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## COMMENTARIES
## & BRIEF NOTES

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# Session II: Treaty revision and institutional reform

## *"An "Institutional Triangle" with Two Poles?" by Yves Mény*

The ingredients which made the Common Market and then the European Union unique are still in place. Those who originally conceived these institutions, created a framework which apparently had no equivalent amongst the existing tools of government, both at the national and international level.

The entire system was built over 3 main foundations: the Council, the Commission, the Assembly. Venerable concepts inherited from representative democratic systems such as separation of powers, were not fully honoured and the usual dualistic polarisation of institutions (parliament/government) was indeed substituted by the famous and unusual triangle (1). This tri-polar organisation could have evolved in the direction of a more traditional pattern, very close for instance to the actual functioning of German institutions. Each of the branches had in their genetic constitution elements which could have pushed for instance the Assembly in the direction of a fully-fleshed representative body while the Council might have become the expression of a territorial representation "à la manière de", for instance, the Bundesrat. The third element could have become the Government of Europe. If this was the hidden agenda of the Founding Fathers, very little of this prophecy has materialised, as everybody knows.

Much more explicit was the willingness to avoid the pitfalls and traps so common to international organisations. Already by the beginning of the Fifties, but even more obviously when the EEC was launched, the visions born after the Second World War of an efficient international system had evaporated. It was obvious to everybody that the decision-making process was blocked most of the time because of the political tensions between the West and the Communist regimes: institutional arrangements are fragile constructions when facing the harsh reality of politics. The lesson was understood by the Europeans who were trying to set up new forms of cooperation between former enemies. In order to make the system work, special tools were put in place whose objective was to avoid the paralysis affecting most of the international organisations set up after the war and in particular, the United Nations. The Commission was supposed to be the key instrument of this strategy. It was supposed to embody a kind of "general interest", superseding and overcoming the inherent egoistic vested interests of the Nation States. Three elements were supposed to give the Commission the capacity to act, in a certain way, "super partes" and to fulfil its mission:

1.      The representatives of the Member States (The Council) could not act, unless on the basis of a Commission proposal. The Commission was empowered with an exclusive right of initiative.

2.      After a transitory period, most of the Council's decisions were to be taken by qualified majority.

3.      Qualified majority decision necessitated the Commission's approval. If the Commission objected to the modifications brought to its proposal, only a unanimous Council could impose its preferences over the Commission's ones.

On paper, there is no doubt that the Commission was in the driver's seat, having in addition the privilege of facing a divided Council (at least in theory) and a lame duck Assembly. This was the scenario which had some kind of initial implementation. But the whole story is too well known: in fact, not much of this has been put into practice. The Council, divided on almost every issue, has shown it assertiveness when national power is at stake; the Assembly, which was the "parent pauvre" of the triangle, has succeeded in gaining power and influence mainly to the detriment of the Commission. Finally the Commission itself has, willy-nilly, agreed to its own downgrading with the result that the initially conceived triangle, while remaining on paper apparently unchanged, has become a very different reality.

I would like to briefly address this evolution by considering the progressive change in the balance of power between the three elements of the triangle: between the Council and the Commission and then the Parliament. But also by examining the evolution of the Commission strategy and behaviour which had its own - not negligible – impact.


1. There is no doubt that the Commission was initially in a favourable position. In many ways, once the transition period was due to expire and that qualified majority voting would substitute unanimity, the Commission would have been the key player. The initiative monopoly combined with the possibility of withdrawal of its initiatives if not pleased with the Council's amendments, was giving it full control of the engine. No movement without its impulse, no major amendments without its support and approval. Initially this was the case, either in the policy fields regulated by the Treaties (the 4 freedoms, the Common Agriculture Policy, etc...) or in the new sectors where the commission was keen to enter thanks to art. 235, using a kind of "implied powers" strategy.

But Member States became more and more upset with this entrepreneurial strategy, which was perceived by them as a kind of creeping and unsolicited expropriation. The strongest reaction, known as "Crise de la Chaise vide" came from De Gaulle's France, on the agriculture policy issues and ended in January 1966 with the so-called Compromis de Luxembourg. This was a major setback both for the Commission and for all those hoping in an incremental development of a Federal Europe.

