prevalent in Europe.

In sum, the completion of the internal market created reasons and opportunities for both the US and the EU to seek to improve market access on the other side. Whether European Union actors were more reactive or proactive on this front, is a question open to interpretation. On one account, US trade officials and exporters provided the initial pressure for negotiating MRAs with the EU, in their view to reestablish an adapted version of the status quo ante in Europe. On another account, the Europeans had been keen on MRAs from the beginning as a mean of leveraging Europe's new bargaining power. In either case, there is little doubt that Europeans wanted to deflect accusation of Fortress Europe and needed to promote or at least engage into negotiations for political reasons.

D. Institutional spillover and political impetus

Obviously, normative and strategic spillover are not disembodied dynamics. The set of calculations that they reflect are made by individuals with different stakes and role in the process. In the case at hand, officials working inside the Commission played a key role in the initiation of the negotiations. Those working on the completion of the Internal Market in DG3 were inevitably confronted from the beginning with the need to suggest a strategy vis à vis third countries. After completing the drafting and implementation of the framework directive on the "global approach" their task was "reduced" to overseeing the enforcement of the directive. With the MRAs, they simply shifted their attention and resources to extending an approach they had become familiar with. This meant above all, focussing on regulatory preconditions prevailing in the United States and negotiating over regulatory compatibility. In the United States, the Commerce department as lead negotiator, along with the US Trade Representative office had been following very closely the development of the "Europe 1992" program in general. Their initial expression of concern and approach of the Commission was simply in keeping with that mandate. Thus, institutional roles on both sides led professional officers to seek to draw out the external consequences of the internal market.

While institutional incentives prevalent on both sides were sufficient initiate a first round of informal talks, the negotiations were only formalized in 1994, four years after the initial mention of MRAs and two years after the start of informal discussions, when they came to be high enough on the political agenda to warrant an official stamp. As with the internal market and the signing of the Single European Act, a political push was necessary to overcome regulatory resistance. After having endorsed the results of the Uruguay round, and created the new World Trade Organization, US and EU trade officials were bound by a commitment of best endeavor to negotiate MRAs as called for in the "Technical barriers to Trade" (TBT) agreement. More importantly, with the end of the Cold War, politicians on both sides were groping for a redefinition of the Transatlantic relations. But the economic dimension of this renewal could hardly involve trade liberalization in the classic areas of agriculture and tariffs that had just recently been the object of fierce battles under the Uruguay Round. Regulatory cooperation in general and MRAs in particular seemed to be much better condidate for a engaging into substantive bottom-up cooperation. The politicians gave their go-ahead, and at least at the formal level, MRAs got off the ground.

²²The most limited form of such "pre-MRAs" has existed for some time through bilateral arrangements in industries such a machinery or consumer electronic where regulators of one country recognize the test data produced by foreign labs, without extending to the power to certify the product in question.

Once the negotiations were started it became clear to all parties that, in spite of their relatively low public visibility, a lot was at stake. The envisaged MRAs cover \$40 billion of US exports to the EU across eleven sectors, five of which ultimately retained under negotiation (pharmaceuticals, electromagnetic compatibility, electrical safety, telecommunications equipment and recreational craft).²³ Participants concur that the process turned out to be much more complex than imagined and that devising adequate MRAs required an extended learning period to exchange background information and sector-specific data. But more importantly, as the negotiations proceeded, tensions and divergence of approaches emerged with greater clarity. These in turn indicated where bargains would need to be struck. We now turn to explaining these bargains

II. Negotiation outcomes as a function of the trade-regulatory balance

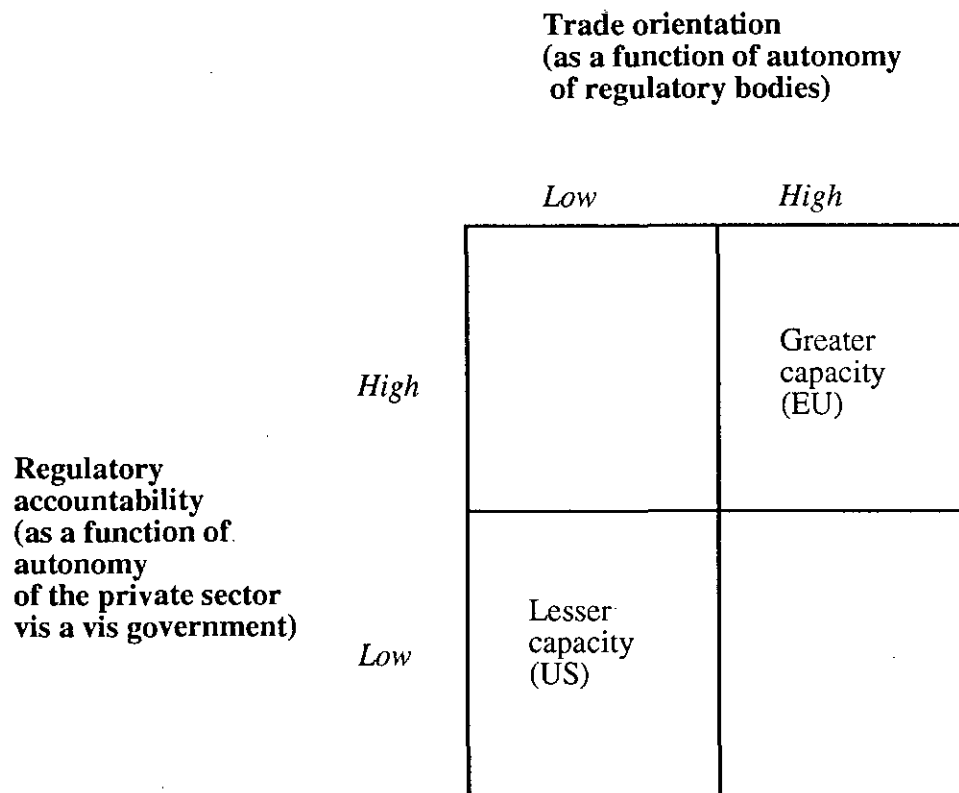
A. A model on the feasibility of MRAs: Can governments deliver?

The degree of difficulty for reaching MRAs between countries is at a most general level a function of the differences in national regulatory systems, policy and cultures. Starting with these differences, negotiators must negotiate compatibility. In short, the outcomes of the MRA negotiations can then be seen as a response to the question: who adjusts? Recognition is based not only on an initial assessment of the compatibility between regulatory systems but also on adjustments either side is willing to make in order to enhance such compatibility. In the specific case of the EU, it became clear early in the negotiation process that under the “mutual recognition logic” more adaptive change would be required in the US than in Europe. Could this outcome have been predicted and how did this translate into negotiation outcomes?

We suggest here a simple model for making broad predictions regarding MRAs, that is whether an agreement is likely to be reached at all and whether if reached the agreement is likely to differ significantly from the status quo. The model asks how amenable is each party to entering into MRAs with other countries. We concentrate on structural differences that describe the relationships between the actors involved in the respective regulatory systems and processes of each side. These can be described along two dimensions as depicted in the graph below.

²³ The National Export Strategy: Annual Report to the United States Congress, (Washington: Trade Promotion Coordinating Committee) October, 1994, p. 140. Sectors were originally selected according to whether the EU had itself an MRA in the sector, potential trade benefits of liberalization for both sides and the assessed feasibility of reaching agreement.

Graph 1: Can governments deliver? Country-specific capacity to enter into MRAs.



The first core structural difference between the United States and Europe lies in what we have labeled here regulatory accountability. By this we mean to ask whether the degree and type of government involvement in the regulatory process allows for a straightforward locus of accountability when engaging in regulatory cooperation with the outside. This is not directly a function of whether regulatory functions (in this case conformity assessment) are conducted by the private or public sector. In Europe, a very symbiotic relationship has developed between the private and the public sector. While both standard setting and conformity assessment functions are broadly delegated to the private sector, governments reserve the right to set broad guidelines, including the need to involve third parties in the first place, and to designate bodies with delegated authority. The US government on the other hand is -on the whole- much more remote from the regulatory process with its greater reliance on voluntary standards and unsupervised private sector certification and accreditation. Moreover, regulatory accountability through self-certification has been often attained internally in the US through the reliance on ex-post liability and the recourse to the judicial system. But access to this kind of accountability for foreign consumers requires a higher degree of sophistication than governments are likely to assume. From a European viewpoint, the US negotiators had little capacity to guarantee regulatory quality in these realms.

The second structural difference between the US and EU is the internal relationship and balance between trade and regulatory interests. Again, we ask, can trade negotiators deliver? But here, the answer concerns the underlying motivation of regulatory actors, not connection to the public sector. The answer is likely to vary by sector within each country. But if the answer is no for a subset of sectors, this will have an impact on the overall negotiation that can be described as a set of linked bargains. As with any complex

negotiation, each of the leading negotiating parties - the Commerce department and the EU Commission- was in fact acting as an agent for an array of interests, including industry and consumer interests. Most directly however, trade negotiators needed to contend first and foremost with their respective bureaucratic and regulatory systems and the agencies or bodies that represent them. In these respective relationships two competing patterns can be predicted. First, regulators from both sides who have been talking to one another under the aegis of "technical cooperation" can enter into a transnational alliance and jointly resist the capture of "their" issue by the trade community. This is what effectively happened in the case of airworthiness.

The other predictable pattern seems to have predominated in most areas and reflects the asymmetric situation between parties. That is the structuration of different power relationships between trade and regulatory actors in each side, between the agents and their most powerful principals. On this count, the structural situations prevailing in the EU and the US were on opposite ends of the spectrum. Furthermore, the difference was accentuated during the course of the negotiations.

The EU is by definition a trade animal. Integration drives its momentum in part from EU-wide trade-driven external agreements. This inherent trade logic had been definitely strengthened over the regulatory logic by the process of completing the single market heightening the degree of penetration of the trade culture inside regulatory circles. As a result, most authority has been delegated to quasi-public bodies that are prone to MR in order to expand their network. Even when supranational regulatory agencies like European Medicines Evaluation Agency (EMA) have been created they amount to a system of coordination of private certification. Moreover, the EU underwent a slow evolution during the first part of the 1990s from defensive posture to rebut accusation of fortress Europe to taking a leading role in the drive for global liberalization. The personal influence of Sir Leon Brittan -the External economic affairs commissioner- may have played a role; so did the entry of free-traders Finland and Sweden in the EU, and a sense of the need to fill the vacuum left by the US on trade issues. Internal institutional dynamics also explain the increased trade emphasis of the EU. As the early discussions followed their course, those in the Commission directly responsible for external trade relations became increasingly involved in the discussion. As a result the EU became even more inclined to push for faster and more complete MRAs and the strategic component of the negotiations, including the demand for balanced market benefits became more prevalent.

The situation in the United States is radically different, at least for those sectors where the federal government has taken the regulatory lead. When it does exist, third party assessment has been less privatized in the US than in the EU. In areas where consumer health and safety have become most prominent and sensitive issues, all powerful federal regulatory agencies usually centralize all conformity assessment function under one roof (FDA, FCC; EPA). Having not been exposed to trade-related constraints in the past, these agencies would have preferred to develop direct and informal cooperation with European accreditors instead of being directed by governments.

Scholars of organizational behavior have long argued that the core factor explaining federal agencies' behavior has been their drive for autonomy defined as "independent authority" or the condition for maintaining a distinctive identity."²⁴ Federal agencies derive autonomy from either a formal grant of authority or from an internal campaign. For Wilson, such a fundamental drive for autonomy, rather than for increased responsibility, budget, or 'turf' -e.g. defined as scope of jurisdiction- should not be confused with

²⁴ See for instance Wilson REF ; Philip Selznick Ref (Wilson, p 183).)

"organizational imperialism"²⁵ Instead, this is a functionally driven behavior that "lowers the cost of organizational maintenance by minimizing the number of external stakeholders and bureaucratic rivals and maximizing the opportunity for agency operators to develop a cohesive sense of mission."²⁶ But such payoffs come at a cost.

Taking the argument of autonomy at face value, it is clear that federal agencies will have a marked propensity to resist MRAs that threaten their autonomy on two fronts. Internally, MRAs mean they must contend with the Commerce Department, the USTR, other regulatory agencies as well as trade lobbies, while they obviously view any interagency coordination and agreement as a threat to their autonomy.²⁷ Moreover, the trade logic implies that the regulatory concerns of one agency may theoretically be compromised for the sake of significant trade gains in another sector. Thus for instance, the US Department of Agriculture and the Environmental Protection Agency sought to be part of the early negotiations although these did not concern their jurisdiction, in part to preempt developments with potential harmful effects for them. Externally, agencies are now forced not only to cooperate but also to compete with foreign agencies with a similar mandate. Again, let us recall Wilson's point that a key to maintaining autonomy is to fend off organizations that seek to perform your tasks.²⁸ In cases where an agency has established a quasi-monopoly position worldwide in setting standards for conformity assessment, it has little incentive to open the door to the competition (as with the EMEA challenge to the FDA's position). By the same token, one means to preserving autonomy - admittedly a second best to pure sovereignty - is to cooperate directly with foreign regulators without interference from trade diplomacy.²⁹ To generalize very schematically, the facility of MRAs in a given country may be considered inversely proportional to the autonomy of its regulatory agencies.

For some time in the early part of the negotiations, the Europeans were unable to appreciate the extent of regulatory autonomy prevailing in the US. American regulators expressed feelings of alienation as the trade talks seemed to contradict their belief that gradual increases in communication through mutual audits and exchange of test data was a necessary prerequisite for recognition. Trade talks seemed to deny them with such an intermediary forum. In some cases, however, horizontal negotiations between regulators involving transfers of authority did not even seem to be the most desirable outcome. Instead, vertical integration or the development of common standards in the context of international organizations seemed more appealing. In this vein, the International Conference on Harmonization (for pharmaceuticals), the International Civil Aviation Organization (ICAO), and the International Standards Organization (ISO) constituted parallel fora for discussion throughout the negotiations and may very well become preferred fora in the future.

²⁵ Wilson, *op. cit.* p187. This echoes Halperin original statement that bureaucrats "are often prepared to accept less money with greater control than more money with less control". Quoted in Wilson, p 179. Thus in the US, the FBI for years, resisted for years enlargement of its scope of responsibility to include organized crime and drug trafficking although the acceptance of either would have substantially increased its budget and size. Similarly, the State department resisted the transfer to it of the US information Agency and the Agency for international development because both would infringe its independence by submitting it to the oversight of new and additional Congressional committees.

²⁶ Wilson, p183.

²⁷ p192

²⁸ *Op. cit.* 189

²⁹ In the intra-national context, Wilson argues that "many agencies that must cooperate (or at least appear to cooperate) enter into agreements designed to protect each other from any loss of autonomy" (192)

Obviously, concerns for autonomy are never expressed as such. Instead, they take the guise of concerns for fulfillment of agency mission based on predictions that MRAs risk lowering regulatory standards. As a chief US negotiator commented, "we [the Americans] just jumped in - we didn't anticipate that the regulatory agencies would be so concerned with the competence of agencies in other countries". Agency officials do not directly criticize the idea of placing their operations under trade agency scrutiny but rather find anathema the prospect of "placing safety considerations in the context of a trade agreement". To be sure, agency resistance to MRAs may very well be grounded in a perceived significant difference in "regulatory culture." Most notoriously, the US Food and Drug Administration regards itself as the foremost consumer protection agency in the world. In the wake of the Thalidomide tragedy of the 1960s, its already conservative approach to drug approval it strengthened to avoid the risk of being branded as directly responsible for defects.³⁰ Europeans on the other hand, have been more willing to accept potentially beneficial drugs even at the cost of increased risk.³¹ As a result, the FDA has credible arguments to back up its resistance to MRAs. Ideological differences can thus magnify institutional differences in drawing a wedge between the American and European approach to regulation.³²

This leads us to a final remark and amendment to our model. The model is based on the assumption that the differences in regulatory systems between the two sides have more to do with the relationships between the actors involved in the regulatory process than with differences in degrees of regulatory effectiveness. This might not be the case for every sector. At a macro-level, if these negotiations had been between two countries with great differences in the level of regulatory standards or effectiveness, differences in regulatory effectiveness would have been a core explanatory variable. In this case, the relative similarity between regulatory standards (as opposed to systems) if anything most often mitigated the tensions inherent in structural differences. Finally, the model only speaks of the relative capacity of parties to enter into MRAs given the characteristics of their respective regulatory system. Ultimately, the likelihood of reaching agreement is also driven by the market incentives to enter MRAs and the private pressures reflecting these incentive. On this count, the exceptional competitiveness of US labs in the emerging world conformity assessment market was an important force to counterbalance the regulatory resistance to MRAs.

Graph 2. Likelihood of reaching agreement, given structural differences

³⁰ In the early 1960s, thousands of European infants were born deformed due to thalidomide, a drug that had been released on the European market by European regulators but was effectively prohibited from the American market by the FDA. See Schmitz, p7

³¹ This is referred to in the technical jargon as a preference for type II over type I errors. Type I errors mean that public health is threatened because the regulatory agency is too conservative and safe drugs are not released soon enough or innovation of new drugs is impeded by the agency's conservatism. Type II errors mean that public health is threatened because the regulatory agency is too lenient and unsafe drugs are released. The FDA avoids type II errors at all costs. Europeans allow more TYPE II errors and rely on "pharmacovigilance" e.g. the post marketing surveillance of drugs.

³² Majone (1989) gives a much greater weight than we do to ideological differences rather than institutional differences.

		Perceived similarity in regulatory effectiveness	
		<i>Low</i>	<i>High</i>
Perceived differences in market incentives to enter MRAs	<i>Low</i>	Extended transition period	Sectorial stand-alone agreement
	<i>High</i>	No agreement	Inter-sectorial linkage

B. Bridging the gap through bargains: The design of managed mutual recognition

According to the hypothesis sketched here, we would expect that the boundaries of the negotiations were set to a great extent by the US internal constraint, since the US government has had to deal with the autonomy of both the private sector and of its regulatory agencies. In other words, the EU pushes for adjustment in the US and the concurrent external and internal negotiations explore how far the adjustment can go. This pattern is recognizable in many of the bargains that have been struck between the two parties. The following illustrate the point.

The first bargain was struck early because the US had the capacity -or at least the willingness- to adjust. In response to the initial US demand for access, the EU implicitly announced its main condition: some convergence to the EU system would be necessary with regards to government involvement in the regulatory system (our first dimension above). If US bodies were to be granted the status of notified bodies, the US government would need to become involved in guaranteeing the competence of its conformity assessment bodies and thus provide formal assurances to its partner that US bodies could perform essential services and certify to EU standards. But EU negotiators did not provide a formula. After careful consideration of what this general principle could involve, the Department of Commerce came up with a creative answer: it asked the National Institute of Standards & Technology to create the National Voluntary Conformity Assessment Program (NVCASE) as a mechanism for addressing this European demand.³³

³³ NVCASE will officially recognize the competence of US accreditors to check the capacity of certifiers to work with EU requirements, and may temporarily fill in the gap and accredit certifiers where accreditation programs are still lacking.

One of the early success of the negotiation was the EU indication that recognition by NVCASE would prove sufficient to grant US entities the status of EU notified body. At the same time, some in the EU have unofficially expressed doubts that the US will be so rapidly able to adjust. US officials recognize that such a system is utterly new to the United States. In addition NVCASE must turn around an accreditation system that is highly fragmented and with no prior experience in accreditation to meet foreign requirements. US negotiators also acknowledge that the required overhaul will allow to streamline the US system and eliminate unnecessary government accreditation and certification programs. Adding a layer of government recognition to the domestic conformity assessment system is a prerequisite for a government-to-government MRAs while it provides an impetus for the devolution of conformity assessment function on the part of governments.

When it came to the jurisdiction of US federal agencies, however, negotiation outcome had to reflect the extent to which these autonomous agencies could be persuaded to enter into the mutual recognition logic. In the course of the negotiations, they progressively increased their resistance to broad ranging MRAs involving a significant loss of regulatory sovereignty. The regulatory front became increasingly cumbersome for the department of commerce as each in turn, they realized what was involved in the negotiations.

In some cases, the result was simply to excuse the sector from consideration. In late 1993, for example, prior to the first round of EU/US MRA discussions, the FAA formally went on record against negotiating "an agreement that implies that technical safety agreements are in any way subordinated to economic agreements."³⁴ As one official stated, the FAA is not an export promotion agency but, rather, as an official states, "...a safety agency". When later presented with the prospect of participating in MRA negotiations in 1993-94, the FAA vehemently argued that its current approach to international cooperation through the vehicle of Bilateral Airworthiness Agreements (BASAs) ought not to be disrupted by the introduction of a trade logic and refused to participate.³⁵ In particular FAA contended that the EU Commission lacked the legal and technical competency required to negotiate within this particular sector.³⁶ An MRA could not assure the accountability, expertise, and authority of a Bilateral Aviation Safety Agreement would, given the varying degrees of

³⁴ Letter from FAA to the department of Commerce, November 1996.