Another, less visible but at least as important evolution, took place in the exercise of the right of initiative. It became obvious that many, if not most, of the initiatives pushed forward by the Commission were prompted by one or several governments. No doubt this was seen initially as a blessing by an activist Commission. Many of these proposals initiated by individual Member States – and often behind them, by lobby groups – were taken over by the Commission which was in charge of their preparation and responsible for providing the technical expertise. What looked initially as a splendid opportunity for the Commission became a trap: Governments acquired the habit of preparing their semester shopping list of suggestions and recommendations, setting up, de facto, the Commission agenda, sending easy political signals all around and then letting the Commission struggle with the hassle of drafting and face accusations of over-regulating! With the exception of the Single Act implementation, which gave back some autonomy to the Commission, the trend has been a major factual shift of the power of initiative from the Commission to the Council. This would be the least of its problems, had the transfer of formal power not been accompanied by a similar transfer of substance. The added value of the Commission has always been its multinational/transnational expertise that no other body can match. But the development of comitology has substantially reduced the Commission's capacity to set up the rules of the game vis-à-vis its national

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partners. Many empirical studies have underlined how much policy initiators are determinant in deciding about the objectives, modalities and organisation of a given policy. Pro-active members became leaders in fixing the framework of common policies and regulations, "he who pays the piper, calls the tune" as the British saying goes. In more and more cases, the Commission is not in a position to call the tune, and is substituted, according to the fields, by the British, the German, the Scandinavians or the French and the coalition they are able to put in place.

The Commission continued to weaken its ability to take the lead by avoiding withdrawing a proposal even when its initiative was distorted by the Council. This attitude was certainly prompted by the willingness to build up consensus and to avoid too frequent confrontations. But once again, a kind of convention had been created which reduced the field for Members of the Commission.

It would be however over-exaggerated to state that this decline of the Commission's powers is only the by-product of a self-afflicted limitation. There is no doubt that the Council has been decisive in this process. As indicated before, the Council might have often been divided on everything but this constitutive feature did not impede the building up of a common front vis-à-vis the Commission in particular within the context of an enlarged Union. For instance, even while the Council had the opportunity to decide by qualified majority, de facto it continued to proceed most of the time by consensus, in other words, unanimously. And in some cases where one or several Member States were in a minority, it has been documented that it was convenient for them to argue that they were "forced" to swallow the decision and to put the blame on obscure forces in Brussels. This evolution is translated into procedural and bureaucratic terms that we cannot address properly in this short paper but which are familiar to EU observers: not only has the Commission lost ground at the initiative state, but also in the negotiation phase in particular when a deal has to be struck between the various Member States decisions. The Commission plays less and less the role of "honest broker" than it used to, being substituted in its role by the semester President acting as a go-between. It is telling that the Commission, which used to get some legitimacy from its protective role vis-à-vis the small states has lost the game. Prime Ministers from the small states have acquired a savoir-faire and a great talent as negotiators of the ultimate phase. Sometimes imaginative political arrangements become more important than their actual administrative feasibility, but the result is under the eyes of everybody and in particular of the media. Expectations are high and sometimes over-emphasized about the results that the Irish, the Austrians or the Portuguese might produce during their respective semester. The hope that the Commission might be instrumental in getting these results is, unfortunately, rarely fulfilled.


2. The other cause of the Commission's decline has to be found in the parallel rise of the European Parliament. Such a new equilibrium is not surprising and should not surprise. After all, the secret hope of many Europeans was that a true Parliament elected by the people could emerge from the modest assembly created by the Treaties. The rather radical critique of the "democratic deficit" in the Eighties and Nineties contributed to creating the proper political climate for change. In particular, it had become clear that electing the Parliament by universal suffrage was a necessary but insufficient condition for correcting the democratic deficit. The elected body should also get more control and legislative powers. This was partially addressed by the Maastricht Treaty in 1993, establishing in some areas the so-called co-decision procedure. Obviously this has modified the playing field for the institutional game. After many years of quasi-exclusive

tête à tête between the Council and the Commission, the triangle was taking shape by making (little) room for Parliament. Obviously this was not enough and the Parliament had to try to maximise the scarce windows of opportunity which were offered to its new appetite.

Up to here, the story looks like a remake of the classic struggle between executives and parliaments which characterises the western democracies. The difference however lies in the fact that the European Parliament was faced with two competitors and not one: the Council and the Commission. It could have chosen the Council as the main target for achieving its legitimate ambitions. It chose instead the Commission for obvious reasons: the Parliament had few instruments to twist the Commission's arm, but had still less capacity vis-à-vis the council. In addition the Santer commission "scandal" offered a beautiful opportunity for it to show its muscles and affirm the Parliament's claims. The story could have indeed been totally different as the Parliament and the Commission have otherwise many interests in common and often a more transnational approach to issues.

But the results are there. The Parliament became the objective ally of the Council in weakening the Commission to such a point that it too has become an "honest broker" between the Commission and the Council. A striking example of this new capacity has been the recent re-negotiation and the subsequent adoption of the Directive on Services.


3.       Finally, a third factor played a hidden but powerful role: the diminished collegiality of the Commission and its increasing bureaucratisation.

The Commission is still formally speaking a college. But making it "collegial" is becoming an impossible task for many reasons, which escape the capacity of the Commission itself. First of all, numbers count: it is telling to look at the pictures of the Commission on show at Berlaymont's entrance from Hallstein to Barroso. The first Commission looks like an informal meeting in a British Club. The Commissioners representing 6 nationalities only are sitting in armchairs. The Barroso Commission by contrast seems the picture of a university cohort after the Graduation Ceremony. The image reflects also the unavoidable fragmentation of competences between 25 and soon 27 commissioners coming from the same number of states. Backgrounds, interests, languages, views about the future of Europe, are as diverse as it is possible to imagine. Collegiality in such a context becomes a difficult objective to achieve: If the Commission is supposed to represent some form of Common European Interest, how to make sure that there is sufficient ground and understanding to agree on it?

This difficulty is now built into the system and it will be probably impossible to come back to the previous situation of a relatively cohesive Commission. If there is no political/ideological glue capable of overcoming the dispersive features of a very large body, it is unavoidable that bureaucratic/sectoral objectives become predominant. But there is worse: the implicit agreement between the Parliament and the Council to oversee the Commission as stringently as possible, in particular by imposing very strict procedural, administrative and financial rules, has forced the Commission to enter into an extremely vicious bureaucratic circle. Today, the entire energy of the Commission apparatus seems absorbed by the micro-management of thousands of projects whose formal regularity becomes the obsessive end. The Commission behaves in a traumatic way, being suspicious of everybody because all seem suspicious of its way of working and doing. Politically, the Commission has restrained its ambitions both in quantitative and qualitative terms. Less proposals and more White and Green Papers, communications, etc….on one hand. More micro-management of ad-hoc projects and less attention paid

to the substance of policy since formal control has become more important than policy assessment. The combined action of the Council and of the Parliament for very different reasons is the kiss of death and jeopardises the crucial role that the Commission has played in the building up of the Union. Nobody can wish on the Commission the fate of the late "Commissariat au plan" in France or of a Byzantine bureaucracy confined to details and mundane activities. Since Europe has little to do with national governmental structures, the time has come to redress the situation and to give a new impulse to the Commission. The first condition is to liberate it from the absurd bureaucratic "camisole de force" and to better apply the subsidiary principle. The second is to come back to the "esprit des Traités" in order to make it the indispensable third party that Europe needs.

Any democratic system needs checks and balances that the European Union has not yet been able to properly put in place. Too much power is still located in the Council whilst the rising Parliament remains too weak. The weakening of the Commission instead has gone too far; given the uniqueness of the European Institutions, a strong Commission is indispensable to the proper functioning of the Union, if one does not want the international triangle to turns into a Bermuda triangle, where navigators get lost.

(1) Paolo Ponzano "Le processus de décision dans l'Union européenne », Revue du droit de l'Union européenne, 1-2002, pp.35-52

### *"Treaty revision and institutional reform" by Paweł Świeboda*

The sun shone, having no alternative, on the nothing new", Samuel Beckett once put it, not having in mind the functioning of the European Union. An interested on-looker might be forgiven for thinking that the Union has developed a taste for institutional reform since the early 1990s. The reality has been, as we know, that each successive round of reform with no exception has generated a good deal of tensions and frustrations. Lamberto Dini in his foreword to Andrew Duff's book on the Treaty of Amsterdam said that "The long night of Amsterdam closed on a note of bitter disappointment". He went on explaining that "we could have blocked everything in Amsterdam. We refrained from doing so because a pause for reflection would not have sufficed to overcome the stalemate… Better to adopt the disappointed but lucid attitude suggested by Altiero Spinelli after the Single Act – to consolidate what we have obtained and set sail again for the next objective."