³⁵ The FAA currently has 27 bilateral trade agreements internationally. These constitute separate stand alone diplomacy agreements and are held with all EU countries, except Greece, Portugal, and Luxembourg. For any aircraft flying into US airspace, the craft only has to be in adherence with ICAO standards but for aircraft to be imported for use by American carriers, it has to meet FAA standards. Bilateral Airworthiness Agreements (BAA) "technical cooperation agreements" between governments to facilitate the airworthiness approval or acceptance of civil aeronautical products exported from one country to the other. It provides for the airworthiness acceptance of aircraft parts manufactured outside the US for which a US type certificate has been issued. Such products are considered approved for installation on a US registered aircraft when a current export certificate of airworthiness has been issued by the CAA of the country of manufacture (chapter 3(32)(a), FAR 21.500) While these agreements leave final approval to the FAA, they lacked flexibility to the extent that the FAA had to resort to diplomatic processes for technical amendments. The so-called Bilateral Aviation Safety Agreements (BASAs) were introduced in the early 1990s and seek to incorporate ongoing oversight and continued cooperation after a product has been approved. Most importantly these agreements would confine the diplomatic level to defining the umbrella executive agreement that would define the scope and designate the authorities responsible for implementing the details.

³⁶ In the EU the technical competence and legal authority for aviation safety still remains at the level of national aviation authorities of each Member State. Each Member State has a CAA (Civil Aviation Authority) that maintains responsibility for its air safety regulation. Consequently, there are 15 varying levels of competence throughout the Union. European regulation is overseen by both the Joint Aviation Authorities of Europe (JAA) and the EU Member States.

technical competence of the individual Member States. Realizing the contentiousness of this sector and in appreciation of the power and autonomy of aviation regulators on both sides of the Atlantic, trade negotiators removed airworthiness from the negotiating table.

Other agencies did not all obtain an initial opt out. After negotiations were started it became harder to take sectors out of the negotiations. Thus the tension between the trade and regulatory logic expressed itself though the extent of mutual recognition would be actually “managed” to minimize the extent of transfer of regulatory control. In short, the tension became one between the incremental or building block approach promoted by the US and the EU demand for full and immediate MRAs. In fact, against the position of both EU and US negotiators the FDA and the FCC seem likely to obtain limitations on the MRAs in three directions, each of which reflecting a higher degree of “regulatory input” than was previously envisaged in the negotiations:

1) Scope or regulations to be recognized: Agencies like the FDA want to reduce the scope of MR to recognition of test data or inspection reports (the first three steps in a 12 step conformity assessment procedure), thus ensuring that they retain the ultimate authority of approval.³⁷ While EU negotiators argued that such a truncated agreement would leave intact arbitrary decision power in the host country they will likely have to settle for an incremental approach where full MR is attained at a later stage through progressive regulatory scope expansion.

2) Prior harmonization of procedures: While both parties require confidence in the other’s technical competence as a pre-condition to negotiations, they disagreed on how to determine such competence. The US side insisted on prior harmonization of the detailed conformity assessment procedures rather than merely accepting the results of such assessment as demanded by the EU. The FDA and EPA actually worked with some of their foreign counterparts to reach agreement on equivalency of assessment standards as a precondition for the MRAs in parallel with the negotiation process over MRAs

3) Ex ante confidence-building: Finally, parties disagree on the extent of prior cooperation required before implementing MRAs. US negotiators want long transition periods during which to implement confidence building measures as well as flexibility as to the timing of implementation of actual recognition. European have long insisted on a short term deadline for implementing MRAs along with a firm commitment to action at that point, without allowance for further review. Here again, the EU was headed toward compromise in recognition that its own strategy of setting quasi-automatic deadlines for completion of the single market was predicated on two decades of prior discussions and familiarization between regulators, something that is not true across the Atlantic.

More generally, the European approach to international “contracting” -sign a general agreement and flesh out the details later- was very much at odds with an American approach whereby detailed clauses needed to be clarified ex-ante. A great deal of the negotiations was aimed at finding a middle ground between these positions.

This set of issues has proven to be most contentious in the last phase of negotiations. The Europeans questioned the ability of the Department of Commerce to force significant change on regulatory agencies especially when its authority and even existence was put into question by the US Congress. At the same time, the US side asks

³⁷ In the pharmaceutical field the scope of recognition was already narrowed at an early stage of the negotiations to cover only Good Manufacturing Practices (GMPs) not Good Clinical Practices (GCPs) and Good Laboratory Practices (GLPs) regulations. The latter two were simply too sensitive from the point of view of the FDA.

why the EU Commission is not ready to settle for what it can get, suspecting it to revert to old protectionist temptations. In fact, and in conceptual terms, EU officials were learning that while the internal EU mutual recognition system could serve as a model it could not be transferred wholesale to the rest of the world. To be sure, the US-EU approach involved -as did the internal EU approach- the adoption of a proportionality principle between access and conditions- e.g. connecting regulatory scope to degree of mutual confidence developed. But the EU shift of emphasis from pre-conditions to ex-post conditions was not easily applicable to the transatlantic context. While the EU could not but insist on the necessity to retain deadlines as political impetus, it had to contend with longer transition periods. The European approach to cooperation involving a leap of faith that details could be fleshed out after commitment to free movement, was simply not compatible with the US regulatory culture.

Finally, the extent to which mutual recognition has been “managed” and softened in various sectors had an impact on another category of disagreement between the US and the EU. The tension here is between regulatory compatibility and market access reciprocity as criteria for MR. While the United States insisted that equivalence of regulatory objectives would be sufficient, the EU insisted that equivalence in the market opportunities offered by the agreement was imperative.

At an inter-sectorial level, this part of the discussion was known as the EU demand for a **balanced agreement** with regard to the advantages derived by either party. In its 1992 Communication, the commission had already insisted on the need to ensure equal market access through MRAs. In terms of sectoral coverage, the EU has refused to set aside a problematic sector like pharmaceuticals where the commercial benefits derived were supposed to compensate for losses elsewhere (e.g. telecommunications). Sir Leon Brittan Brittan's defending his “market basket” concept argued that all trade agreements demanded some overall reciprocity. But the US was much more reluctant to explicitly trade off one sector against another. In addition, by 1995, the Europeans were interested above all in setting a “strategic paradigm” for how to extend mutual recognition from within Europe to its outside partners, using negotiating with the US as a laboratory. The United States could be seen by the EU as a tough testing ground in that its stress on regulatory sovereignty - in particular in the area of pharmaceuticals regulations -- could often be seen as more extreme than that of other potential EU negotiating partners. Thus, the outcomes sought by the EU were meant to achieve objectives outside the restricted realm of negotiations with the US. As stressed by EU negotiators during the summer 1995 round of talks, this meant that negotiations ought to be simplified to be more easily transferable to other bilateral contexts. The need to set the right kind of precedent was an important explanatory factor in the steadfast commitment in the EU for a balanced agreement.

A balanced agreement also had a different significance at a more micro-level. This would require -it was thought- assessing the legal and practical conditions governing market access in the relevant fields in particular through a review of respective practices before the agreement was signed. It has been harder, however, to obtain that balance be measured in terms of relative gains from mutual recognition based on prior and posterior costs of regulatory compliance. Given the prevalence of US liability laws for instance, EU laboratories may find that such an unfamiliar operating environment after MR may not be a great gain. It could, in fact, bring to light the latent discrimination hiding under formal national treatment. More generally, while recognizing that the US does not impose discriminatory trade barriers, EU negotiators have pointed to the complexity of the US system -with overlapping layers of jurisdiction at the national, state and local levels, and a complex web of public and private bodies- as hindering effective and complete access for EU exporters. To be sure, the lack of a single US Mark -like the EC Mark- across the 50 states is also a hindrance for US producers. But on the grounds of reciprocity, Europeans

wanted the US to deliver the whole US market in the same way that they are committing to deliver theirs.

In order to oblige, the US would need to put in place a full fledged domestic MRA system with preemption by federal accreditation program and ensure that all relevant bodies are part of the domestic MRA if involved in the external one.³⁸ But while the US commerce department may be envious of the relative simplicity of the EU global approach and may even be suspected of importing the global approach in the US through MRAs, there is little chance that even general commitments towards this goal could be credibly issued within the current negotiation time frame. MRAs are not simply about technical requirements but about the comparability of ensuing market access broadly defined and moves towards such comparability may need to predate the negotiations. Structural adjustment is a process that can be set in motion by MRA negotiations, but mutual recognition per se must await mutual convergence. For a need to be found in order to facilitate such convergence and avoid the "flight or fight" response brought about by negotiations centered on trade imperatives.

III. Conclusion

The high political visibility granted to MRAs in "The New Transatlantic Agenda" adhered to by G7 heads of state in Madrid in the fall of 1995 have increased the pressure on all parties to achieve results in a timely fashion. One month before the Summit, American and European business met in Seville under the aegis of the Transatlantic Dialogue and urged their government to complete the MRAs. MRAs have come to symbolize the state of Transatlantic Economic relations and are considered a trial for broader regulatory cooperation. Some degree of harmonization or autonomous convergence of underlying standards was even seen to be the likely consequence of MRAs. In short, politicians are expecting results; but what kind of results can negotiators deliver? and what are the lessons of these US-EU negotiations for the rest of the world?

This paper seeks to show that the initiation of MRAs was overdetermined in the case of external EU relations and tries to disaggregate the factors that led to such an initiation. While MRAs are formally presented as an expression of regulatory consistency, the adoption of mutual recognition within a given economic zone changes the incentives and therefore the strategic behavior of all the actors concerned, those in the zone and those outside. Outsiders have an incentive to seek access to a zone where they can reap greater benefits of scale with regards to standards requirement. This change of incentive holds whether or not the adoption of internal mutual recognition has increased or decreased the cost of market access for these outsiders. Insiders on the other hand, have acquired new source of bargaining power to open foreign markets. Thus the strategic spillover effect is consistent with both interpretations of the EU's behavior as reactive or proactive. The outcome of these negotiations reflects the way in which negotiators are able to bridge the gap between their regulatory differences and overcome factors internal to their respective systems that may impede negotiations over MRAs. Each party here thought they had more to gain than to lose by entering these negotiations. With time, however, they each had to readjust their assessment: on the US side, the costs were greater than initially perceived; on the European side, the gains would not be as immediate and widespread. Negotiators have had to overcome major obstacles, and confront asymmetries not only in regulatory practices but also in assessment of market access benefits. Ultimately, the results of this first round

³⁸ This process may be facilitated by the similarity of domestic cross-sectoral conformity assessment measures and the prevalence of multi-sector testing facilities. For instance, the test used to check leakage current on a computer is very similar to that used on an appliance or even a medical device. Such similarities are likely to facilitate future negotiations on sectors currently excluded from the negotiations.

of MRAs reflect the internal constraints of the US and the extent to which the EU was willing to compromise on its demand for balanced trade benefits.

To conclude it is important to note that the tension between trade and regulatory interests may be muted as actors become convinced of the possible synergy between the objective of free movement and that of regulatory effectiveness under MR and seek to enhance it. If such a synergy is recognized and exploited, this would greatly lessen the obstacles to the adoption of MRAs present both at the internal and external levels of negotiations. A new chapter of international regulatory cooperation would be open, warranting an adapted framework of analysis.

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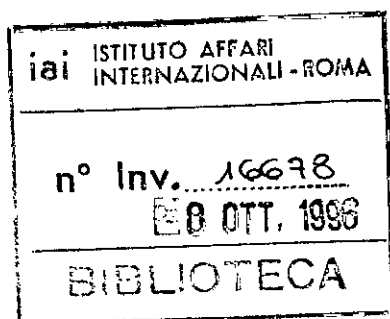
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THE DOMESTIC POLITICS OF US-EU RELATIONS

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The burst of activity designed to solidify transatlantic relations in 1995 was rather sudden. A series of European proposals in 1994 for some type of new project -- such as a cooperation treaty or free trade area -- reflected both new anxieties about the Clinton administration's focus on Asia and Latin America and old ones about the durability of America's commitment to European security (see TPN 1994; Harrison 1995; Peterson 1996). Yet, the idea of a transatlantic initiative did not appear to be on the political screen in Washington as late as May 1995.¹

By the time of the Madrid summit six months later, the United States (US) and European Union (EU) had agreed an ambitious upgrade in their bilateral relations. Curiously, the agreement was codified in not one, but two different documents. First, the 'New Transatlantic Agenda', a very long document which hinted speculatively at possible bilateral cooperation in virtually every region and policy sector imaginable. Second, the "Joint Action Plan", a short, punchy document which committed both sides to a range of specific actions. From the outset of the negotiations, the Clinton administration clearly wanted a brief, bullet-pointed commitment to action from the EU, primarily to demonstrate to Congress that the agreement had substance. For their part, the European Commission insisted that on a long document covering every possible area of cooperation to show that EU was a global power (Gardner 1997).

The new transatlantic project thus was propelled by considerably different motivations on either side. Yet, on both sides of the Atlantic, domestic political imperatives are 'driving' foreign policy and thus US-EU relations as never before during the postwar period. The Clinton administration embraced the new transatlantic agenda and action plan primarily because foreign policy has become buffeted by domestic political competition and increasingly difficult to control the foreign policy agenda without such overarching frameworks. On the EU's side, the negotiations were driven primarily by the European Commission, which sought to protect its prerogatives in transatlantic relations as weak, insecure national governments increasingly act in defiance of the 'common EU good', let alone a 'common western good'.

Transatlantic relations highlight the obsolescence of the division often assumed between foreign and domestic policies, which may no longer be studied as distinct entities. Relations between Europe and America show clearly that 'the problems most likely to be tackled cooperatively are those that most directly involve the domestic political self-interests of the participating governments' (Borinski 1993: 38).

This paper begins by exploring the meaning and implications of the 'democratisation' of US foreign policy in section 1. Section 2 examines how domestic politics in the EU's Member States constrain its policy process, and particularly the construction of

¹ During this period, the present author conducted a study for the European Commission on US-EU relations. The study failed pretty comprehensively to predict that a major transatlantic initiative was in reach by the end of the year. See Peterson 1995.

the CFSP. Section 3 considers how domestic political inputs into US--EU relations are managed. The prospects for post-Madrid transatlantic cooperation in specific issue-areas is considered in section 4.

1. DOMESTIC POLITICS AND US FOREIGN POLICY

The Politics of 'Fair Trade'

Trade has been the most important dimension in transatlantic relations since the founding of the original EEC. Over time, the domestic political consensus which allowed the US executive to 'treat trade policy as a component of US international leadership' gradually has fallen apart (Destler 1986: 30). By the time of Clinton's election, the coalition of forces within Congress which instinctively supported free trade had shrunk to almost nothing (Nollen and Quinn 1994). During his campaign, Clinton promised tougher action than taken by previous Presidents against US trading partners. After his election, he created a new National Economic Council, a sort of National Security Council for 'economic security' issues, and then threatened to ditch the so-called 'Airbus accord' and reopen a long-running US--EU dispute over subsidies for aircraft production.

In early 1993, Clinton surprised many observers by declaring that 'open and competitive commerce will enrich us as a nation'. Risking considerable political capital, Clinton secured Congressional passage of the NAFTA and Uruguay Round agreements. However, his administration was thrown on the defensive after 1994 by a hostile new Republican majority in Congress, which demanded aggressive action to shrink America's yawning trade deficit. In early 1995, Republicans told Clinton's USTR, Mickey Kantor, that they did not want a 'level playing field' but rather one tipped in America's direction. About a year later, Congress passed bills designed to punish America's most-loathed foreign enemies -- Cuba, Iraq and Iran. Extra-territorial provisions in the Republican bills outraged the EU and other American trading partners, but Clinton hesitated even to use his executive prerogatives to soften their effects. The period confirmed that divided government in the US tends to bring more protectionist trade policies (Lohmann and O'Halloran 1994).

Another force for pluralism (or even confusion) in US foreign policy stems from the differing interests of different types of American firms. Large American multinationals tend to invest in the EU. They typically generate European sales which are seven or eight times higher than those of small firms, while usually are restricted to exporting goods 'made in America' to the EU. As Hufbauer (1990: 24) noted:

Out of such comparisons emerges a simple but compelling observation: for the great majority of large American firms, the business climate inside Europe, and their place in the European economic scheme, have become far more important than their exports to Europe...From all this follows the

proposition that, to the extent the US government responds to the interests of the US business community, it will be more concerned about operating conditions within Europe than export opportunities to Europe.

The proposition is probably *too* simple. Large sales by US- owned multinationals with European investments means that maintaining open access to the EU's market for US foreign direct investment (FDI) must be a priority for any Presidential administration. By contrast, the American trade deficit is far more of a concern for Congress because it symbolised the declining fortunes of smaller, export-dependent manufacturers which were localised in Congressional constituencies.

In short, US trade policy inevitably reflects rivalries between Republicans and Democrats, and the executive and Congress. The 'American view' of European integration and transatlantic relations is also a product of these rivalries. Neither is monolithic or even very coherent.

Controlling the Foreign Policy Agenda

Trade issues became 'core' foreign policy issues in the 1980s. In the process, US executive autonomy declined as policy became subject to new challenges from Congress. In particular, the costs of American internationalism became more closely linked with domestic economic conditions in US political discourse. For example, a wide swathe of Congressional and public opinion blamed the recession of the early 1990s on the Bush administration's neglect of economic policy after 1989.

Clinton was elected largely on the strength of his promise that he would focus on domestic, not foreign, policy. He managed to portray his Asia policy as more successful than Bush's, even though Japan and China accounted for more than half of a rising US trade deficit by 1994. The Clinton administration staked out tough positions in disputes with Japan on auto parts and China on intellectual property rights in 1995. In both cases, the US was able to claim victory despite conceding much from its original bargaining position. In neither did the US speak with one voice. Many American auto parts manufacturers opposed Clinton's sabre-rattling in light of plans by all major Japanese car-makers to expand US production, thus increasing purchases of US-made parts and creating American jobs. Even as the US was threatening China with economic sanctions in the intellectual property rights dispute, its Energy Secretary, Hazel O'Leary, was dispatched to China to seek huge energy contracts for American suppliers.

More generally, the Clinton administration put more resources into commercial diplomacy than any US administration in history. In 1993, Clinton played an active and personal role in securing a \$6 billion aircraft contract from Saudia Arabia for Boeing and McDonnell--Douglas. The Commerce Department was transformed from a sleepy backwater into a thrusting focal point for 'high intensity advocacy' of US trade interests. The Clinton administration claimed that the federal government had a

hand in \$46 billion worth of foreign deals that helped create or save 300 000 jobs in 1994 (see Peterson *et al* 1995).

Still, Republicans in Congress targeted export promotion funds for cuts as part of their effort to 'reduce government' after 1994. The Commerce Department was even threatened with extinction. The period illustrated a wider point about American foreign policy: the US executive's ability to control the agenda had eroded, primarily because the 'balance of power between the executive and legislature shift[ed] with the Cold War's end' (Maynes 1990: 7).

Part of the problem for the Clinton administration stemmed from a general decline in the executive's leverage *vis-à-vis* Congress. In the 1990s, unlike the 70s or even 80s, the US executive had far less 'pork' (bridges, dams, military contracts) to distribute to his Congressional supporters. Most candidates for Congress raised most of their own campaign funds. Clinton's foreign policy approval ratings were generally poor (Reilly 1995: 16), thus encouraging Congressional 'micro-management' of US foreign policy. Clinton found that 'the old sense of party discipline was gone. A President had no sanctions' (Drew 1994: 266).

Perhaps above all, the end of the Cold War lowered the electoral costs of opposing the President on foreign policy. Congress thus became more willing to substitute its collective judgement for the President's, as was illustrated on Bosnia, Somalia, Haiti, the WTO and NAFTA even *before* Clinton lost his 'friendly' majority in Congress. After 1994, Clinton concentrated more on foreign policy because it gave him more autonomy *vis-à-vis* Congress and made him appear 'Presidential', but then as before he found that US foreign policy had been pulled 'into the maelstrom of American politics' (Mann 1990: 29).

A New Isolationism?

The American political class confronted two fundamental challenges in the 1990s: adapting to a redefinition of 'national security' and maintaining public support for American internationalism (see Yankelovich and Destler 1994). The gap between perceptions of US political leaders and the public at large widened on a range of questions related to America's role in the world. In 1995, 72 per cent of ordinary citizens thought that reducing illegal immigration was a 'very important' goal of US foreign policy, compared with only 28 per cent of American elites. Only one in five members of the general public favoured increased US aid to Eastern Europe compared with over half of elites (Rielly 1995: 15,32).

Advocates of a 'new isolationism' in US foreign policy sought to capitalise on this gap in perceptions:

Internationalism...has led directly to the primacy of foreign policy in American life and to the consequent neglect of domestic problems...[We must] begin to

think in terms not of the whole world's well-being but rather of purely national interests...American foreign policy has been conducted with utter disregard for the home front largely because it has been made by people whose lives and needs have almost nothing in common with those of the mass of their countrymen (Tonelson 1991: 37).

When Republican majorities took control of Congress in 1994, foreign aid became a prime target for budget cuts. The almost obsessive focus of Republicans on the issue was motivated by opinion polls which suggested that pluralities of Americans thought that foreign aid accounted for 20-30 percent of the US federal budget, when the actual figure was about 1 percent. Ultra-conservatives such as Jesse Helms, the chair of the Senate Foreign Relations Committee, likened foreign aid to 'throwing money down foreign rat holes'. Clinton's National Security Adviser, Anthony Lake, responded with a tough attack on Republican 'new isolationists'. Still, it was clear that Clinton stood to win very few votes with its position on the issue.

The inevitability of growing public support for a neo- isolationist US foreign policy was not clear. A clear majority (69 percent) of Americans appeared to believe that the US should continue to 'take an active part in world affairs'. Nor is it evident that new domestic concerns about the costs of American internationalism will have a strong impact on the EU. For instance, Europe is still considered by the American public to be more important to US interests than Asia by a large margin (49 to 21 percent) and a similar plurality considers the economic unification of Europe to be a good thing for the US (see Rielly 1995: 13,23).

It also was arguable whether there was anything 'new' about the new isolationism. America always has been an insular society. Less than 3 per cent of Americans travel to foreign countries other than Canada or Mexico each year. Mann (1990: 13) insists that the US public always has been 'deeply sceptical of substantial and extended American involvement abroad' (see also Kelleher 1994). The problem is that US political culture reflects a fundamental tension between the competing values of democratic government and a credible foreign policy. The former implies open competition between a wide range of interests. The latter requires executive autonomy to set goals and pursue them consistently. What is different about the late 1990s is that geopolitical change, declining US fiscal resources, and the increasingly fuzzy division between domestic and foreign politics have accentuated this tension as never before.

The Democratisation of US Foreign Policy

Whatever the true strength of neo-isolationism in US public opinion, American foreign policy has become significantly 'democratised': that is, subject to more effective pressures from a wider range of interests. The policy agenda is now more difficult for the political class to control. The foreign policy process has become more indistinguishable from the domestic policy process.

The upshot is that any initiative to deepen cooperation with the EU or any other foreign state raises suspicions about fettered US autonomy. The very intense firefights which occurred before Congressional ratification of NAFTA and (especially) the WTO illustrate the point clearly. New constraints have been placed on the development of a joint US-EU policy agenda. Any President who seeks a more unified security alliance in Europe, joint leadership of the WTO or expanded cooperation on 'new' foreign policy issues, such as environmental protection or international crime, stands to encounter obstacles that did not exist during the Cold War. If anything, the democratisation of foreign policy creates new pressures for US withdrawal from its NATO commitments, more protectionist American trade policies, and aggressive unilateralism more generally. That foreign policy is made in a completely different world now is evidenced by the recent claim by the Father of US Cold War strategy that party politics are a 'luxury' (Kennan 1996).

2. DOMESTIC POLITICS AND EU POLICY-MAKING

Three factors make it difficult to compare the impact of domestic politics on American and European foreign policy-making. First, the EU is not a 'state' and policy outcomes are a product of bargaining between domestic political actors at the national level as well as between Member States at the EU level. Second, the EU lacks a 'common' foreign policy in all but name. Particularly after the EU's failure as a mediator in Yugoslavia, few would have termed the CFSP a success by the mid-1990s. Third, the EU remains a moving target: it has undergone important changes since the mid-1980s, with more to come after the conclusion of the 1996 IGC.

The 'domestic politics' of European integration are manifest above all in conflict between national governments to control the EU's agenda for domestic political gain. Since the mid-1980s, the willingness of European governments to put aside domestic political objectives if and when it furthers the perceived 'common good' has diminished, in particular due to declining economic conditions. Meanwhile, the EU has developed enormous influence as an international actor, but retains weak and ill-defined institutional arrangements for wielding that influence. Competing views amongst Member States about the EU's external policy goals, as well as the question of how much foreign policy competence should be assumed by the Union, inevitably reflect the domestic political priorities of EU governments. The complex, tangled internal politics of EU external policy have powerful implications for the Union's relations with the United States, and the outside world more generally.

Domestic Politics, External Trade Policy and 1992

After the deadline for the 1992 project passed, the internal market was, in theory, complete. However, the EU still had yet to make a range of decisions related to the internal market. The choices made promised to have wide implications for the

Union's external trade policy and its relations with the US. A broad range of ostensibly 'internal' EU policies have profound trade policy effects.

For example, as the Commission sought to create a single market for public procurement, it was pressured by EU Member States to restrict the access of non-EU suppliers. A 1990 directive on public procurement in telecommunications and other big-ticket public products contained a 'Community preference', or built-in discrimination against foreign suppliers. The EU's 'Television Without Frontiers' directive in 1989 contained provisions for reserving a majority of EU transmission time for TV programmes of European origin. The American response to both directives was outrage.

The procurement issue remained volatile for three reasons. First, powerful national champions benefited from time-honoured patterns of public procurement and many lobbied hard for protection from large, globalized American firms. Second, on the US side a range of 'Buy America' laws, particularly at the level of the individual states, often prohibited public purchases of non-American products. On no other issue was the autonomy of the individual states from the federal government a greater source of tension in US--EU relations. Third, the wide gap between US and EU positions on procurement threatened to block progress towards a more general GATT deal to conclude the Uruguay Round. After arguing for years about whose procurement markets were the least open, the US and EU hit upon a unique solution in 1993. The results of an independent study of public markets on both sides underpinned a deal which went beyond anything that could be agreed in the GATT. The deal was in some ways a testament to the ability of the US and EU to solve difficult bilateral problems when minds on both sides are focused..

However, public procurement -- despite all its inherent difficulties -- is an issue on which the competence of the Commission is clear, if still widely-flouted, and thus is actually a simpler one to deal with compared to many others. The Uruguay Round came within a whisker of permanent breakdown in late 1993 when the Clinton administration essentially stopped negotiating, in part because it had become so exasperated by internal EU bickering (see Gardner 1997). Questions about 'mixed competence' between the Commission and its Member States overhung the negotiations because the Uruguay Round covered new areas of trade policy (i.e. intellectual property rights and services) for which no clear division of competence was drawn in the EU's Treaties. Many such questions effectively were left for the European Court of Justice to sort out after the negotiations were finished, but they were seized upon by France to wring further concessions out of other EU Member States as well as the US as the Uruguay Round neared an end. The Commission often found itself having to defend its own position as the Union's primary negotiator in the Uruguay Round, in *addition* to the EU's substantive position on actual trade issues (Paeman and Bensch 1995).

The hype which accompanied the 1992 project could not obscure the reality that economic liberalisation creates economic losers, as well as winners. 'Diffuse' public support for European integration obviously becomes more difficult to sustain when politically powerful national producers lose market shares, reduce workforces and focus the blame on Brussels. Supporters of a *non* vote in the French referendum on Maastricht in 1992 found it easy to foment an anti-EU backlash at a time of deep recession, as did Eurosceptic French parties in the 1994 EP election.

The degree to which France's EU policy had been transformed in the transition from François Mitterrand to Chirac, after the latter was elected French President in 1995, was perhaps too easy to underestimate because of the appearance of continuity in Franco-German ties. However, Chirac's widely-reported assurance to John Major that France would have acted in precisely the same way as the United Kingdom (UK) during the 1996 beef crisis, when British beef was banned by the EU, was striking. Major's 'non-cooperation policy' clearly was driven by domestic political calculations, as he sought to rally his party -- including a large minority of fierce 'Eurosceptics' -- just ahead of a general election.

Yet, even in the Chirac era, France's foreign policy remains firmly focused on making the EU work to magnify French global influence. France, like all EU Member States, thus must nurture diffuse support for the EU, satisfy the demands of entrenched domestic economic interests and maintain the internal market, without discriminating against US producers. How well the Union manages this balancing act will go far toward determining the state of US--EU relations in the 21st century. However, a proposal to conduct a study on the feasibility of moving towards a transatlantic free trade area was resisted fiercely by the French. With an eye on the militant French farming lobby, Chirac rejected the idea with a rationale that was almost comical given French obstinacy during the Uruguay Round:

I do not want the European Union to get involved blindly in free trade agreements before the World Trade Organisation has proved its efficacy and the European pole itself has been reinforced.²

Meanwhile, as American trade policy shifted towards aggressive unilateralism, the EU showed itself riddled with divisions within the WTO. Deep internal splits were exposed in the WTO talks on telecommunications in advance of an April 1996 deadline for a deal. Belgium and Spain, with support from France, Greece and Portugal, refused to improve the EU's offer, even when the US tabled new concessions after Congress passed a sweeping set of measures liberalising the domestic telecoms sector. A key issue was the issue of foreign ownership and access to local phone services as well long distance and international traffic, which the Americans offered unreservedly to Europe.

² Quoted in *European Voice*, 21 March 1996.

Spain's conservative position on telecoms was indicative of its general shift on EU issues: under Felipe Gonzales, the Socialist government had unveiled an enormously ambitious domestic deregulation programme as 'a leap forward of massive proportions' to demonstrate its European zeal. A more sober and sceptical Popular Party government in 1996 announced that Spain would 'go neither faster nor further than the average among our European partners'.³

Recent trade disputes such the recent skirmish on telecoms may represent nothing very new in transatlantic relations. Yet, the short-termism which characterises trade policies on both sides masks the fundamental reality that the collective power of the US and EU to dictate the global trade agenda is shrinking. Increasingly, power in global economic diplomacy is a question of market size and strength, and western growth rates have remained well below those of emerging competitors such as China, India and Brazil. It would seem to make sense that the declining collective power of the west would reinforce transatlantic cooperation, given the similarity of economies on both sides and the recent transatlantic initiative (see Kahler 1995; Peterson and Ward 1995). However, if anything, bilateral trade relations appeared to be in danger of deteriorating by mid-1996.

The Politics of EMU

Economic and monetary union (EMU) emerged as the single most important project of European integration after 1988. At the Maastricht summit in 1991, the German Chancellor, Helmut Kohl, secured agreement on five 'convergence criteria' which any Member State would have to meet before joining EMU. The criteria required strict discipline on national inflation and interest rates, annual budget deficits, total public debt and stable exchange rates. In response to a sceptical German public which feared losing the deutschmark and Bundesbank, Kohl insisted that the criteria matched 'anything we have in Germany'.

At the time, it was difficult to explain why southern Member States accepted the convergence criteria. Italy and Spain met only one of the five criteria and Greece and Portugal met none. These states seemed to be 'no-hopers' for EMU with the first vote on entry only five years away in 1997. Yet, poorer EU states had begun to look at monetary union as a device to justify harsh, remedial economic policies to their domestic publics. Most sought to end their addictions to high inflation and public spending and make their producers more competitive in the internal market. The strategy revealed the potent symbolism of the 'European project' for states seeking to modernise, compete and remain full partners in its construction. It also pointed to the critical need of governments in these states to sustain diffuse support for the EU at home when the price of European unity was considerable economic pain.

³ Both quoted in *Financial Times*, 24 June 1996,

Serious new doubts about the credibility of EMU arose when the European Monetary System, a precursor to a single currency, was beset by the first in a series of currency crises in 1992 prior to the French referendum on the Maastricht Treaty. Finally, in August 1993, Member States succumbed to powerful signals from currency markets and reconstructed the EMS as a much weaker mechanism which was much less likely to facilitate a smooth transition to EMU. The more that their carefully--planned architecture for EMU began to appear defective, the more European leaders sought to vilify external forces. For example, Mitterrand blamed international currency speculators and proposed a global tax on currency transactions. The Major government blamed the German Bundesbank for not defending the pound on 'Black Wednesday' when it had to be withdrawn from full membership of the EMS.

For his part, Kohl singled out the American policy of 'benign neglect' of the value of the dollar as a deliberate attempt to undermine plans for a single European currency. While Kohl's charges were both paranoid and incredible, they illustrated clearly how fragile yet forceful the EMU project was as a symbol of the EU's success or failure. They also hinted at how the EMU project could become a new source of tensions in US--EU relations.

Disentangling the US interest in EMU is difficult. On one hand, EMU could reduce the role of the US dollar as reserve currency and empower the EU in negotiations on monetary policy coordination. On the other hand, large American MNCs would be advantaged by a single currency. The value of sales by US firms with direct investments in Europe is far higher than the value of American exports to the EU. American multinationals with European assets would benefit, as would all who do business across borders in Europe, from a single currency.

Like the 1992 project itself, EMU is a highly political project which is perceived by many of its advocates as a litmus test of Europe's will to unite. The political symbolism of EMU is well-understood within the State Department. However, the Treasury Department takes a different and decidedly dim view of EMU:

We're not concerned that much about EMU and ultimately we want greater economic growth in Europe...But there is a US concern about the fiscal drag of EMU, and the large amounts needed for redistribution or convergence in order to make it work. We see an analogy with German unification, which put things out of whack for quite a while. And we also see a pretty simple trade-off between a single currency and lower unemployment.⁴

The latter point is supported by economic evidence: higher taxes and spending cuts needed in order for Member States to meet the convergence criteria could cost up to

⁴ Interview, US Treasury, April 1995.

1.5 million jobs (Barrell *et al* 1995). Moreover, the unanswered question of how non-participant EU states would relate to those which did join a single currency led to serious concerns within the Clinton administration about the extent to which EMU had pushed eastern EU enlargement -- an overriding American priority in Europe -- further down the EU's agenda.

Ironically, EMU is one of the few EU policies which appears not to be driven by domestic politics, yet it clearly has enormous potential to strain transatlantic relations. The possibility of severe 'system friction', or the management of currencies in pursuit of domestic goals with negative consequences for outsiders, are high (see Kahler 1995). The early 1990s saw the US adopt a policy of benign neglect of the dollar, even 'talking it down' at several points, to try to stoke a domestic economic revival. One effect was to exacerbate tensions within the EMS (Smith and Woolcock 1993: 103). In short, the US may try, but it ultimately will fail to be agnostic about EMU.

Eastern Europe and Internal Security

Geopolitical change in Eastern Europe had numerous effects on the internal politics of the EU. One of the most important was new concern about the prospect of economic refugees flooding the EU from the former Warsaw Pact states. In Germany, the rise of anti-immigrant violence in 1991 became one of the most intractable problems associated with unification. Kohl proposed a domestic political solution: changes in Germany's postwar constitution, the Basic Law, which required the state to accept all applications for asylum and to feed and house all applicants during a lengthy examination process. The proposals were blocked by opposition parties in the German parliament.

The Kohl government thus backed plans for EU external border controls and a common asylum and immigration policy. Controversially, the Germans urged that decisions on 'internal security' issues should be made by majority voting. As it became clear that several other Member States would not accept the proposals, the Germans took a variety of steps to let East European governments know that they risked losing economic aid unless they cooperated in taking steps to deter economic migration to the west.

The internal security 'pillar' eventually agreed at Maastricht mandated only closer intergovernmental cooperation outside the legal confines of the Community. In the short term, it did not solve the immigration problem for EU governments. Nearly all faced pressures to tighten controls as unemployment increased in the recession of 1991--2, and then fell only marginally as the economy recovered. Polls showed that about half of all EU citizens thought the Community was populated by too many immigrants. In France, Jean- Marie Le Pen's National Front party swung an alarming number of voters -- nearly 30 percent according to some polls -- behind its racist and xenophobic programme. In Belgium, the ultra- nationalist Flemish Bloc increased its vote exponentially and led all parties in large Flemish cities such as Antwerp. About

half a million immigrants applied for asylum in the EU annually in the 1990s, or twice as many as in any year before 1985.

The magnetism of the EU for those facing poverty and political unrest will not diminish anytime soon. After 1989, the choice for EU governments became either a common EU policy on immigration or tougher national border controls, which threatened to restrain the free movement of citizens while erecting new barriers to trade. More generally, the Union faced powerful incentives to develop common policies on a range of issues related to Eastern Europe. The furious row which ensued after France blocked proposals in 1991 to open EU markets to East European agricultural producers was indicative. The incident generated ill will in the east and caused considerable upset in Washington before the French eventually relented.

Table 1 -- East and West European labour costs
(manufacturing sector, \$ per hour in 1993)

West Germany	24.9
Belgium	21.0
EU AVERAGE	15.1
UK	12.4
Portugal	4.7
Slovenia	2.8
Hungary	1.9
Poland	1.4
Czech Republic	1.2
Slovak Republic	1.2
Romania	0.7

source: adapted from PMI 1994: 21

The entry of new competition from the east threatened to split the EU along north-south lines without agreements at a high political level to support fledgling economies and the democracy-building process in Eastern Europe. Even Portugal, which had the lowest manufacturing labour costs in the EU, found its producers overmatched by low-wage competition from Eastern Europe (see table 1). In short, the EU's trade, economic aid, internal security and foreign policies are uniquely inseparable in its relations with Eastern Europe.

However, the EU's institutions are poorly-equipped for the integration of policies in this way. The difficulties of imposing the sort of radical changes needed to reconcile enlargement with the EU's agricultural and regional policies illustrates the point clearly. In light of the recent Commission paper which states that the earliest that

Poland, Hungary and the Czech Republic could expect to join the EU in 2002, it bears repeating that the first priority for *any* US administration is rapid EU enlargement.

The Domestic Politics of European Union

With yet another IGC underway in 1996, it is worth recalling how the negotiations surrounding the Maastricht treaty were driven by domestic political imperatives in key EU member States. In 1991, diffuse support for European unity was perhaps strongest in Italy. As such, its government pushed hard for a strong commitment to EMU as well as new common policies on industry, consumer protection, health, education and assistance to poorer regions.

Above all, Italy's government sought to use the Maastricht summit to distract attention from its acute domestic political problems. Support for the governing Christian Democrats and Socialists evaporated as the Lombard League, an upstart regional movement, notched up stunning electoral gains by accusing Rome of misgovernment and 'milking' the prosperous north to subsidise the underdeveloped south. Within a few years, both of the two main Italian negotiators at Maastricht, the Prime Minister Andreotti and the Foreign Minister, Gianni de Michelis, faced serious corruption charges. Their long-standing and fervent support for European unity tainted the EU in the minds of many Italians. By late 1994, the Italian government included the anti-EU and neo-fascist National Alliance party as well as Umberto Bossi, the leader of the Lombard League, who declared that a 'multi-cultural society is hell'. When asked what he thought of the master impressionist painter, Toulouse-Lautrec, Bossi told a radio interviewer in 1993: 'I think Toulouse will win'.

Domestic politics in France were transformed by Maastricht and its aftermath. Mitterrand tried to use the Maastricht summit to help rescue the French Socialist Party from its chronic decline in opinion polls. Mitterrand claimed that the agreement on the internal security pillar was a European solution to France's immigration problem. A new Treaty reference to the West European Union (WEU) as a 'integral part of the development of the EU' was presented as a diplomatic victory for France, whose troops remained outside NATO's integrated command.

In the minds of many French voters, the EU and Maastricht Treaty both became associated with Mitterrand himself, who played a major role in the Union's development during his 14 years in office. After Danish voters rejected the Maastricht Treaty in June 1992, Mitterrand put the Treaty before French voters in a referendum designed to demonstrate the strength of French popular support for the EU. The plan backfired with near-disastrous results: many of the 49 percent of French voters who voted non were expressing their distaste for Mitterrand as much as their opposition to the Maastricht Treaty.

Compared to Italy or France, diffuse support for European unity has always been weak in the UK. The Major government had to be particularly mindful of British public

opinion at Maastricht with a domestic election only months away. Polls taken in late 1991 suggested that 58 per cent of Britons opposed a single currency and 63 per cent were against 'political union'.