We have just witnessed another summit which closed on a note of bitter disappointment. And we are not yet at the end of the road as the drafting and ratification processes may still produce unwelcome surprises. Three issues seem particularly relevant in this context. Firstly, there is the question of the trends in the institutional reform carried out so far. Secondly, there is the June 2007 package and thirdly there are future institutional changes.

As for the past two decades, institutional reforms have worked better than they are given credit for. The EU has gradually enhanced its decision-making mechanisms by moving more areas to qualified majority voting and streamlining its institutions. New mechanisms have emerged in areas such as the CFSP and they have gradually created space for themselves in the institutional set-up of the Union. Failures might have to do with inability to generate political leadership, lack of determination in moving more decisively to QMV and the continuing dilemma of the distance to the citizen. Opportunities for political leadership have been weakened by the complexities of the institutional triangle. Unanimity has slowed decision-making in key areas such as justice and home affairs and taxation and the citizens have not always been consulted properly on draft legislation and the overall objectives of the Union with the record varying from one Member State to another.

Differentiated integration has played a role but it has also worked against the stronger than expected instinct for uniformity and cohesion in the EU. Although the UK had reached for the old opt-out/opt-in solution in the package agreed at last week's European Council, the trend is rather different in Denmark where the government is waiting for a proper moment to give up its own opt-outs. Interestingly some of the earlier innovations which aimed at improving efficiency of decision-making have not been very successful to date. Constructive abstention in the area of CFSP has not been given the benefit of the doubt. Flexibility and enhanced cooperation were subject of much attention in the Amsterdam and Nice Intergovernmental Conferences but not much has been done to implement them in practice. One of the high officials Berlin had claimed in a conversation some years ago that he has drawers full of enhanced cooperation projects waiting for their day. At the same time, impulse has come successfully from initiatives initially taken outside of the Treaty framework. Almost all recommendations of the "praline summit" in November 2003 have been implemented. Provisions of the Prüm Convention are to be integrated in the Union's acquis. Therefore

the idea that some should lead and others will follow remains a source of inspiration for the future.

Last week's European Council agreed to maintain the main innovations of the Constitutional Treaty in an exercise of reformulating the text, rather than changing its content in a meaningful way. The IGC is mandated to draft an amending Treaty rather than a Treaty replacing the existing ones. Innovations of the Constitutional Treaty are to be integrated into the TEU and the Treaty on the Functioning of the Union (old TEC) with modifications of the content clearly stated in the mandate. From the legal point of view, the most significant innovation of the new Reform Treaty remains the intention to transform the Union into an international organization and grant it legal personality. This will contribute to a simplification of the Union's structure and its legal basis, by means of introducing a single catalogue of the sources of the law, streamlining the decision-making mechanism and overcoming the pillar structure. The most significant substantive innovations are those relating to the foreign policy of the Union. The modifications requested by member states and agreed by the European Council are mostly of presentational nature and sometimes make little or no legal difference, although admittedly there are situations in which presentation becomes a matter of substantive nature. A cross reference to the Charter of Fundamental Rights which maintains its legal nature and sets out the scope of application belongs to that category.

Generally, the outcome means that the Union is more timid about itself with the new clarification inserted that the Union shall act only within the limits conferred upon it by the member states in the treaties. The Union has always acted on the basis of conferred competence and stating that obvious fact even more explicitly is a reflection of the continued unease in some Member States with the very principle of supranational integration. The article on the ordinary revision procedure will envisage the possibility of both enhancing and reducing the competencies of the Union. There will be a declaration of the IGC stating that provisions on the CFSP "do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy…" Another jewel of self-inflicted inferiority complex is the provision that "in the Article on categories of competences, placed at the beginning of the TEC, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence". Such provisions, which abound in the mandate for the Intergovernmental Conference, could give the wrong impression of a self-identity crisis impending on the Union were it not for the volume of innovations which are maintained largely unchanged from the Constitutional Treaty.

The institutional package is transferred almost in its integrity to the Reform Treaty with the role of the national parliaments being enhanced further, the subsidiarity mechanism being reinforced, the double majority voting system being implemented with a certain delay, the name of the Minister of Foreign Affairs of the Union being changed, provisions on enhanced cooperation being modified slightly with the minimum number of member states being set at nine rather than one third of the total membership of the Union. In the new Chapter on the general provisions of the Union's external action, it will be stated that the CFSP is subject of specific provisions and rules.