Major returned home with a British 'opt in' clause on EMU, modest increases in the powers of the EP and Commission, and a bizarre agreement which allowed the UK to 'opt out' of the Social Chapter. His claim that the outcome of the summit had been 'game, set and match to Britain' strengthened Major domestically as he led his party to victory in the 1992 UK general election. However, by end of the year Major was humiliated when his economic policy was jettisoned by a sterling crisis and the British pound had to be withdrawn from the EMS. Deep splits opened up within the UK Conservative party between nominally pro-EU members and 'Eurosceptics'. As his popularity ratings sank lower than those of any other UK Prime Minister in history, Major took tough anti-EU positions, culminating in British non-cooperation during the beef crisis.

In Germany, Kohl was pressured by cross-party consensus on the need to increase the EP's powers and make the EU a true parliamentary democracy. With support from the UK and smaller Member States, the French resisted the German agenda. Kohl settled for new EP 'co-decision' powers, particularly concerning the single market. Although he tried to portray the Maastricht Treaty as a good result for Germany, support for the EU -- and particularly for EMU -- declined sharply in Germany.

German enthusiasm for empowering the European Parliament (EP) and creating a 'federalist Europe' stoked a wider debate about the nature of the EU as a political system. The EP remained weak, the Commission unelected, and the Council of Ministers a secretive cabal. The EU's general lack of democratic legitimacy became a more urgent concern as the Union's powers increased. In Austria, where a resounding 'yes' to EU membership was recorded in a 1994 referendum, less than 40 percent of Austrians said they would vote the same way in 1995. It became difficult to imagine that diffuse support for European unity could be maintained if the EU continued to accrue powers without becoming a more open, democratic political system.

Part of the problem was that much of the 'European project' -- to create a more united, richer and powerful EU -- seemed utopian without further transfers of national powers to Brussels. As Marquand (1994: 19) argued 'the nation-states of the Union have already surrendered too much power to supranational institutions to implement it on the national level, while the institutions of the Union will continue to be too weak to implement it on the supranational level'.

Another problem was the EU's inability to meet the high expectations of the US and the rest of the world. During most of the Cold War, the EU was essentially a customs union which lacked all of the basic attributes of a sovereign state. After 1989,

external pressures pushed the EU to consider developing these attributes -- a single foreign office, intelligence service and military -- but all were still years away.

Even if the EU still lacks a 'common' foreign policy, but it does stand for something in international affairs: the consolidation of democratic government in Europe. Yet, the EU is highly undemocratic in many respects. Pillars II and III give the EU more scope for developing common positions in areas ripe for cooperation with the US, but the EU's lack of unity in these has provoked impatience within the Clinton administration. The pillars illustrate the continued propensity of European governments to pool resources without pooling accountability.

The undemocratic nature of the EU is part of a wider problem. After 1993, European citizens actually expressed more dissatisfaction with the way that democracy worked at national than at the EU level (Shackleton 1994: 7). Popular attitudes towards EU at least remained stable: 57 per cent of EU voters still expressed a 'positive feeling about membership' (Commission 1995). It is perhaps worth recalling Milward's (1992) insight that the Community originally was created to 'rescue' weak, insecure and war-ravaged national states and to make them more legitimate and effective. The same trick might work today, if the end of Cold War had not had the apparent effect of making European citizens less intolerant of diversions from democratic ideals.

It remains difficult to democratise the EU because it is characterised by a distinctive type of multi-level bargaining. Putnam's (1988) model of 'two-level games' is apt, but still far too simple to capture the way in which EU policies are often driven by domestic political imperatives, and yet governments often use the EU to 'Europeanise' domestic problems and make them less intractable, as the Germans have done on immigration issues. This strategy allows governments to shift the policy-making process from the national to the EU level, where domestic political pressures are weaker and do not constrain as much.

Foreign policies became 'Europeanised' in significant respects beginning in the early 1970s. The European Political Cooperation (EPC) mechanism was created to allow Member States to 'coordinate' their foreign policies within a closed circle of EU foreign ministers far removed from domestic politics. Compared to the American foreign policy process, EPC allowed less input from a far narrower set of interests.

More recently, the ability of governments to use the EU to 'hide' from domestic political pressures has eroded. After Maastricht, it became obvious that governments in a number of EU states -- France, Ireland, Germany and especially Denmark -- had failed to build a solid domestic consensus in support of the Treaty. For example, Kohl was forced to grant the German Lander, or individual states, new powers to co-determine key aspects of German EU policy to ensure ratification of Maastricht by the Bundesrat, the German upper house of parliament, where the Lander are represented.

Most EU policies remain a product of bargains between national elites. Polls in 1995 showed that only 17 per cent of Europeans were even aware that another intergovernmental conference was planned for 1996 (Commission 1995). Yet an expanded number of EU bargains have increasingly perceptible impacts on the social and economic lives of ordinary citizens. The ability of EU governments to justify this system of policy-making and sustain diffuse support for the European project became subject to new doubts in the 1990s. The EU risked undermining its image as a guardian of democratic government in Europe if it continues to leave the 'democratic deficit' untouched. Yet, serious institutional reforms continued to be blocked mid-way through the 1996 IGC by France and, above all, the UK.

Throughout the postwar period, EU elites often used the symbolic force of European unity to legitimise policies they could not otherwise 'sell' at home. Declining popular support for the ideal of European unity generally and the EU specifically in the 1990s made this ploy less viable. In foreign policy, the EU has clear incentives to present a single, unified face to the rest of the world in the 21st century, if for no other reason than to cooperate with, rather than kow-tow to, the Americans. But foreign policies inevitably touch on sensitive questions of national sovereignty and identity. A CFSP made in isolation from European citizens is unsustainable for very long.

3. MANAGING DOMESTIC POLITICAL INPUTS

As the line separating foreign from domestic policy has blurred, US and EU elites have had to cope with a wider array of pressures being brought to bear on foreign policy. Asserting political control over an expanded number of domestic agencies which now have an interest in foreign policy has become a particularly challenging task. The management of domestic political inputs into US and EU foreign policies has become a more crucial prerequisite of stable bilateral relations.

The Clinton administration's record on managing relations with the EU has been mixed. On one hand, Clinton's Secretary of State, Warren Christopher, was primarily a Middle East specialist with relatively little knowledge of Europe. His access to the President clearly was limited. On the other, Clinton's US Ambassador to the EU, Stuart Eizenstadt, was a Washington insider and political heavyweight. His fingerprints were perceptible on the initiative which led to the Transatlantic Initiative and Action Plan in 1995. The appointment in 1994 of Richard Holbrooke, a respected and experienced diplomat, as the head of the State Department's European desk gave greater coherence and predictability to American EU policy. One of Holbrooke's deputies insisted that, 'this administration has been more supportive of European integration than any since Kennedy's'.⁵

However, the administration's control of the foreign policy agenda became tenuous after Republican majorities took over Congress in 1994. By mid-1995 Dole had made

⁵ Interview, US State Department, April 1995.

good on his long-standing threat to seek a Congressional vote to abrogate the UN arms embargo on the former Yugoslavia. In a rare show of European unity, all 15 EU Member States condemned the action on the grounds that it unilaterally imposed a misguided US 'solution' in the Balkans. Clinton could do no more than threaten a veto that Congress appeared capable of overturning as it sought to use the issue for domestic political advantage. Clinton's warnings about undermining America's European partners cut little ice in Congress.

On the EU's side, the CFSP remained an amalgam of national foreign policies. However, the Commission's management of the Union's external trade policy made it an important player in managing US-EU relations, particularly given the EU's lack of a Council of Trade Ministers. DG I often found itself caught between national tendencies toward free trade or protectionism. Still, the Commission attracted admiration in Washington and other foreign capitals for its willingness to face off against more protectionist EU governments and generally preferred dealing with the Commission to dealing with the Council's troika (see Gardner 1996).

Ironically, there is no analogous, integrated US agency for managing domestic political inputs into trade negotiations. The US Trade Representative is, after all, an agency which wields powers delegated by Congress to the executive. The Commerce Department has far more influence over policy towards developing than developed countries. The State Department's pull on trade policy is weak.

The EU's own behaviour has been conditioned by the frequent inability of the American executive to deliver on its trade policy commitments. Of course, mandates given to DG I by EU Member States prior to trade negotiations are products of hard bargaining between national interests. But US trade policy under Clinton has become even more events-driven and politically-derived than EU trade policy (Peterson 1996).

The Transatlantic Declaration was accepted by the EU largely because it was viewed as a means for ensuring that the EU was consulted prior to the emergence of new US trade legislation in Congress. An 'early warning system' at the sub-cabinet level, unveiled in 1994, appeared to produce a somewhat calmer approach to bilateral trade dispute on thorny issues such as procurement, Cuba and telecoms.

The Transatlantic Declaration committed the US administration to two full summits and cabinet-level 'roundtable meetings' with the Commission each year. While these latter meetings sometimes did not take place, a vast number of bilateral 'panels of experts' emerged. For example, US enthusiasm for the creation of a Joint Task Force on Biotechnology was a product of a long-running bilateral dispute over an EU ban on exports of American beef treated with growth hormones. The Bush administration hoped the Task Force would conclude that the ban was a desperate measure designed to cope with the EU's domestic beef surpluses rather than a product of legitimate consumer safety concerns. A Commission official claimed,

It was [the USTR Carla] Hills' idea to set up the biotechnology group to be a political group which the US could use to beat the EU over the head. But the scientists within it were outraged by the idea and hijacked it. They just wanted to talk about biotechnology research.

Officials contended that such low-key exchanges were critical in keeping transatlantic relations on an even keel. Increased exchange between experts created a web of joint dialogues or 'epistemic communities' which were depoliticized and far removed from domestic pressures. They became potential facilitators of broader agreements at higher political levels.

Despite stronger bilateral relations, American expectations of the EU often remained unmet. Europe's disunity in foreign policy usually was a consequence of the inability or refusal of EU governments to buck domestic public opinion for the sake of a common European policy. Examples included Belgium's refusal to sell arms to the UK during the Gulf War and Germany's unilateral recognition of the independence of Slovenia and Croatia. The EU's behaviour during the Gulf War and the Bosnian conflict fuelled isolationist impulses in Congress. The argument became: 'The EU is richer and stronger now. Why should we help them when they will not help themselves?'

The degree to which western foreign policies have been 'democratised' is easily exaggerated. Usually, foreign policies are products of bureaucratic competition more than outcomes of open domestic political debates. For some, the sharper focus of the US Congress on domestic problems during the Clinton years 'reinforced the inherently elitist nature of foreign policy-making' (Latter 1994: 6--7). Arguably, the CFSP and pillar III made it easier for EU governments to 'hide' from domestic pressures when they made policies in which the US took an interest.

Still, there is no denying that foreign policy perceptions and processes have changed radically since 1989. The Transatlantic Declaration was mostly a response to new geopolitical uncertainties following the demise of the Warsaw Pact. The Transatlantic Agenda and Action focused almost exclusively on issues -- such as development aid, nuclear proliferation and terrorism -- that *do not* excited passions in national politics on either side. The Transatlantic Business Dialogue, a series of discussions between US and EU industrialists, is designed to identify barriers to trade in as low-key and depoliticised a manner as possible. All of these measures seek to systematise US-EU relations and thus counterbalance the democratisation, and increased volatility, of western foreign policies in a post-Cold War world.

CONCLUSION

Largely in response to the EU's disunity in Bosnia, a growing chorus of American voices has begun to express doubts about the desirability of the 'European project' as

now defined by the EU (see Pfaff 1994; Kapstein 1995; Judt 1996). One of the most important problems which plagues US-EU relations is that American tends to assume that it has more influence over the process of European integration than it actually does. In EU negotiations, it usually is not very helpful and often is counterproductive (especially on issues which are sensitive for France) to defend any particular measure by arguing that 'we must do it for the Americans'. Domestic political imperatives, unless they point towards accommodating the US, will almost always win out over the need to maintain good relations with Washington. The familiar problems of perception and misperception (Jervis 1976) thus exacerbate the gap between the EU's capabilities and American expectations (Hill 1993).

Meanwhile, an astonishingly small number of officials -- perhaps as few as 12 in the entire US administration -- follow EU affairs in a close or sustained way. The effect is to make it ever more likely that, in the absence of a broader doctrine to guide foreign policy, policy towards the Union will be driven by domestic American politics, with little or no consideration given to its knock-on effects for the EU.

A transatlantic alliance is unbeatable by any other possible coalition on most important international issues (Peterson and Ward 1995). Recent bilateral initiatives mean that officials on both sides 'have never been more energised to put flesh on the promises to coordinate policy' (Ginsberg 1996: 19). Yet, a hard look at the domestic politics of US-EU make it difficult to be optimistic about the alliance's future.

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*"Towards Rival Regionalism? U.S. and EU Regional Economic Integration Policies and
Transatlantic Economic Relations"*

Towards Rival Regionalism?

U.S. and EU Regional Economic Integration Policies and Transatlantic Economic Relations

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Introduction¹

Despite the strong trade and investment links between the U.S. and the EU economies at the corporate level, the political environment of transatlantic economic relations seems presently to be characterized more by conflicting interests than by cooperation. The New Transatlantic Agenda on which both sides agreed in December 1995 to promote mutual and global trade liberalisation, has lost its momentum, as has its private sector offshoot, the Transatlantic Business Dialogue. This may reflect some qualitative shift in transatlantic economic relations towards an increasing economic rivalry.

Indeed, European governments are increasingly irritated by the apparent cavalier approach of the U.S. in employing its political dominance to promote its export interests and in trying to compel third country companies to abide by its economic sanctions policy towards so-called rogue countries.

This paper, however, addresses another, possibly more fundamental political development influencing transatlantic economic relations. The argument is based on two observations:

- (1) Regulatory or "domestic" policy issues have moved up fast on the agenda of international trade policy in recent years and are likely to dominate in the future.
- (2) Regional economic integration (REI) has come of age in recent years. Countries do not simply conclude regional integration agreements which then fail to materialize as was so often the case in the past. They have discovered the virtues of *implementing* regional economic integration. Setting more or less well-defined time-frames and concrete goals for liberalisation and deregulation has become a major feature of regional integration policy worldwide. And the need to establish some common regulatory rules or regimes is increasingly being addressed in integration agreements.

Furthermore, this paper argues, the process of regional economic integration is still essentially being driven or instigated by the world economy's two traditional gravity centers, the United States and the European Union. Both consider their respective REI policies as one of their most effective means of remaining dominant players in the global economy. Their approaches in pursuing REI, however, reflect their different and often conflicting patterns of commercial policy.

These policies have some common goals:

¹ An early draft of this paper, intended to prepare a conference and publication project, was discussed in November 1995 during a research visit at the Institute for International Economics, Washington, DC. The present version draws on the results of the transatlantic workshop "Towards Rival Regionalism? U.S. and EU Regional Economic Integration Policies and the Risk of a Transatlantic Regulatory Rift", Stiftung Wissenschaft und Politik, Ebenhausen, July 4 - 6, 1996. Publication of the conference volume is forthcoming. Support of the project by a grant from the German Marshall Fund of the United States is gratefully acknowledged.

- to provide political stability to potentially unstable regions;
- to contain and get involved certain major powers (China and Russia) which otherwise might become a source of destabilization or even a security threat;
- to contribute to a reduction of direct and indirect barriers for trade and investment beyond the achievements of the GATT/WTO and thus to promote a "level playing field" by gradually eliminating distortions of competition which originate from differing national regulations and domestic policies.

There is, however, no transatlantic consensus on the extent to which this latter goal should be addressed at the regional instead of the global (eg. WTO) level.

But by pursuing these goals the U.S. and the EU also aim at establishing zones of economic preferences to obtain business opportunities more advantageous than those of their global economic rivals.

This may happen in three ways:

- 1) by reducing or eliminating tariffs within a free trade agreement in conformity with Art. XXIV of the WTO Agreement,
- 2) by taking steps to create a regional regulatory regime beyond present WTO codes as well as to interfere with their rivals' parallel attempts at expanding their regulatory regime,
- 3) by consolidating and enhancing their political influence in a region with a view to be able to informally encourage favorable policy and business decisions.

Within this context the analysis will focus on the possibility of an emerging rival regionalism, with special emphasis on what has been mentioned above under (2): the likelihood and implications of the major present regional economic integration agreements leading to *rival regulatory regimes*.

Such a regulatory rift in transatlantic relations could in the medium term not only put a strain on these relations in general but might become a major threat to further global trade liberalisation.

Regional targeting?

In the present global setup of regional economic integration the *European Union* has established itself as the core of a large region of nations which are (or will eventually be) associated to it through various bilateral agreements. While these agreements offer differing prospects of deepening those countries' relationships with the EU, ranging from free trade to the perspective of full EU membership, they all address rather more or less comprehensively the wider regulatory issues as defined by the EU's Single Market *acquis*. The European Union's wider REI area comprises:

- Iceland, Liechtenstein, Norway, Switzerland, the remaining EFTA "orphans" and - with the exception of Switzerland - members of the European Economic Area (EEA), an almost complete substitute to the EU Single Market in terms of regulatory issues;
- the Central and East European countries (CEEC) with specific association agreements concluded (Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Estonia, Latvia, Lithuania) or envisioned (Slovenia, possibly Albania); through those "Europe Agreements" these countries are subject to the EU's "pre-accession strategy" as defined by the White Paper of May 1995 (European Commission 1995b)
- the Mediterranean countries, with whom various levels of integration are in force or are envisaged: An agreement establishing a customs union with Turkey has been ratified in 1996; the association agreements with Malta and Cyprus are to lead to full EU membership; in the context of the "Euro-Mediterranean Partnership" (Euro-MED) free trade agreements have already been concluded (with Israel, Morocco, Tunisia, Jordan) or are to be concluded (with Egypt, Lebanon, the Palestinian Authority, eventually also - political conditions permitting - with Algeria and Syria).
- Non-preferential economic cooperation agreements are in force or are currently being negotiated or prepared with Russia (in force), Ukraine, Belarus and Moldavia. They include an option to expand them to free trade agreements at a later stage.

In this context, the EU has been a catalyst for evolving subregional cooperation and integration among CEEC (e.g. The Central European Free Trade Association - CEFTA - of the Czech Republic, Hungary, Poland, Slovakia and - since January 1, 1996 - Slovenia) and Mediterranean countries (as envisaged by the Barcelona Declaration of Nov. 28, 1995)

This leaves but very few white spots on the map of geographical Europe and the region bordering its "mare nostrum", the Mediterranean.

The *United States* is the promotor and common denominator of the two other major present-day regional integration initiatives:

- Western Hemisphere economic integration has experienced a greatly enhanced momentum with the U.S. administration's 1990 Enterprise for the Americas Initiative and the successful conclusion of the North Atlantic Free Trade Agreement (NAFTA) with Canada and Mexico in 1993. At the December 1994 Summit of the Americas in Miami the Free Trade Area of the Americas (FTAA) initiative² was formally launched. It is to lead to a common free trade and economic integration regime covering the entire American continent by the year 2005. In the U.S. view NAFTA should not only be open to

² The FTAA initiative comprises all American countries with the exception of Cuba which was not invited to join.

southward expansion, as emphasized by Chile's possible accession. NAFTA should also be the core - and in the longer term the model - of the FTAA integration process (Morici 1996, 63f.).

The Western Hemisphere integration process has stimulated - and vice versa been promoted by - a renewed seriousness among Latin American countries about subregional economic integration, leading to new agreements such as the Mercado Commun del Sur (MERCOSUR)³ and the G-3⁴ as well as reviving hitherto languishing older ones, such as the Andean Pact⁵.

- The Asia Pacific Economic Cooperation (APEC) initiative, ultimately to lead to an Asia Pacific Economic Community, is the most ambitious REI venture so far in terms of its economic potential as well as of the political resistances to overcome. It presently links the three NAFTA countries, Chile and the three non-Atlantic OECD-members Australia, New Zealand, Japan with Asian countries representing the world economy's most dynamic emerging markets: South Korea, China, Taiwan, Hong Kong and the six original member countries of the Association of South East Asian Nations (ASEAN)⁶, plus Papua-New Guinea.

APEC, too, is becoming the driving force and catalyst for further (sub-) regional economic integration initiatives such as the ASEAN Free Trade Area (AFTA).

Far from restricting themselves to their respective regions, both the U.S. and the EU, moreover, are rather heavily engaged in maintaining or building special trade and economic integration relations with countries in each other's main "target regions": the EU in Latin America and through the ASEM (Asia-Europe Meeting) dialogue in Asia, the U.S. in the Mediterranean region (FTA with Israel, special relations with Egypt and the Gulf states).

The debate whether regional economic integration is a building block or a stumbling stone for multilateral trade liberalisation is still going on, nourished by conflicting signals. While a WTO study of 1995 (WTO, 1995) came to a rather positive assessment of the impact of regional trade agreements so far, more recent statements, including those of the WTO secretary general, Ruggiero, have again drawn attention to the danger of the world economy

³ The MERCOSUR (Brazilian: Mercosul) intends to create a customs union by the year 2006. Its members are: Argentina, Brazil, Paraguay, Uruguay. Chile has concluded a free trade and association agreement with the MERCOSUR.

⁴ Members of the G-3 are Colombia, Mexico and Venezuela.

⁵ The Andean Group (Grupo Andino) is formed by the following countries: Colombia, Bolivia, Ecuador, Peru, Venezuela. At its recent summit in March 1996 the group decided to develop into a more structured entity with supranational elements, declaring the EU as its role model of integration.

⁶ The ASEAN members are: Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam. The latter which became an ASEAN member in 1995 is not a member of APEC.

being driven into a rift between rival regional zones of preference with different regulatory regimes.⁷

As far as the U.S. and the EU are concerned, it is possible that this ambiguous assessment reflects the ambiguity of their own REI policies. Though driven by considerations of national economic interests, U.S. and EU REI policies are confronting ever more countries with the need of building regulatory regimes and institutions. In this way, these policies may end up as instruments of an invisible hand working towards global trade liberalisation and regulatory harmonisation. This hypothesis, which will be further expanded upon found some support in the papers and discussions at the SWP conference on rival regionalism and regulatory regime building in July 1996.

Unequal actors - different policy approaches

A comparison between the U.S. and the EU as centers of REI might start with their major common feature: the enormous absorptive capacity of their huge internal markets for exports from third countries. In 1994, the EU absorbed 27% of world exports *not* originating either in the EU or in the U.S., the U.S. 26%. This generates a two-sided interest in REI: Countries whose economy heavily depends on their exports to those two big markets would like to see their market access further improved and based on a more solid set of agreed rules to replace the discretionary elements of U.S. and European trade policies. Vice versa, thanks to their import capacity, the U.S. as well as the EU command a certain leverage over these countries to incite them to agree on reciprocal liberalisation of trade and common rules for market access beyond multilaterally achieved liberalisation.

The ensuing U.S. and EU policy approaches to REI, however, differ significantly from each other in four major respects:

- their geographical scope,
- their economic potential in terms of trade creation,
- the foreign and security policy leverage applied in their pursuit,
- their intended intensity of integration.

These differences are showing up in the motivations and directions of the two actors' REI policies as well as in the incentives for third countries to join in those policies.

⁷ Such concerns were voiced at a preparatory conference for the forthcoming WTO Ministerial Meeting which took place in Singapore in April 1996, cp. "Regional Trade Pacts Seen as Threat", in *International Herald Tribune*, 26 April 1996, p.17.

The EU approach to regional regulatory integration

European regional integration policy primarily has a rather narrow geographical focus, encompassing firstly all "European countries" as referred to in Art. O of the EU Treaty which as such may apply for membership to the Union,⁸ and secondly the non-European countries bordering the Mediterranean.⁹ This region full of actual and potential conflicts is the EU's immediate periphery whose social and political stability is of vital interest to many EU member countries.

Moreover, compared to the U.S., the EU has a much more limited range of instruments at its disposal to act forcefully as a regional integrator beyond its own confines. Since it still lacks the common policy mechanism backed by adequate military force to provide a stable security environment its ability to act unilaterally and in a discretionary way does not nearly match the United States' ability of power projection and of credibly linking trade and security issues. To the EU, its economic integration policy so far is the only efficient foreign policy tool to promote political stability through a massive commitment to developing the region's economic potential.

The point of reference of the EU in approaching this task has been its own unrivaled experience of ever deeper integration among sovereign countries, so far culminating in the completion of the Single Market. At the same time, this experience and the supranational structures in which it is embodied -

- the institutional expertise in balancing national interests while maintaining the momentum of integration,
 - the *acquis communautaire* resulting therefrom and
 - the financial transfer mechanisms available to help countries, whether members or not, to adjust to the regulatory requirements and competitive pressures of the internal market -
- have underpinned the attractiveness of the European Union as a center of regional integration to many others.

Both REI policies aim at regulatory regime building by regionally extending core elements of the Community's *acquis* - but not with equal emphasis on binding commitments.

⁸ As to membership this geographical definition brings about some embarrassment regarding Turkey (which formally applied for membership in 1989) and Russia, whose boundaries are extending way beyond the European continent and which for socio-cultural as well as political reasons do not fit into the pattern of EU members. This does not impede, however, their inclusion into the European Union's REI policy.

⁹ The Lomé convention granting certain unilateral preferential trade conditions to African, Caribbean and Pacific (ACP) countries is not considered a regional integration agreement in this context and thus not taken into account.

The "Europe Agreements" with CEE countries are to provide "an appropriate framework for the (respective country's) gradual integration into the Community. To this end, the (respective country) shall work towards fulfilling the necessary conditions."¹⁰ They include:

- National treatment for the establishment of business operations - certain sectors, however, are excluded for a maximum duration of eight years after entry into force of the agreement (Art. 45.46)
- Provisions on competition policy and public monopolies corresponding to those of art. 85, 86, 90 and 92 of the EC Treaty (Art. 64)
- Protection of intellectual property rights "at a level .. similar to that existing in the Community": accession of the respective CEE country to the European patent convention (Art. 67)
- Community resp. national treatment for access to public procurement contracts, with a 10 year grace period for the CEE country Art. 68).
- "Approximation of laws" - this covers basically the *acquis communautaire* regarding all regulations on economic activity in industry and services. The Community will provide technical assistance for the implementation of these measures (Art. 69-71).
- Cooperation "with the aim to achieve ... full conformity with Community technical regulations and European standardization and conformity assessment procedures," conclusion of mutual recognition agreements (MRA) where appropriate, participation of the respective CEE country in the European standard setting bodies, technical assistance from the Community (Art.75).
- Sectoral cooperation on energy, environment, transport, telecommunications, financial services with view to implementing the Community *acquis* and common policies in these fields (Art. 79-84).

These agreements are being backed up and their scope is further extended by the European Commission's "Pre-Accession Strategy". The Pre-Accession White Paper of 1995 can be seen as the equivalent for the CEEC of the 1985 White Paper laying out the Single Market Program.¹¹ Its smooth implementation is far from guaranteed given the enormous economic and regulatory asymmetries between the EU countries and the CEEC as well as the persisting differences of opinion among EU members on the handling of the Eastern enlargement. But the Commission's intentions in pursuing its pre-accession policy towards the CEEC are clear as summarised by Alasdair Smith et al.: "It seeks to help the CEECs take on a pro-integration and

¹⁰ This and the following quotes from the "Europe Agreements" are taken from the Europe Agreement with the Czech Republik, Official Journal of the European Communities, L360 (31 December 1994).

¹¹ Cp. Alasdair Smith et al., *The European Union and Central and Eastern Europe: Pre-Accession Strategies*, Sussex European Institute Working Paper No. 15 (1996). The main arguments of this paper were presented at the SVP conference "Towards Rival Regionalism?", July 1996, p. 6f.

efficiency enhancing set of rules that will make eventual free trade and membership much easier. But at the same time it aims to provide EU firms with market conditions familiar to them and up to a point favourable to them."¹²

The "Euro-Mediterranean Agreements" with Israel and the Maghreb and Mashrek countries do not have the purpose of preparing an accession of new members to the EU. Their aim is to achieve bilateral free trade between the EU and the respective countries within twelve years - in the case of Israel this had already been achieved since 1989. But beyond this immediate hub-and-spoke orientation the agreements are to promote a genuine horizontal regional free trade area which includes trade among the Mediterranean countries.¹³ This general aim has been emphasized at the Euro-Mediterranean Summit in Barcelona in November 1995.

The provisions of the Euro-MED agreements are not as far-reaching as those of the "Europe Agreements". Notably, they are more flexible with regard to the Mediterranean countries' adoption of the *acquis*, in several cases resorting to declarations of intent instead of binding commitments. The EU *acquis* remains, however, the ultimate reference point. The provisions include

- A declaration of intent to include national treatment for the establishment of business operations and provision of services with the agreement at a later stage (Art. 31).
- Provisions on competition policy and public monopolies corresponding to those of Art. 85, 86, 91 and 92 of the EC Treaty, but no reference to Art. 90 EC Treaty on public monopolies (Art. 36-38).
- Protection of intellectual property rights, "in line with the highest international standards" (Art. 39).
- A declaration of intent to achieve "a reciprocal and gradual liberalization of public procurement contracts" (Art. 41).
- A declaration of intent on harmonisation of technical rules and standards: "The Parties shall take appropriate steps to promote the use by Tunisia of Community technical rules and European standards for industrial and agri-food products and certification procedures" with a view to concluding MRAs "when the circumstances are right" (Art. 40).
- Fostering "intra-regional trade within the Maghreb" as well as, among others, "regional institutions and the establishment of common or harmonized programmes and policies" (Art. 45).
- Cooperation in standardization and conformity assessment, in order to

¹² *ibid.*, p. 20.

¹³ The first of these agreements which have recently been concluded are the Euro-Mediterranean Agreements with Tunisia, Morocco and Jordan. A free trade agreement with Israel has also been concluded. This agreement, however, differs from the Euro-Mediterranean-type agreements.

- use Community rules in standardization etc.,
- update Tunisian laboratories (leading eventually to MRAs for conformity assessment),
- create "the bodies responsible for intellectual ... property and for standardization and quality in Tunisia (Art. 51),
- "helping Tunisia to bring its legislation closer to that of the Community in the areas covered by this Agreement" (Art. 52),
- achieving closer common rules and standards in financial services (Art. 53).

For both the CEEC and the Mediterranean countries, the regulatory regime building aspects of the immediate trade liberalisation and customs policy measures should not be underestimated. As customs revenues will be dropping when free trade with their dominant trading partner, the EU, enters into force, a strong need to reform their systems of taxation will arise. Such reform will probably be modelled after the EU example, heavily relying on a value-added tax. Moreover, the introduction of a common set of rules of origin (ROO) will have a profound indirect impact on regulatory regime building for the region which extends from the CEEC to the Maghreb and Mashrek countries. It is in force since 1995 for trade between the EU, the remaining EFTA countries and the CEEC and has been submitted to the MED countries for them to join. Common ROO are a powerful tool for creating a regional preference effect. They do not only promote intra-regional trade by reducing transaction costs. They may also act as a further enticement for adjusting regulatory rules to those of the dominant foreign trade partners.

Thus, it is hoped, the EU countries' investment in terms of financial transfers and of readiness to bear their own share of the resulting costs of economic adjustment will not only foster social stability in the respective countries, but also yield increasing commercial returns from growing markets for European products and services and from low cost investment locations with similar regulatory framework conditions.

Furthermore, the EU integration approach has been attractive for other countries beyond geographical Europe and its periphery, particularly in Latin American and Africa. This may have facilitated, together with a particularly strong position of the EU in the respective countries' trade, recent cross-regional initiatives such as the EU-Mercosur free trade agreement, or the free trade agreement between the EU and the Republic of South Africa which is currently being prepared. It remains to be seen whether these agreements will evolve towards the EU regulatory acquis or in parallel with progress towards a WTO-based global regulatory regime.

Asian countries have basically refused to adopt the EU model of regional economic integration. It is, therefore, unlikely that the process initiated by the Asia-Europe Meeting (ASEM) will provide new momentum with a view to more formal, rule-based agreements soon (Pelkmans, 1996).

The U.S. approach to regional regulatory integration

The *United States* has a much more recent experience with regional economic integration than the European Union. But the REI policy it has embarked upon evidently is much more ambitious and challenging as to its geographical scope as well as to its economic potential and to its security dimension. On the one hand this policy might best be explained as an attempt to re-enact in a slightly smaller but more favorable environment the original global economic integration policy which the U.S. was able to implement after World War II. As the U.S. has been facing increasing difficulties to shape the global trade regime, an REI policy which after all includes 38% of the world population, 53% of the global GDP and 46% of World trade (1994 data) certainly is a rather attractive second-best-policy. The viability of this policy is being underpinned by the fact that contrary to its position in the world economy, in terms of security policy and military power American dominance is probably stronger than ever. The U.S., therefore, has no incentive to develop any European-style supranational structures.

On the other hand, the REI policy as well as the unilateral trade policy of the U.S. reveals far-reaching ambitions to address trade-related regulatory policy issues and to make sure that other countries reshape their regulatory regimes to conform as much as possible with U.S. rules and regulations.

The three big U.S.-sponsored REI initiatives, NAFTA, FTAA and APEC - are all determined to a different degree by these somehow contradictory ambitions. While the European approach to regional regulatory integration is quite evident, it might therefore be questioned whether a corresponding consistent U.S. approach does at all exist. However, this paper suggests, the NAFTA texts and their implementation, the FTAA declarations as well as the documents accompanying the APEC process do provide quite some hints to the regulatory features of Western hemisphere and Asia-Pacific integration which the U.S. seems to consider desirable.

With a view to the logic of economic integration, the U.S. policy towards APEC most strongly reflects the multilaterally oriented "mini-GATT" approach. Its emphasis on an "open regionalism" without free-riding - inviting others to join trade liberalisation on a reciprocity basis or face disadvantages in the Asia-Pacific region - may be considered as an attempt to speed up the multilateral liberalisation process and to determine its outcome through regional progress on APEC's terms (Bergsten 1996, 113).

The North American Free Trade Agreement (NAFTA) on the contrary probably bears most resemblance to the economic pattern of the European Union's REI approach. It has a clear and narrow geographical focus and attempts to deepen integration among three countries which have already established highly integrated trade relations among themselves, at least on two sides of the triangle, as the U.S. is the overwhelmingly dominant trade partner for both Canada

and Mexico (Hufbauer/Schott 1994, 36ff., 133). Moreover, through the NAFTA its two highly developed members, the U.S. and Canada, have taken on the risk of opening their markets to free trade with a low-wage, low-standard, high-debt, soft-currency developing country.

The FTAA initiative falls in between those two approaches. As is APEC, it is still a mere political declaration of intent. It has, however, succeeded in developing a concrete agenda for working group negotiations on future binding commitments.

From the U.S. point of view the FTAA should basically be a greater NAFTA. But given the different and partially overlapping subregional Latin American integration agreements it is doubtful whether an FTAA agreement can be modelled according to the NAFTA concept. Furthermore, not all Latin American economies are equally focused on trade with the U.S. as those of Canada, Mexico, Venezuela and most Central American and Caribbean countries. A smaller-scale building block approach to Western Hemisphere integration, in close conjunction with progress on the WTO level, may seem more attractive to most MERCOSUR and Andean Group countries.

While each of these three REI initiatives has its own characteristics and, for the U.S., resistances to be overcome, they have one major element in common: their overlapping membership. The three NAFTA members are not only core participants in the FTAA process, they are also members of APEC. A further Latin American country, Chile, which may join both NAFTA and MERCOSUR and thus become a key member in the FTAA is also participating in APEC. This may result in the three different REI processes stimulating each other.

A brief comparison of their main regulatory aspects may shed some more light on the scope for regulatory regime building in the Western Hemisphere-Asia Pacific Area.

As the most far-reaching of Western Hemisphere subregional integration agreements¹⁴ the NAFTA establishes national treatment among the contracting partners in basically all areas of economic activity. This includes technical, environmental and health standards. While the use of international standards is recommended, member countries may apply higher standards, with effect to intra-NAFTA trade. Mutual recognition of technical standards and tests can be agreed upon, but there is no binding deadline for its introduction. According to the NAFTA treaty and side agreements, however, several committees were established (e.g. on standard-related measures, on sanitary and phytosanitary standards, the Commission on Environmental Cooperation), which are working on harmonization of standards.

An important additional activity in harmonization of standards and common development of voluntary industry standards is being carried out by the "Trilateral Standardization Forum". It is sponsored by the three non-governmental national standardization organizations and thus

¹⁴ For a detailed comparative overview see the Analytical Compendium of Western Hemisphere Trade Arrangements in: OAS (1995).

ultimately by industry. As far as telecommunications standards are concerned, this activity is matched on the Western hemisphere level by the OAS Inter-American Telecommunications Commission (CITEL) (Schott 1995, 6).

Public procurement will be mutually opened up to provide national treatment for bids from other NAFTA members. The problem of discrimination in public procurement at the subnational level is not addressed.

NAFTA includes no provisions on competition and antitrust policy. However, a Working Group on Trade and Competition has been established to report on the issue for further consideration.

NAFTA thus does not create a supranational regulatory regime. It leaves the member countries' national regulatory sovereignty intact and establishes the framework for a gradual adjustment of the other members to the dominant U.S. regulatory regime. Contrary to this cautiously liberalizing impact on domestic regulatory policies, however, trade-oriented NAFTA regulations, especially ROO requirements act as rather costly trade impediments instead of facilitating intra-NAFTA-trade.

The NAFTA approach has so far basically been followed by the U.S. in promoting the FTAA initiative. At two FTAA ministerial meetings (Denver, June 1995, Cartagena, March 1996) which followed the Miami Summit of December 1994, eleven working groups have been established of which nine deal with regulatory issues (Preeg 1996): customs procedures and rules of origin, investment, standards and technical barriers to trade, sanitary and phytosanitary measures, subsidies, antidumping and countervailing duties, government procurement, intellectual property rights, trade in services, competition policy.

Since at the higher political level the FTAA still enjoys only a qualified support among the major Latin American countries, the FTAA REI process presently essentially takes place in these working groups. Even before they are to produce elaborate proposals for a FTAA agreement the working groups are generating a learning process, as Ernest Preeg (1996) has pointed out, which will per se be a substantial contribution to regulatory institution building in Latin America.

U.S. policy on the APEC initiative faces quite different challenges as to regulatory integration. If the first comprehensive U.S. initiative to address trade-impeding regulatory policies of an Asian country, the Strategic Impediments Initiative towards Japan, were taken as a reference, the agenda for regulatory harmonization in the Asia-Pacific region on U.S. terms would be formidable. The proposals put forward by the Eminent Persons Group in its second and third report (EPG 1994, 1995) as well as some recent special studies on regulatory issues in the APEC context (e.g. Wilson 1995), however, are much more modest. They suggest that several regulatory issues of major concern to one or more APEC members should be addressed:

On *standards* the EPG proposed in its second report an EC-type mixture of harmonization and mutual recognition of standards. Harmonization should include a gradual convergence of environmental standards. This process should be complemented and possibly anticipated by APEC-wide MRAs on conformity assessment procedures. The third report (EPG 1995) seems to have backed away from the idea of APEC harmonization of sensitive standards in favour of voluntary, industry-driven standard setting. This concept is also brought forward by Wilson (1995, 91) who elaborates on the policy of alignment of APEC national standards with international standards, together with the referral to international standards (73f.). Wilson sees this as an alternative, even opposing model to the approach in Europe, which "has aggressively developed a model for standards, testing, and certification regimes that includes a stronger role for government and third parties than is the case elsewhere in the world" (Wilson, 1995, 50).

The issue of labour standards which has played such a prominent role in U.S. policy towards the NAFTA initiative and towards the Marrakesh agreement concluding the Uruguay Round, has not been brought up so far within APEC.

A coordination or even an alignment of national *competition policies* is a matter of prime interest for the U.S., especially regarding its trade relations with Japan, but increasingly also with South Korea, and potentially other Asian countries, in order to address the problem local vertical trusts and distribution monopolies which severely impede market access. Moreover, a common competition policy is considered the most promising approach to deal with dumping as this is just a special case of abuse of market power. Such a common approach might establish rational, transparent antidumping procedures instead of the discretionary and often biased administrative procedures which are prevailing presently (EPG 1995, 16ff.). In its last report the EPG has brought forward some concrete proposals on APEC cooperation in the application of national competition policies and recommends to launch a major study on the differences of national competition policies among APEC countries and their causes (EPG 1995, 19ff. and Annex 2).

Most of the proposals mentioned so far are shaped according to U.S. or NAFTA models. But it is highly doubtful that they will be accepted as such as there is very little readiness among Asian APEC members to move forward any faster or farther than the WTO rule-making process on those issues.¹⁵

The second and again, more in detail, the third EPG report have, however, brought up one very innovative concept which is distinctively "Asian" and which therefore might be difficult to swallow for the U.S. but which might be very useful for regulatory regime-building in the Asia-Pacific region: the idea of a "dispute mediation service" in place of traditional dispute

¹⁵ Cp. Charles E. Morrison: Regime Building in Asia Pacific and the Dangers of Regulatory Rift in US-European relations. Paper for the conference Towards Rival Regionalism? Ebenhausen, July 4 - 6, 1996

settlement procedures. This concept turns away from the traditional "rule-based" American (and GATT/WTO) approach to propose instead a mechanism of impartial assessment of each sides interest in order to achieve a "face-saving" consensual solution instead of arbitration based on "right-or-wrong" decisions (EPG 1995). Furthermore, the concept doesn't even depend on any agreed rules to be in place regarding the contentious issues. This concept, if implemented, found to be working and eventually being extended, may turn out to become a major contribution to regional and multilateral integration globally.

Competing regulatory regimes?

The initial question of our "Rival Regionalism" project referred to the danger of a transatlantic regulatory rift extending to the respective wider REI areas. So far, this spectre of a world being divided into rival - and mutually exclusive - regional regulatory blocs has not been confirmed. Does this mean we can happily consider the two actors' REI approaches as a competitive regionalism which may eventually be beneficial to the global trade system? Not quite. To reach a more elaborate conclusion two aspects of the issue should be looked at separately: (1) the impact of competing regulatory policies, (2) transatlantic economic rivalry.

As far as competing regional regulatory policies are concerned the question is whether these will create systems of regional preference beyond multilateral rules or whether they will increase the mutual pressure for consensus on the "new trade policy issues" at the multilateral level.

The major REI agreements have so far had larger trade creating than trade diverting effects. But they still have resulted in intra-regional trade clearly growing faster than trade with third countries. This has been true for the EC, the oldest and most advanced REI grouping (WTO 1995, 39ff.). And recent data for NAFTA, Mercosur and APEC point to the same effect.¹⁶ While in all four cases the trade trade may reflect traders' anticipation of the trade liberalisation and facilitation process from the REI policies it may be argued that what has been anticipated is not mere tariff reductions ("shallow integration") but the effects of future "deep integration" (Pomfret 1996).

„Deep“ or „positive“ integration¹⁷ has received a strong momentum from the Single Market process. After free trade had been achieved and the principle of nondiscrimination and national

¹⁶ Intra-NAFTA-Trade rose from 41.4% in 1990 to 47.6% of the three NAFTA countries' total foreign trade in 1994; intra-APEC-Trade rose from 68.6% in 1990 to 73.3% in 1994, cp. Soko Tanaka, A Japanese View on U.S.-EU Rival Regionalism and Regulatory Regime Building in the Asia Pacific Region, Paper prepared for the conference "Towards Rival Regionalism?", Ebenhausen, July 4-6, 1996.

¹⁷ Agreeing with Bhagwati's reservations about the terms of "shallow" = border-related vs. "deep integration" - referring to domestic, regulatory policy harmonisation (Bhagwati/Hudec 1996, Vol. I, 1) I still consider preferable Jan Tinbergen's distinction between "negative" and "positive" integration - the

treatment had been basically accepted, the Single Market programme basically addressed those technical and administrative barriers to trade that resulted from differing regulatory regimes and procedures and from inadequate implementation of the nondiscrimination principle, e.g. in public procurement. The success of the EU Single Market has demonstrated that the major preferential effect of future regional integration agreements will be achieved by regulatory regime-building among participating countries, as the relative advantage of regional tariff preferences will further decrease with full implementation of the GATT Uruguay Round liberalisation measures. Such "positive" integration may establish common (minimum) rules and standards where no such (or no obligatory) international rules or standards exist, such as on environmental or social issues. Or it may determine higher regulatory requirements than those of the GATT and/or implement more stringent enforcement procedures.

Whether because of the attractions of such preferential effects or because of better institutional and political preconditions: "positive" integration or regulatory harmonization¹⁸ has been more successful on the regional than on the multilateral level - with the EU and the U.S. as major beneficiaries.

To simplify our argument Europe and the Mediterranean will be considered as the wider EU regional integration area, the Western Hemisphere and Asian-Pacific APEC members as the wider American regional integration area. Any substantial deepening of regional regulatory integration through positive REI measures in one of those two areas will have two effects for companies from the other area (as well as from third countries). First, everybody will register *absolute* gains from bringing those countries into line with a clear, predictable regulatory framework, which hitherto had not had anything comparable. Second, taking into account the substantial differences between the European and American regulatory regimes which stand in the way of any transatlantic rapprochement on these issues (Harrison 1995, 16ff.) any extension of those regulatory regimes to the wider regional area should create a significant *relative* disadvantage in terms of costs of market access for companies from the other area.

When checking this argument for evidence after sufficient data will have become available three different levels of impact should be taken into account:

First, we might distinguish between those regulatory rules and procedures, such as competition and antitrust rules, that will have no or little discriminatory or preferential impact on third countries when harmonised within a region and those whose regional harmonisation

former abolishing trade-impeding policy measures, the latter requiring consensus to introduce common policies.

18 For an analysis of the motives for regulatory harmonisation cp. J. N. Bhagwati; The Demands to reduce Domestic Diversity among Trading Nations, in: Bhagwati/Hudec 1996, Vol. I, 9-40, and David W. Leebrom: Lying Down with Procrustes: An Analysis of Harmonization Claims, in: Bhagwati/Hudec 1996, Vol. I, 41-117.

has a significant preferential effect, such as technical, environmental, safety and health standards and their certification of conformity, but also regulations governing public procurement and services.

Second, a distinction should be made between setting and enforcing regulatory rules. Insofar as regional integration regarding regulatory issues addresses the enforcement of rules, there may be scope for significant preferential effects: The REI agreement might give injured parties from member countries access to special dispute settlement institutions while third country parties will have to rely on less efficient multilateral enforcement procedures.

Third, and beyond creating explicit preferences through regulatory discrimination, the gradual implementation of a common regional regulatory regime will have the indirect but nonetheless powerful longer term impact of providing intraregional companies with favourable because familiar business conditions.

Transatlantic economic rivalry

As the EU and the U.S. are consolidating their different regulatory approaches to dealing with market globalization through regional agreements, the post 1945 system of benign US hegemony is obviously being replaced by a system based on two powerful hegemonies (Woolcock 1996).

Of course, transatlantic economic rivalry has been a major driving force of regionalism for a long time already. It was a strong motive for establishing the EEC in 1957. In the early 80s, the apparent success of Reaganomics was essential for building the political consensus for the European "1992" programme. The latter in turn provided a strong motive for the activist REI policy of the U.S. which started at the end of the 80s. It was the talk of "fortress Europe", however, which revealed the real change in transatlantic economic relations due to the "1992" program: the achievement by the EC of a balance of power with the U.S. in commercial policy leverage.¹⁹

It is telling that U.S. and EU REI policies have been mutually exclusive. The only initiative to change this, the TAFTA, was stillborn. Having received its initial momentum from the foreign and security policy corner it has indeed been lacking economic logic (cp. Schott 1996). And even its less ambitious and more vague successor, the New Transatlantic Agenda, is stalling.²⁰

¹⁹ "Außenwirtschaftspolitische Waffengleichheit", as I have called it in an earlier German language publication (van Scherpenberg 1991, 93ff.).

²⁰ The recent Progress Report by the Trans-Atlantic Business Dialogue (1996) mostly contains "recommendations" to the governments to address certain issues in order to find a solution, which is a rather remote perspective. Only in very few cases the TABD itself has proposed specific solutions.

Given the fact that in transatlantic economic relations each side considers the other's regulatory policies as a continuous source of barriers to trade (e.g. USTR, 1996; European Commission, 1995c), the extension of each other's regulatory regimes to the respective wider regional integration area might lead to a serious rift in international regulatory policy for which each side is trying to shift the blame to the other (eg. Harrison 1995, 17; European Commission 1995a, 7).

On the other hand, both sides are still committed to further progress on the multilateral WTO level - though they seem to have changed place in their attitudes towards a rule-based international trade order (Woolcock 1996). A comparison of the European and the American integration approaches suggests that relating to the regulatory conditions of global trade and technology competition both sides are on the one hand pursuing rival strategies of staking claims. On the other hand they are engaged in an elaborate global competition of regulatory regimes. Their competition is about which approach is more able to cope with the challenge of international regulatory policy: to identify and compensate for the major problems of international market failure without stifling the dynamics of economic growth. Thus, it is a competition for who is going to shape future WTO rules.

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"Europe's interrelations with North Africa in the new framework of Euro-Mediterranean partnership. A provisional assessment of the Barcelona-concept"



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Europe's interrelations with North Africa in the new framework of Euro-Mediterranean partnership - A provisional assessment of the "Barcelona-concept"

Preface

The Barcelona Declaration of November 1995, adopted by the European Union (EU), its fifteen member-states and twelve Mediterranean Partner Countries (MPC), is the result of a long awaited, high-level conference on Euro-Mediterranean relations. It can be defined as the climax of a political process that started shortly after the fall of the Berlin wall, but more than that it marks the starting point of a new era of interregional relations.¹

The attempt to trace the origins of the Barcelona initiative is rather difficult, because many participants involved in the process claim authorship. Apart from the fact that they all strive for the international reputation of being the initiator, this curiosity also has an objective reason: The worrying accumulation of problems in the region led to a variety of initiatives that were taken simultaneously in Southern Europe, in the Commission and in the European Parliament. The Southern European countries were especially active during the periods, when they held the EU-presidency.² On the supranational level it was mainly the Commission that influenced the agenda,³ whereas the contribution of the European Parliament was reduced because of its limited competences in the decision-making process.⁴ Anyhow, to understand the political impact of the new concept it is important to keep in mind that it is the result of an exclusively European initiative.

The MPCs had little influence on the agenda, but nonetheless they welcomed the initiative - not in regard to all of its details, but as a symbol of good will on the European side. They are well

1 Barcelona Declaration adopted at the Euro-Mediterranean Conference (27 and 28 November 1995), Final Version. In: Agence Europe, 6.12.1996.

2 France: 1.7.-31.12.1989 and 1.1.-30.6.1995, Spain: 1.1.-30.6.1990 and 1.7.-31.12.1995, Italy: 1.7.-31.12.1990 and 1.1.-30.6.1996. Important documents of the Council leading to the Barcelona concept are the Conclusions of the Corfu European Council (24, 25 June 1994), the Conclusions of the Essen European Council (9, 10 December 1994) and the Conclusions of the Cannes European Council (26, 27 June 1995).

3 The Barcelona concept stands in the continuity of the New Mediterranean Policy (NMP) that replaced the preceding Global Concept (KOM(90)812). The NMP was revised several times, gradually including aspects of foreign and security policy. Important documents of the Commission leading to the Barcelona concept are SEC(92)401, KOM(93)375, KOM(94)427 and KOM(94)384.

4 Cf.e.g. Entschließung zu den Beziehungen zwischen der Gemeinschaft und dem Maghreb (A3-0158/93); Entschließung zur Mittelmeerpolitik der Europäischen Union (B4-0164, 0165, 0166/94); Stärkung der Mittelmeerpolitik der Europäischen Union: Entwicklung einer Partnerschaft Europa-Mittelmeer. Ausschuß für auswärtige Angelegenheiten, Sicherheit und Verteidigung, Berichterstatter: Jannis Sakellariou, 10.05.1995; Bericht über die Wirtschafts- und Handelsbeziehungen zwischen der Europäischen Union und den Ländern des Mittelmeerraums. Ausschuß für Außenwirtschaftsbeziehungen, Berichterstatterin: Maria Izquierdo Rojo, 31.10.1995; Bericht über den Vorschlag für eine Verordnung (EG) des Rates über finanzielle und technische Hilfe bei der Reform der wirtschaftlichen und sozialen Strukturen der Drittländer und der Gebiete im Mittelmeerraum. Ausschuß für auswärtige Angelegenheiten, Sicherheit und Verteidigung, Berichterstatter: Enrique Baron Crespo, 4.12.1995.

aware that their position in the international system has radically changed since 1989. Having lost their political and strategic function in the global conflict of the superpowers, they have shifted into the centre of European security interests. During the Cold War, regional conflicts were eclipsed and sometimes even displaced by the East-West conflict. With the retreat of the superpowers (at least the former USSR), this external stability-system broke away, leading to internal disruption in many of the MPCs. In the case of North Africa it was accompanied by economic crises, which contributed to the radicalization of social conflict and, as a consequence, to the increase of migration towards Europe.

Europe is perceiving the destabilization in the Mediterranean, especially in North Africa, as a threat to its own interests. Economically it fears to lose control over its regular energy supply. Politically it fears the consequences of civil war like in Algeria, the possibility of islamistic takeovers, an increase in international terrorism, drug-traffic, organized crime and, more than anything else, an increase in North African migration with its negative impact on domestic policies in Europe. But this worrying scenario is only one reason for Europe's growing interest in the region.⁵

Another reason for political action lies in the forthcoming opportunity to strengthen Europe's international position. If Europe manages to solve, or at least to contain, the conflicts in its neighbourhood, the Mediterranean could become a region of predominantly European influence. The establishment of a free-trade area could then become an equivalent to what the NAFTA is for the United States.

Last but not least, a third factor that stimulated the European initiative has to be mentioned: After the breakdown of the Eastern Bloc, the EU was challenged by serious upheavals in Central and Eastern Europe. The stabilization of these countries, prospective members of the EU, absorbed most of the resources of the Union's foreign commitments in the early 90s. Because of that - but also because of a suspected German hegemony in the East - France, Spain and Italy saw the necessity to counterbalance this onesided approach. Together with the European Institutions they insisted on a policy of burden-sharing, not only in the East, but also in the Mediterranean. Even though all EU-memberstates agreed in Barcelona on a new engagement in the southern region, the conflict of priorities is not yet solved. As said above, Barcelona marks the starting point of something new, so that the future of Euro-Mediterranean relations, including relations between Europe and North Africa, remains open.

Until recently the interregional relations with North Africa were based on a multitude of bilateral agreements between the EU and single North African countries that resulted from the period of decolonization. In addition, the former colonial states cultivated special relations with

5 Farrar-Hockley, Dair: Future Instability in the Mediterranean Basin. In: *European Security*, 3 (1994) 1, p. 58-81; Ben Yahia, Habib: Security and Stability in the Mediterranean: Regional and International Changes. In: *Mediterranean Quarterly*, 4(1993)1, p. 1-10.

their ex-territories.⁶ Taken together, these agreements put the North African countries into a privileged position compared with most of the other MPCs. Nevertheless their position was poor in comparison to that of the EU. The relationship between the EU and North Africa was surely none of pure dependency, but the existing interdependence was imbalanced in favour of the Europeans. On the long run it has contributed to growing indebtedness of the North African countries and to a deepening of the development gap between the northern and the southern shore of the Mediterranean.⁷ A lot could be added to this point, but this article wants to reduce itself to the state of facts as they are at the moment.⁸

Today, relations between Europe and North Africa are characterized by distrust and growing hostility. This is partly due to the quality of the interregional relations as described above. Furthermore it is a result of the Gulf War of 1991, which has led on both sides to a revival and aggravation of old resentments:

“It is natural for both, the Arabs and the Europeans to see the failures of the other party more clearly than their own. The Gulf War leaves unhappy legacy in which stereotypes have been reinforced. The Europeans, as part of a domineering West, are seen by many Arabs as manipulative, neo-colonialist and hypocritical. The Arabs are seen by many Europeans as fanatical, treacherous, capricious and cruel. Such stereotypes form a legacy which is likely to damage future relations, since they predispose each party to negative interpretations of the other.”⁹

On both sides different groups, governmental and non-governmental, instrumentalize these resentments. It helps them to strengthen old identities or to build new ones, counterbalancing growing tendencies of disintegration. The construction of mutual enemies - “The West“ on one side and “Islam“ on the other - is a real challenge for the development of interregional relations in the Mediterranean. It is from this worrying background that the Barcelona initiative derives its importance.

Having thus stressed the political importance of the conference, the following text will give a detailed analysis of the Barcelona concept and its impact on European-North African relations:

6 Cf.e.g. Puhl, Detlef: Die Mittelmeerpolitik der EG, Strukturschwächen des EG-Systems bei der Verwirklichung des Globalkonzepts. Kehl am Rhein 1983; Hansen, Gerda: Die Beziehungen der Staaten des Vorderen Orients zur Europäischen Gemeinschaft - eine Auswahlbibliographie. In: Deutsches Orient-Institut (ed.): Dokumentationsleitstelle Moderner Orient Nr. 11, 1979, p. VIII-XI.

7 Within five years, between 1990 and 1995, the European surplus in trade has increased tenfold to an amount of 20 Million DM. In: Die Mittelmeer-Freihandelszone soll im Jahr 2010 fertig sein. Frankfurter Allgemeine Zeitung, 29.11.1995, p.17. For detailed data Cf.e.g. Eurostat: Socio-Economic Indicators for the Mediterranean Countries. Euro-Mediterranean Seminar on Statistical Cooperation, Valencia 11,12,13 December 1995; European Union (EUR 12) Trade with the Mediterranean Countries, Agence Europe, 11.12.1995, p. 1-3.

8 Cf. Vasconcelos, Alvaro (ed.): Européens et Maghrébiens - Une solidarité obligée. Paris 1993; Basfao, Kacem/ Henry, Jean-Robert: Le Maghreb, l'Europe et la France. Paris 1992; Khader, Bichara: Le Grand Maghreb et L'Europe, Enjeux et perspectives. Paris 1992; Weidenfeld, Werner (ed.): Herausforderung Mittelmeer: Aufgaben, Ziele und Strategien europäischer Politik. Vorträge, Debatten und Dokumente der internationalen Konferenz in Barcelona, 7.-8.Oktober 1991. Gütersloh 1992.

9 McDowall, David: Europe and the Arabs - Discord or Symbiosis? Royal Institute of International Affairs, London 1992, p. 7.

- Part 1 deals with the Barcelona Declaration, discussing the innovative ideas behind it.
- Part 2 deals with the implementation process, analysing the multitude of risks and obstacles challenging it.
- Part 3 gives a final assessment of the whole concept, reflecting its structural dilemma in the broader context of Euro-Arab relations as part of the North-South conflict.

1. The Barcelona Concept

So far the EU has had no coherent policy neither in the Mediterranean, nor in the subregion of North Africa. This was not only political insufficiency, but it was also part of an old strategy. By treating each of the North African states differently, the EU could take advantage of the fact that the North African states are highly divided among themselves. They differ in ideologies and political systems and they are competitors for access to European markets.

For decades it was a political conviction in most foreign ministries that Europe would profit from the Arab inability to unify. As long as the Arabs did not come to terms with themselves - it was thought - they would hardly be able to threaten Europe. With the stabilization of oil prices in the 1980s, problems in the region were played down to having merely a "nuisance value."¹⁰ In the light of the disruptions shaking North Africa today, it becomes obvious that this philosophy is outdated. Today Europe is not threatened by the power, but, on the contrary, by the weakness of the Arab world. Economic and political instability produces social conflict, encourages islamic fundamentalism and provokes migration. The lack of Arab organisations being strong enough to curb regional conflicts leaves a dangerous power-vacuum to be filled by regimes that are not necessarily pro-western.¹¹ Having recognized that, the Europeans developed a new concept of interregional relations in the Mediterranean that finally led into the Barcelona Declaration.

The Barcelona Declaration consists of a preamble, three main chapters and a "follow up" of the conference. The first chapter is titled "Political and Security Partnership," the second one "Economic and Financial Partnership" and the third one "Partnership in Social, Cultural and Human Affairs."¹² The headlines already indicate the comprehensiveness of the whole concept, reminding us of the Conference on Security and Cooperation in the Mediterranean (CSCM), the Spanish-Italian initiative of 1989.¹³ Being in the direct neighbourhood of North Africa, Italy and Spain had recognized earlier than their northern neighbours, how much Europe was

10 Cf. Köhler, Martin: Für einen umfassenden politischen Verhandlungsrahmen der EU im Mittelmeerraum. External study on behalf of the European Parliament, GD XII, Madrid 18.11.1994, p. 8.

11 Cf. Aliboni, Roberto: Rafforzamento dello stato e conflittualità nel Medio Oriente. In: Mond Operaio, gennaio-febbraio 1989, p. 117.

12 Cf. Footnote 1.

13 Cf.e.g. Ministero degli Affari Esteri: Italian-Spanish Non Paper on C.S.C.M.. Rome, 17.9.1990, p. 4-6; Ghebaldi, Victor-Ives: Toward a Mediterranean Helsinki-Type Process. In: Mediterranean Quarterly, Vol. 4, No. 1, Winter 1993; Jünemann, Annette: Konferenz über Sicherheit und Zusammenarbeit im Mittelmeer (KSZM). Unpublished manuscript. Ebenhausen 26.03.1990.

affected by increasing destabilization in the Mediterranean. It was not a threat in the traditional, military sense of the word. The so-called “threat from the South“ had a completely new quality, as it has its roots in the social-economic underdevelopment of most of the countries in the southern Mediterranean. To cope with this new threat, Italy and Spain intended to integrate their southern neighbours in a comprehensive network of economic, political, and cultural ties.¹⁴ This idea was adopted in the Barcelona concept. The participants of the Barcelona Conference agreed that stability in the region is a mutual interest that can only be gained by close cooperation. This implies the acknowledgement that the growing instability in the MPCs has paradoxically enlarged their international bargaining power.

The other important idea stemming from the CSCM is the idea of initiating a process. The Barcelona Conference did not aim at the immediate solution of any of the existing problems, but it outlined the conditions of a political process, appropriate to solve or at least to reduce conflicts in the region. This seems to be the only realistic way, as confidence-building needs time. Confidence-building is not only necessary between the northern and the southern partners, but also, and in some cases even more, among the southern partners themselves.

1.1. Political and Security Partnership

The first basket on political and security partnership is, especially when compared with the second one, rather vague: a declaration of intentions that avoids concrete commitments in the field of political and security cooperation. Emphasis is given to “the rule of law and democracy, to human rights and fundamental freedoms,” balanced by “the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system.”¹⁵ Another declared intention concerns the establishment of a “Middle East Zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems.”¹⁶ Yet it is left open, if this includes the military capacity “legitimate for defence requirements.”¹⁷ The restriction to a very vague phrasing is due to the incoherence of interests between the EU and the MPCs, but also inside each of the groups. After all, the addition of a political basket is an innovation in Euro-Mediterranean relations.

The Commission advocates an economic approach that keeps the political dimension on a low level. One reason for its political reserve is the fact that the second pillar of the Maastricht treaty is not yet fully integrated, limiting the Commission’s role in regard to foreign and security policy. Furthermore, the new Mediterranean Policy is under the responsibility of GD I,

14 Both countries had already been practicing this policy-concept on the bilateral level. Cf.e.g. Borchardt, Ulrike: Die Mittelmeerpolitik der Südländer der EU gegenüber den Maghreb-Staaten. Arbeitspapier 82 der Forschungsstelle Kriege, Rüstung und Entwicklung, Universität Hamburg, Hamburg 1994; Jünemann, Annette: Italiens Nahostpolitik von 1980 bis 1990: Handlungsspielräume einer national eigenständigen Interessenpolitik unter besonderer Berücksichtigung der Achille-Lauro-Affäre, Baden Baden 1993.

15 Cf. Footnote 1.

16 Cf. Footnote 1.

17 Cf. Footnote 1.

the General Directory for Foreign Trade, which is per se dominated by a liberalist attitude.¹⁸ By way of contrast, the European Parliament delivered draft papers with far-reaching political proposals, thereby striving for a widening of its own political room for manoeuvre.¹⁹ A political approach was also supported (though for different political interests) by some of the member states. Especially France, being the dominant European power in the region, stepped forth with the proposition to establish a "stability pact," analogous to the one that already exists with Central and Eastern Europe.

The MPCs welcomed the political dimension of the Barcelona concept, after all because it put an end to the humiliating character that the bilateral relations used to have in the context of mere development aid. Nevertheless they have divergences among themselves when it comes to details. Generally speaking it can be said that those MPCs with strong ties to the United States are more hesitant concerning the political dimension than the others, because they do not want the EU to become the leading external power in the region. But this is not the only friction concerning Basket I. Due to historical experiences there is a certain distrust on the side of the MPCs, especially among the Arabs that Europe might exploit Basket I to satisfy its own security interests. The MPCs are well aware that they are not only perceived as partners, but - according to the white books of some foreign ministries in Europe - also as potential adversaries, and they cannot be sure which perception will gain priority in European thinking.²⁰

Their distrust was reinforced when Italy made a diplomatic mistake shortly after its takeover of the European presidency at the beginning of 1996. The Work Programme plans regular meetings to conduct the implementation process of the Barcelona Declaration. For this purpose, several working groups were built. When Italy invited the senior officials on political and security questions in March 1996, some MPCs reacted with great irritation. The fact that this group - and not the Euro-Mediterranean Committee dealing with the Barcelona concept as a whole - was asked to meet first, was interpreted as evidence that the EU attaches most importance to Basket I, or rather to its own security interests. Even though the Italians did all they could to disperse this negative impression, there remained a setback in terms of confidence building, the declared goal of the political partnership.

1.2. Economic and Financial Partnership

The envisioned economic and financial partnership, which will be based on a free-trade area, seems to be the core of the whole document. For the establishment of the free-trade area the participants of the conference have set the year 2010 as target date - a remarkably short period

18 According to an informal agreement that was made at the Essen-summit in December 1994, the Commission was responsible for the preparation of Basket II and III, leaving Basket I to the Council.

19 Cf. Footnote 4.

20 To give an example: In December 1994 a multinational exercise - Tramontana 1994 - was realized in Spain. French, German, Spanish and Italian soldiers trained the rescue of Europeans from a "North African country shaken by civil war." Cf. Kassberger, Friedrichs: Euro-Manöver als Horrordisaster. *Süddeutsche Zeitung*, 7.12.1994, p. 10.

of only fifteen years. Until then all MPCs have to go through a process of economic restructuring which will be especially hard for those countries with a strong tradition of state economy. For many of them, among them Algeria, the envisioned free-trade area bears a lot of risks. In the short run, economic reform could lead to an increase of unemployment and consequently to an aggravation of social unrest. If the reform process fails, the new conditions of competition could lead to severe economic setbacks instead of economic development.

To avoid such an undesirable scenario it is necessary that the progressive establishment of a free-trade area is backed by a solid financial aid program, as was already decided on at the summit of Cannes in June 1995. Furthermore it is important that the uncoordinated bilateral agreements of the past will be replaced by new association agreements, opening all participants approximately equal chances for participation. (Such agreements have already been signed with Israel, Tunisia and Morocco. Egypt, Jordan and Lebanon will be the next to be negotiated with, followed by Algeria and Syria). Last but not least - and this is a cornerstone of the whole concept - the MPCs will have to stop concentrating exclusively on the European markets and start developing trade among themselves.²¹

Apart from the expected economic advantages it is hoped that interregional trade will have spill over effects on political relations, thus curbing the radical elements in the region. This does not mean that the Barcelona concept replaces bilateralism with multilateralism, as many journalists have put it in their reports from the conference. With the Barcelona agreement multilateralism has merely been added to the existing bilateral concept. The future Euro-Mediterranean relations are to develop on two tracks, a bilateral and a multilateral one. Yet, the new approach should not be overestimated, considering the fact that only about 5% of the budget is intended for "multilateral and decentralized cooperation," whereas roughly 95% will flow into the traditional bilateral projects.²²

"Multilateral and decentralized cooperation" includes another innovation that has to be mentioned in the context of Basket II, and that is the MED-Invest programme. In cooperation with the European Investment Bank this programme promotes the development of the private sector in the MPCs. It provides expertise and training through the establishment of MED-Invest Service Centers, and it is also planned that the MED-Invest programme will promote links between business associations, chambers of commerce and industry throughout the region and with Europe. All this is to take place in the broader framework of concerted actions to facilitate trade and foreign investment. This includes the European Community Investment

21 Cf.e.g. Wilson, Rodney: The economic relations of the Middle East - toward Europe of within the region? In: *The Middle East Journal*, 48(Spring 1994)2, p. 268-287; Stevens, Christopher: The Impact of Europe after 1992 on the Maghreb and the Sub Saharan Africa. In: Economic Institute of the World Banc (ed.): *Africa and the European Community after 1992*, Washington D.C. 1993, p. 55-75.

22 The exact allocation has not been fixed when this paper was written.

Partners scheme (ECIP), which finances joint ventures at various stages of their development, and risk capital allocations channelled through the EIB.²³

Two of the most effective initiatives within MED-Invest are Europartenariat and MED-Partenariat. Europartenariat was set up in 1987 to help less developed countries within the European Community to participate in the market through joint ventures. Enlargements took place in 1993 (Turkey), 1995 (Morocco) and 1995 (Israel) and further enlargements are expected within the framework of the new Euro-Mediterranean partnership. In addition, a special MED-Partenariat initiative was launched. It is organized on a bilateral level and works in cooperation with, or at least with the permission of, the national governments of the countries concerned: The Commission selects a partner organization which has contacts to a network of small and medium enterprises (SME) or which is able to build such a network. This organization can be national or private, the main thing is that it has good connections to the private sector. It contacts those SMEs which are interested in cooperation with European companies and prepares a catalogue with their profiles. This catalogue is distributed in all European countries, thus helping potential partners to find each other. In the end a meeting is held, where the companies can get into direct contact and make their deals.²⁴ Keeping in mind that in previous times Europe had to cooperate with the big state controlled companies alone, this is a remarkable improvement. Yet, MPCs with an especially strong state economy like Algeria and Syria are rather reluctant in regard to MED-Invest, because they shun the loss of state-control. But again, the effects to MED-Invest should not be overestimated either, because this programme is also financed from the modest 5% envelope.

In comparison, another aspect in Basket II seems to be more important, and that is the replacement of the former financial protocols by the the new MEDA Programme.²⁵ The main feature of it is that MEDA commitments will not stem from the EU's international legal commitments anymore. MEDA, like PHARE and TACIS,²⁶ is a financially autonomous form of cooperation. The compulsory nature of the former financial protocols meant that funds were

23 Cf.e.g. Marks, Jon: Europe and its Southern Neighbours - EC Support for Joint Ventures and Investment in the Mediterranean. Bonn 1993; European Commission, GD I: Euro-Mediterranean Decentralized Cooperation Programme for Small and Medium Enterprises, 1995; European Commission, GD I: Euro-Mediterranean Partnership - Private Development Policy, 1995.

24 Interview with Anne-Charlotte Bournoville, responsible for MED-Partenariat and MED-Interprise, European Commission, DG XXIII, Brussels, 21.3.1996. Such events have proved to be very successful in Israel, Morocco and - in the similar but smaller framework of MED-Interprise - in Palestine.

25 MEDA was created 1994 and meant to join into one single budget line (B7-410) three budget lines, namely B7-480 (horizontal cooperation), B7-438 (employment creation in the Maghreb) and B7-481 (euro-arab dialogue). The new MEDA line shall become the basis for future co-operation with MED-countries and replace (progressivly) the existing financial protocols. It was adopted by the Commission on 7.6.1995. Cf. European Commission GD I: Co-operation with Mediterranean Countries - The New Financial Framework, Brussels 11.7.1995, p. 2. The Council adopted the MEDA regulation not until July 1996. Cf. Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership.

26 Those are the programmes for economic and commercial cooperation with Central and Eastern Europe (PHARE) with the New Independent States of the former USSR (TACIS) respectively.

not made, available on a standard yearly basis but for the full five-year term of the protocols, no matter if they were used effectively or not. In contrast, the distribution of MEDA funds will take place on a yearly basis and will be linked to certain preconditions²⁷, among them

- Economic liberalization
- Successful use of previous funds
- Progressive democratization
- Full recognition of human rights

The essential point of this approach is, at least in theory that the amount of European support will not be influenced through negotiations anymore, but through economic success and political democratization. There is no doubt that this would be a remarkable improvement compared with the unflexible agreements of the past, yet it entails some contradictions not easy to be solved.

The *economic* conditionality stimulates the MPCs to increase their efforts in the field of economic reforms, and it offers them incentives for effective fund management. Thus it can be hoped that the badly needed improvements of conditions for foreign investments will be achieved. Yet, as economic conditionality rewards only the successful countries, it contradicts the above-mentioned aim of multilateralization: Intensified competition surely promotes economic development, but not necessarily horizontal trade and - even less - political cooperation between the MPCs. As the total sum of the funds cannot be enhanced, some countries will have to be the losers of the game, and it is only natural that it will hit the poorest countries in the region. The question if - and to what extent - the EU should take the needs of the poorest countries into consideration when distributing its funds, is still in discussion. While the GD III for Industrial Policy favours political considerations, GD I defends the opposite philosophy, arguing that this is the only way to get those backward countries fit for the free world market.

The *political* conditionality of the economic and financial partnership also entails some problematic aspects. On the one hand it allows the EU to suspend its commitments in cases of failure concerning democracy or respect for human rights,²⁸ offering an apparently effective instrument to influence the process of democratization. But, on the other hand, it exposes the MPCs to the good will of the Europeans, thus offending their demand for equal partnership. Furthermore, being also part of the bilateral association agreements, it contradicts the idea of multilateralization.²⁹ There is no common forum or institution that gives one MPC the

27 Cf. European Commission, GD IB: MEDA Programme Implementation procedures, 01B/56/96 EN, 20.11.1995.

28 Cf. Art. 2.8., Proposition de règlement (CE) du Conseil relatif à des mesures financières et techniques visant à soutenir la réforme des structures économiques et sociales des territoires et des pays tiers méditerranéens (95/C 232/05) 6.9.1995.

29 Cf. Art. 2 of the bilateral association agreements with Morocco, Tunisia and Israel.

opportunity to comment on democracy-deficits in another MPC, not to speak of deficits inside the EU, for example regarding the civil rights of migrants. Conceded that it is not at all clear if such a heterogeneous forum would have been able to come to mutual agreements, it might have been helpful for the promotion of a mutual dialogue on this sensitive topic.³⁰

The core of the problem is that such an initiative would have enhanced the political character of the new partnership, thus contradicting the liberal approach of the Commission which is shared by many of the member states, especially in central and northern Europe. According to this approach, political change is expected to be an automatically following by-product of economic liberalization, whereas the attempt to compel democratization by political interference is considered to be counterproductive. As preference is given to economic incentives, it can be expected that the suspension of financial cooperation will be imposed only in cases of extreme failure. The fears of some of the MPCs that the Europeans might exploit the political conditionality of the new agreement for interference in their internal affairs seems therefore little founded.³¹ On the contrary, the unpolitical approach meets especially the interests of those countries who shun a serious dialogue on democracy and human rights. Their hopes that they can balance political shortcomings by economic achievements is perhaps not completely unrealistic.

Last but not least a third - informal - condition has to be mentioned: to have or not to have a protective power within the EU. It is quite probable that this third criterium will bypass the other two, again not necessarily to the disadvantage of those MPCs with authoritarian regimes. If the EU decides to make decisions on the suspension of financial support or economic cooperation *unanimously*, almost all MPCs can count on the veto of the European country they have special relations with.³² In this context, it is interesting to note that France was able to prevent the cutting of funds assigned for Algeria because of the undemocratic conditions in this country. To sum up, economic and political conditionality is only one factor in the broader context of Euro-Mediterranean relations, leaving a gap between the good intentions and the likely effects of the new approach. It will depend on the Europeans that this gap will not turn into a gap of credibility.

1.3. Partnership in Social, Cultural and Human Affairs

Interregional partnership cannot be achieved through dialogue between the political elites alone; it has to integrate the people. This is even more true, if the partnership aims at the

30 This proposal stems from Jannis Sakellariou, German Social Democrat, member of the European Parliament, participant in the Committee on Foreign Affairs, Security and Defence Policy and rapporteur on Mediterranean policy. Cf. Interview with Jannis Sakellariou, Brussels 28.3.1996.

31 According to Tahar Sioud, Ambassadeur de Tunisie à Bruxelles, such worries are widespread among the MPCs. Interview in Brussels, 28.3.1996.

32 Great Britain insisted on the principle of unanimity, thus blocking the adoption of MEDA for quite some time. It was not quite clear if Great Britain took this stand only in regard to the forthcoming Intergovernmental Conference, or if it was, furthermore, a strategy to block the Mediterranean policy in favour of other priorities. Cf. Agence Europe, 28.3.1996, p.8.

promotion of democracy in a region where civil society structures are underdeveloped and/or suppressed. That's why the Barcelona Declaration emphasizes in Basket III the importance of civil society. Decentralized cooperation is planned on the level of trade unions³³, universities, professional associations, youth organizations, the media-sector, religion and culture. Essential instruments for this stake are the so-called MED-Programmes: MED-Urbs, MED-Campus, MED-Migration, MED-Techno and MED-Media.³⁴ The special quality of the MED-Programmes is due to mainly two aspects:

- The Europeans can choose their partners without consulting the national government of the country concerned, thus strengthening the development of civil society structures.
- All MED-Programmes build a network, including participants from at least three countries (EU+MPC), thus backing governmental multilateralization by horizontal networks on a grass root level.³⁵

Of course these programmes are all very sensitive, because they allow uncontrolled participation in the political process. The MPCs were especially reluctant in regard to *religious* dialogue. Against the background of civil war in Algeria they fear that islamist fundamentalists might gain international recognition in the framework of religious dialogue projects initiated by the Europeans.³⁶ Neither the Algerian nor the Tunesian government distinguishes between radical and moderate when it comes to islamist fundamentalism and they do not want the Europeans to legitimate islamistic groups that they persecute at home. Thus they insisted on a formula that decentralized cooperation must be "within the framework of national law."³⁷

But not only the MPCs have problems with the new approach of decentralization. For instance, the Commission and some of the member states are rather reluctant concerning *cultural* dialogue. One reason for that is that cultural dialogue is difficult to be evaluated. The lack of objective criteria to measure the success or failure of a project in the framework of cultural dialogue entails the risk of fund-abuses. For the Commission, a political institution far away

33 Cf. ETUC/ ICFTU/ WCL: Statement by the European and International Trade Union Movement to the Euro-Mediterranean Conference, 15.11.1995; Union syndicale des travailleurs du Maghreb Arabe: Déclaration de l'USTMA à la conférence inter-ministérielle Euro-Méditerranéenne de Barcelone; WSA/Mittelmeer: Institutionalisierung der Beziehungen zwischen den Wirtschafts- und Sozialeinrichtungen der EU und der Mittelmeerländer - Drei Berichte in Vorbereitung, Agence Europe, 3./4.1.1996, p. 14.

34 Cf. European Commission, GD I: Manuel des Programmes MED. Votre Guide pour le Partenariat Euro-Méditerranéen, 1996.

The MED-Programmes exist since 1992 and have gained unexpected success. For the moment all MED-Programmes are in a phase of management-reorganization within which the establishment of new programmes is planned.

35 Some of them demand up to three countries from *each* side. The only exception from the network-concept is the MED-Invest programme, which belongs into Basket II rather than into Basket III, and will probably be renamed. As said before, MED-Invest is organized on a bilateral level and involves the national government of the country concerned.

36 Tabar Sioud, Ambassadeur de Tunisie à Bruxelles, warns the Europeans not to exploit the agreement in this sense. Interview in Brussels, 28.3.1996.

37 Cf. Footnote 1.

from the world of culture, this task raises completely new problems. In contrast, France has a long tradition in foreign cultural politics at its disposal, and that is the (second) reason why some of the member states, especially Germany, hesitate: They are anxious that France will use Basket III to consolidate and extend its political influence in the region.³⁸ Facing the fact that Basket III was formulated predominantly under French direction, this suspicion is not completely unfounded.³⁹

Unsatisfied with the limited approach of the MED-Programmes, the European Parliament pushed for an additional instrument for the support of democracy, civil society and especially women's rights. Threatening the Commission and the Council that it would refuse the approval of the MEDA programme, the European Parliament achieved the establishment of MEDA-Democracy, again analogous to PHARE and TACIS.⁴⁰ MEDA-Democracy is organized on a bilateral level and supports exclusively projects of non-governmental organizations (NGO). The delegations of the Commission in the MPCs were asked to choose adequate NGOs which must not be prohibited in their country and must not have external donors. The introduction of MEDA-Democracy can be evaluated as a political success of the European Parliament, but, it is also controversial. Some critics claim that NGOs which are in opposition to their government will not be reached, because even when they are not prohibited, they could hardly exist without external financing. Furthermore the planned budget is considered far too small to put up a convincing programme. These critics want MEDA-Democracy to be expanded, in quality and quantity. Taking an opposing view, others argue that the title "MEDA-Democracy" already reveals an eurocentristic approach, demonstrating a lack of political sensitiveness which could provoke counterproductive effects.

The discussion concerning MEDA-Democracy gives evidence to the difficulties the EU has when dealing with the complex task of civil society. This was also noticeable at the so-called Forum Civil Euromed conference, a non-governmental conference that followed the official summit in Barcelona. Both conferences were often mentioned at the same time, giving the impression that they somehow belong together. But this was not the case, as the genesis of the non-governmental conference proves: During the preparations for the governmental summit, the Spanish presidency was anxious that an alternative summit of NGOs might overshadow the main event, as had happened before at the big international conferences in Rio, Cairo and recently in Peking. To prevent this from happening, Spain decided to organize a non-governmental conference itself, thus being able to select the participants, to influence the agenda and, last but not least, to gain the international reputation of performing an

38 In Germany cultural policy is in the competence of the "Länder." Consequently German cultural policy has only a very limited foreign dimension. In contrast, France pursues an ambitious foreign culture policy in its francophone-framework.

39 Due to its self-image as protective power of the Maghreb regimes, France made sure that cultural dialogue will not escape completely from national control, thus reducing the conditions for the development of civil-society structures in authoritarian regimes.

40 MEDA-Democracy Programme, Budget Line B7-705N. Criteria and Conditions of Eligibility. GD IB/A2, Brussels, 25.4.1996.

exceptionally active policy in the Mediterranean. In terms of credibility, this task was transferred to the *Generalitat de Catalunya* and the *Institut Català Mediterrània*, a formula that corresponded with the national interests of Spain as well as with the regional interests of the Catalans. The Forum Civil gained a lot of international attention, yet it must be said that for most of the participating NOGs it was rather disappointing. Apart from the fact that many were not even able to get an invitation, the results for those who were present were poor.⁴¹

Being aware that the realization of a non-governmental conference would contribute to the positive image of the European Union's political profile, the Commission co-financed the project in the beginning, but pulled out as soon as it was over. Consequently many of the measures that were decided on during the Forum Civil might never be executed because of lacking funds. Although some of those measures were admittedly not well-founded⁴², the core of the problem is another one: Having abandoned the project of Forum Civil, the Commission made clear that the development of civil society is not as much a political priority of the EU as the declarations in Basket III of the Barcelona document makes us believe.⁴³

Europe's real priorities become evident if one includes the second, so-called negative part of Basket III into the analysis. This part deals with the mutual struggle against terrorism, drug traffic and organized crime. As it is in the common interest of both - the EU and the MPCs - it seems as though its implementation is followed with more determination than the implementation of the positive part of Basket III.⁴⁴ Yet, terms like "terrorism" and "organized crime" are wide open to interpretation and therefore they can be easily misused to criminalize groups or people who are in (democratic) opposition to the government. As a consequence, it can happen that a political association that would deserve Europe's support in the framework of civil society development is labeled "terrorist" or "criminal" and then has to be persecuted. In other words, as the support of civil society has inevitably destabilizing effects in authoritarian regimes, the Europeans would have to choose between two conflicting goals stability and democratization. This conflict is structural in regard to all undemocratic countries, where partnership on the governmental level contradicts partnership on the level of civil society.⁴⁵ As international agreements are made between governments, this conflict does not only

41 The results of the Forum Civil are summarized in the "Civil Declaration of Barcelona."

42 The Catalans pushed for an institutionalization of Forum Civil, which stands contrary to the philosophy adopted at the Barcelona summit, to keep the administration of Euro-Mediterranean cooperation light.

43 For the role of Civil Society in the European Integration process Cf. Richter, Emanuel: Die europäische Zivilgesellschaft. Lecture held at the symposium: Maastricht II - Projekt Europa im Übergang? *Institut für Politikwissenschaft der Technischen Universität Darmstadt*, Darmstadt 3.5.1996. Unpublished manuscript.

44 Yet, the mutual struggle against drug traffic is complicated by the fact that it plays an important (certainly unofficial) role in the economies of Lebanon and Morocco.

45 Cf. Jünemann, Annette: Die Rolle der civil society in der Neukonzeption der europäischen Mittelmeerpolitik nach "Barcelona". Lecture held at the symposium: Euro-mediterrane Partnerschaft - der schwierige Weg in eine gemeinsame Zukunft. *Friedrich Naumann Stiftung*, Konstanz 3-5 Mai 1996. Unpublished manuscript.

overshadow Basket III, but the whole concept of Euro-Mediterranean partnership, carrying the risk of confusing stability with stasis.

2. The implementation process: risks and obstacles

2.1. Innereuropean conflict, lack of support on the national level

In the context of Europe's Mediterranean policy the phrase "Mediterranean Lobby" is often used, but this label is misleading. Today all EU-memberstates agree on the necessity of a common policy in the East and in the South. Thus the innereuropean controversy is not about having a Mediterranean policy or not, but about methods, priorities and interests.

In terms of methods, the southeuropean countries demand financial assistance for the MPCs, whereas the northeuropean countries favour open markets and free trade. The reasons for these opposing positions are quite obvious: The southeuropean countries produce and export almost the same agricultural products as many of the MPCs, therefore they want to avoid competition. The northeuropean countries have little to fear from Mediterranean exports, but as some of them are netto-payers, they are unwilling to carry the whole burden of financial assistance.

In the Barcelona Declaration we find both: the progressive establishment of a free-trade area and a substantial increase in the Europeans' financial assistance. This is not only a compromise between the conflicting parties, but it lies also in the logic of the game: The free-trade area cannot be achieved without previous support of the weaker participants. For the period until 1999 the Barcelona document schedules ECU 4685 billion, to be supplemented by EIB-assistance.⁴⁶ This contribution is certainly welcomed by the MPCs, but in a long term view free access to European markets is much more important to them, provided that the EU manages to reform its protectionist common agriculture policy in time. With regard to the powerful lobbies in the agricultural sector within the EU, it is quite probable that the necessary reforms will be hampered, at least in regard to mediterranean products.⁴⁷ Furthermore it can happen that the netto-payers are unwilling to prolongue the financial assistance beyond 1999.

Evidently, the reserve of the netto-payers has to do with the priority conflict mentioned before. With the latest EU-enlargement of 1995, the northeuropean countries gained the majority, nourishing fears in southern Europe that the Mediterranean policy might be marginalized. That was another reason why the "Mediterranean Lobby" demanded equal importance for Europe's

46 The Council defined a 4685 billion ECU budget package for the period between 1995 and 1999, to be topped by EIB own resources. 3425 billion ECU stem from the new MEDA-Programme, the rest from financial agreements that are still running. (1995: 550; 1996:900; 1997:1000; 1998:1092; 1999:1143). Cf. EU-Nachrichten, Dokumentation Nr. 6, 3.7.1995, p. 59.

47 To give an example: The signing of the association agreement with Morocco was delayed by Germany, the Netherlands, Belgium and Finland because of divergences over the size of the taxfree contingent of flowers. They acted under the strong pressure of the respective lobbies of their countries. Cf. Agence Europe, 27.10.1995, p. 8f.

commitment in the east and in the south, at least regarding financial assistance. This goal was not reached: the sum scheduled for the Mediterranean partnership is only two thirds of the sum scheduled for the countries in Central and Eastern Europe. Thus the Barcelona Conference stands also for an innereuropean compromise, confirming the priority of Central and Eastern Europe, but assuring simultaneously the Union's commitment in the Mediterranean.

As long as the priority debate is only about percentages - how much can be invested in the east, how much in the south - it is rational and nothing can be said against it. But this debate has another, irrational dimension that is becoming rather worrying. Some adversaries of a common Mediterranean policy perceive the MPCs predominantly as enemies, threatening Europe and the West. Similar to the argumentation of Samuel Huntington, they reduce this very heterogeneous region to only one factor - religion - and this is equated with islamic fundamentalism.⁴⁸ To reinforce the opposition against interregional dialogue, reference is made to "European identity," which is said to be incompatible with Islam. In the past, when used in the context of the European integration process, the term "European identity" had a positive connotation. In the context of Europe's foreign relations since the end of the Cold War this connotation has changed, because now the term is often misused for the exclusion of non-Europeans inside and outside of Europe.⁴⁹ It is interesting to note, by the way that the new definition of "European Identity" often denies Europe's jewish and muslim heritage and simply equates it with "Christianity."⁵⁰

Of course all this talk about identity and religion is, more than anything else, rhetoric that disguises solid political interests. What is disturbing about this is that adversaries of intercultural dialogue can be found in *all* EU member-states, and they are rather influential.⁵¹ Some of them come from the military complex, obviously in need of new tasks. Some are politicians bearing in mind that it is easier nowadays to gather votes by opposing dialogue with different cultures rather than promoting it. And some are just simple-minded followers, adopting the promising strategies of the "defenders of the West." All of them reduce Mediterranean policy to a mere security-problem, advocating what is labeled as the "fortress of Europe." Thus it must be feared that hostility between the northern and the southern shore will be aggravated for shortsighted political goals on the national level. Unfortunately the European Institutions seem to underrate this kind of national opposition against the Mediterranean

48 Cf. Huntington, S.P.: The Clash of Civilisations. In: Foreign Affairs, 72(summer 1993)3, p. 22-49; Coulombis, Theodore A./ Veremis, Thanos: In Search of New Barbarians - Samuel P. Huntington and the Clash of Civilizations. In: The Mediterranean Quarterly, 5(1994)1, p. 36-44; Schwerpunktthema Mittelmeerpolitik. Das Parlament, 28.10./4.11.1994.

49 Similar tendencies can be observed in the MPCs, where the perception of the West as an imperialist enemy is widespread, not only in islamistic but also in nationalist and pan-arab circles.

50 Cf. Din, Ahmed: Islamfeindlichkeit und Antisemitismus. In: Schwanitz, Wolfgang (ed.): Jenseits der Legenden. Berlin 1994, p. 181-195.

51 The resistance against Euro-Arab dialogue in the Southeuropean countries is sometimes even stronger, because the influx of North African migrants has generated growing xenophobia. Cf. Martinello, Marco/Kazim, Paul: Italy - Two Perspectives: Racism in Paradise; Racism is no Paradise! In: Race and Class, Vol. 32, January-March 1991, No. 3, p. 79-89.

concept. In Brussels only few people seem to be aware of the differences in perception and political thinking between the national and the supranational level, and apparently there is a worrying lack of communication.

The third conflict within the EU concerning Mediterranean politics is the conflict of interests. The Europeans themselves have not come to an agreement yet, to *what extent* and for *what purpose* they want to be involved in the region. Some of them favour a limited engagement, leaving the main part to the USA. Others, like France, Spain and Italy, wish to reduce American regional influence, transferring the leading role to Europe, i.e. to themselves. The existence of transatlantic competition reveals itself in the lack of coordination of Mediterranean policy. To give an example, the so called Casablanca-process is dominated by the US, neglecting European interests, whereas the Barcelona Conference was an exclusively European initiative, neglecting American interests. It was carried out without transatlantic consultations and during the conference the US had to contend with an observer status and without a right to vote.

The MPCs may profit from both, transatlantic competition and innereuropean competition, because it gives them a chance to play one off against the other. But from a European perspective it would certainly be more productive, if policies concerning the Mediterranean were coordinated. This remains a difficult task, as long as national power politics dominate over the interest in regional development. In other words: The variety of interests behind the European commitment in the Mediterranean is incoherent and thus reduces the chances for success. Furthermore it reduces the credibility of European engagement from the perspective of the MPCs.

2.2. European Megalomania?

The Barcelona concept is very ambitious, in many respects. First of all it covers a large geographical area, including many regional conflicts of completely different qualities. Secondly it covers political, economic and cultural aspects of interregional relations, all of them very problematic in themselves. Having adopted the Barcelona Declaration, the EU has thus taken on a big responsibility. But is it really strong enough to stand up to it? Provided all member-states are willing to do their best to promote Euro-Mediterranean partnership, do they have the ability? Sceptical voices remind us of the long list of internal problems the EU faces currently, such as the establishment of the currency-union and the reform of the Maastricht Treaty. If the EU does not manage to organize itself, how will it find the strength to manage the problems of a region as complex as the Mediterranean?

This consideration leads back to the CSCM mentioned earlier. Despite its good intentions it failed, mainly because it had been hopelessly overloaded, joining together North Africa, the Middle East and the Gulf-region. As the Middle-East Conflict was too far from a solution at that time, Israeli-Arab enmity blocked the whole CSCM, so that it broke down without ever having functioned. With the peace-process in the Middle East being on the road since 1993, this risk is at least diminished. It was a remarkable success of Barcelona, to bring Israel, Syria

and Lebanon together, not as adversaries, but as representatives of one interest group, the group of MPCs, negotiating with another interest group, the EU.

To minimize the risks of an overloaded agenda, the Commission had asked only those Mediterranean states to participate that are littoral states and have official relations with the EU. This was a diplomatic formula allowing the exclusion of the troublesome Balkan, the Gulf region and Libya, but also the downgrading of the United States. Non-mediterranean Jordania was invited because of its important role in the Middle-East peace process.⁵² All the same there is the critique that the Barcelona concept is still too ambitious, because the remaining region is still very heterogeneous and full of unsolved inner conflicts. To give an example: The Barcelona Conference nearly failed because of a conflict between Israel and its neighbourstates Syria and Lebanon over the terms "selfdetermination" and "terrorism." The troika managed to solve this conflict literally at the last minute.⁵³ This episode reveals the difficulties that have yet to be solved because of the many regional conflicts among the MPCs. One of the most troublesome subregion challenging the Barcelona-process is North Africa - against earlier expectations.

The main reason for the development of a New Mediterranean Policy was, as said above, the global change after the end of the Cold War. But there were also important regional developments that predated the fall of the Berlin Wall. In 1988 Algeria's President Chadli had announced institutional reforms. Those reforms were adopted by a referendum in 1989, generating a subtle process of political democratization and economic liberalization. The reforms led to similar conditions as they were already existing in Tunisia and Morocco and thus created an opportunity for interregional exchange. When the reconciliation between Morocco and Algeria in 1989 cleared the way for the foundation of the *Union du Maghreb Arabe* (UMA), the Commission judged this development as a window of opportunity for her new concept of interregional cooperation.⁵⁴ Unfortunately this window was closed in 1992, when the Algerian military annulled the elections the islamists were ready to win, provoking the outbreak of a civil war.⁵⁵

Since Algeria is shaken by civil war, Tunisia and Morocco have closed their borders, because they dread the infiltration of islamic fundamentalists. As long as this goes on, the idea of interregional trade cannot be put into action. Furthermore, the military regime has stopped the process of economic liberalization, the most important precondition for the "Economic and Financial Partnership" with Europe. But this is not the core of the problem: in fear of an islamist takeover, Europe decided in 1992 to back the military regime, despite the fact that it systematically violates human rights. The military regime acts just as brutal as the islamist

52 Thus, the term "Mediterranean" has to be understood in a political rather than a geographical sense.

53 Cf. Agence Europe, 29.11.1995, p. 8-9b.

54 Another reason pressing the North African states to unification in the UMA was the fear of the forthcoming single market in Europe.

55 Cf. Borchardt, Ulrike: Bürgerkrieg in Algerien. Arbeitspapier 75 der Forschungsstelle Kriege, Rüstung und Entwicklung, Universität Hamburg, Hamburg 1994.

opposition. Both are equally undemocratic, wearing down the small elite of democratic intellectuals caught between them. There is little hope that the military regime resumes the process of democratization, because this would imply its retreat from power. Yet, being in power seems to be their only *raison d'être*.⁵⁶ It will be interesting to watch, if the forthcoming association-agreement with the EU will have any influence on the domestic situation of Algeria. If not, the whole concept of "Political and Security Partnership" has to be questioned. Thus Algeria might become not only the acid test for Europe's credibility concerning democracy, but also the acid test for the whole concept of Euro-Mediterranean cooperation.

In the context of growing disruption in North Africa it is necessary to reassess the Middle-East peace-process. Generally spoken, the peace-process was a precondition for the construction of Euro-Mediterranean partnership. But from a North African perspective it has also negative implications. Until 1993, many of the European countries, especially France, Spain and Italy, treated North Africa as a privileged subregion in the Mediterranean. With the beginning of the peace-process, priorities have gradually shifted towards the Middle East. If growing disruption in North Africa is confronted with increasing progress in the Middle East, governments and private enterprises might prefer to invest in Palestine instead of risking their money in North Africa. Thus, the peace-process in the Middle-East can be regarded as another factor that has contributed to the closure of the "window of opportunity" North Africa faced before.⁵⁷

Last but not least, there is a third factor that has to be mentioned in this regard: The sanctions imposed on Libya by the Security Council of the United Nations. This binding decision forced the EU to exclude Libya from the Barcelona Conference, against the opposition of the MPCs and against the conviction of many of the EU-memberstates themselves. Excluding Libya contradicts the establishment of multilateralization, one of the cornerstones of the whole concept. All efforts to strengthen the UMA as a prospective regional partner are useless, as long as the conflict with Libya is not solved. For the same reason there is a discussion if Mauretania should be included. In Barcelona a compromise was found, allowing Libyans and Mauretanians to participate as members of the UMA-delegation. Regarding the future it is most probable that Libya will be fully integrated as soon as possible. The case of Mauretania is more complicated, because this would lead to an overlapping of Mediterranean and ACP politics. The inclusion of Libya and/or Mauretania would surely not solve the problems of political diversity in North Africa. All the same it can be assumed that having all North African countries participate in the Barcelona process (south-south and north-south) would extend the chances for economic and political progress.

56 Cf. Hottinger, Arnold: Die algerische Armee als Machtfaktor - Vergangenheit, Gegenwart, Zukunft. Lecture held at the international colloquium: Algerien - Frankreich - Islam. *Frankreich Zentrum der Albert-Ludwigs-Universität Freiburg* in cooperation with *Centre de sociologie européenne del Collège de France* and *Mission historique français en Allemagne*, Freiburg 27.10.1995.

57 In regard to the war between Israel and Lebanon, which flared up again in April 1996, it might as well happen that investors turn their back on the whole region, moving to Central and Eastern Europe.

3. Conclusion

A final evaluation of the whole Barcelona concept certainly depends on the perspective, so that it has to distinguish between the EU and the MPCs. Having so far looked from a predominantly European perspective, the conclusion will take a closer look at the perspective of the MPCs, especially the North African countries.

As said before, the MPCs had little influence on the Barcelona declaration. It had been prepared in a long and complicated innereuropean decision-making-process, full of compromises and package deals, leaving little room for subsequent modification. Having brought so many conflicting interests together was an impressive achievement of EU policy making. Yet it was only natural that it led to a onesided approach in regard to the interests of the MPCs. When the MPCs were confronted with the European draft-paper, their bargaining power was accordingly limited, all the more as they had problems to speak with one voice. Nevertheless they negotiated hard in the conferences preparing Barcelona, achieving at least a few modifications.⁵⁸ For example, they refused to accept an "obligation" to readmit illegal migrants; the term "obligation" was replaced by "responsibility." The passionately debated term "human rights" was extended to the "respect for fundamental social rights, including the right to development," thus reminding the Europeans that their definition of "human rights" neglects the scarce living conditions in many underdeveloped countries.⁵⁹

Still, the dialogue between Europe and the MPCs is evidently not an equal one. The preconditions for partnership - economic liberalization and political democratization - are clearly set by the Europeans. It is quite obvious that the Barcelona concept aims at a careful westernization of the Mediterranean, gradually converting it into an area of economic and political influence.

To sum up it can be said that the European authorship of the Barcelona concept implies a dilemma yet to be solved. On the one hand, the EU offers partnership, based on mutual tolerance and unconditional dialogue. On the other hand it wants to generate economic and political adjustment to European standards. This is a contradiction in itself, threatening European credibility. Being in a situation, in which the MPCs could only take it or leave it, it was naturally that they accepted the European offer. But, at least in regard to North Africa, it must be doubted that they will accept this kind of European domination in the long run, because it could strengthen the opposition against the ruling elites.

58 Algerian Foreign Minister Salah Dembri, known as an extremely experienced diplomat, achieved unexpected success in coordinating the heterogenous positions of the MPCs. Algeria was never officially nominated to talk on behalf of the MPCs, but as Algeria held the presidency of both, the UMA and the Arab League, at that time, its activities were accepted at least by the Arabs. Of course many of them added a multitude of national positions. Nevertheless, the relatively high degree of homogenization among the MPCs was acknowledged by all participants of the Barcelona Conference.

59 Cf. Footnote 1.

If this is taken into consideration, much will depend on the political sensitivity of the Europeans. On the one hand, they must show sufficient respect for the interests of their (official) partners, on the other hand they must not deny their own standards concerning human rights and democracy. This will be a tightrope walk that needs a lot of patience. But if Europe really wants change in its relations with the MPCs, there is no alternative in the given situation. Regarding the nationalist opposition against the Barcelona concept as described in chapter two, it is not clear, if there is enough political will to put this concept really into action. Certainly, there will be change in the Euro-Mediterranean relations, but at least in a short- and medium term it will not be as fundamental as the Barcelona Declaration makes us hope.

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