The politics of the summit will not be a source of inspiration for the future generations. "Fudge in Europe is the necessary condition of progress", one BBC commentator said on the occasion of the Luxembourg European Council in December 1997. Although initially designed to deal with the problem of the twin rejection of the Constitutional Treaty in France and the Netherlands, it was largely dominated by the combatant

performance of one "usual suspect", the United Kingdom and a new one, Poland. The latter still has to decide whether it was a one-off battle or whether it sets in motion a new trend, just like Margaret Thatcher did fighting for the rebate in 1984. Yet, those who suggest on that basis that the future of Europe "lies not in a cosmopolitan version of the empire of Charlemagne, but in a postmodern version of the feudal fragmentation that succeeded the Frankish empire" are underestimating the sturdiness of the project and the learning curves which some Member States might well want to follow.

What are the areas for institutional improvement in the future? Certainly, governance issues are likely to be subject of future review as the innovations of the Reform Treaty are tested in practice. The double-hatted High Representative of the Union for Foreign Affairs and Security Policy will be looked at from the point of view of the possibility of applying that model elsewhere in the institutional architecture. The more ambitious version of the double-hatting exercise would be one in which the President of the European Council serves at the same time as the President of the European Commission. The interaction between the new permanent President of the European Council and the Member State presidencies is another area where improvements might be needed in the future as is the composition of the European Commission where traditionally there is a lot of creativity and fresh thinking. Issues of governance inside the euro-zone will certainly be subject of further discussions should, as is likely, the eurozone provide the basis for more advanced integration.

Reducing the scope of qualified majority voting will remain a major objective of future treaty revision with a possible stint at areas such as decisions about the financial perspectives. Another area is the treaty amendment procedure, currently based on article 48 of the TEU and requiring ratification by all member states. The possibility of a treaty entering into force after a certain majority of member states ratifies the document while states which reject it have the option of either changing their mind or leaving the Union will surely be once more explored in the future. The democratic dimension of the EU is very likely to come again into the spotlight as the experience with the new instruments introduced in the Reform Treaty, including the enhanced role of the national parliament and the citizen's initiative, is examined.

It may well be that we will see future revision treaties at an earlier rather than a later stage. The next institutional cycle is likely to be spared a new wave of reform but from mid-2010s onwards the pressures for reviewing the existing provisions will grow. We might see some minor institutional changes in the accession treaties but they are not likely and they should not be substantive. The new revision treaties will be more focused and could deal with selected issues and policy areas and hence easier to agree on and then ratify. It is interesting to see also what will happen to the Sarkozy "Friends of Europe" speech idea of launching another round of thorough democratic debate after the new Reform Treaty enters into effect. It is quite possible that we will see a political commitment by the heads of state and government at the end of the current IGC to continue elaborating on the constitutional future of the EU.

George Kennan in his famous Long Telegram of 22 February 1946 wrote that "every courageous and incisive measure to solve internal problems of our own society, to improve self-confidence, discipline, morale and community of spirit of our own people, is a diplomatic victory over Moscow worth a thousand diplomatic notes and joint communiqués." We can substitute any or all world challenges for Moscow and we have a pretty good sense of what further reform of the European Union's institutional morale will mean in the future.

## *"The EU deals three R's beyond Reconciliation" by Kalypso Nicolaidis*

The broad outlines of tonight's agreement at the European Summit presided by Angela Merkel will come as no surprise. The name of the game in Europe today is to avoid referenda at all cost. For the constitutional purists this still means asking what is the maximum we can get away with; for the minimalists, this means what is the minimum reform we need to accept. In trying to cater to both these side the German fudge will set out the outline of a future text to be negotiated by an Intergovernmental Conference in the fall along the lines of Nicolas Sarkhozy's simplified Treaty –"mini" sounded to un-statesmanlike. The deal can best be characterized under 3Rs.

*Recycling.* To satisfy the expectations of the 18 ratifyers and the 22 countries that have declared themselves 'friends of the Constitution' the summit conclusions will promise that the substance of the treaty should largely be preserved, above all the clauses on institutions contained in Part I "with the necessary presentational changes resulting from the return to the classical method of treaty change". These will ostensibly include a simpler system of decision making in the Council, an extension of QMV and co-desion, a stable council presidency and a new composition of the Commission by rotation of 2/3rd of member states. Uncontroversial clauses serving the EU's democratic image will also be shoved in, from the election of the Commission president by the parliament, to the provisions on national parliaments and subsidiarity and the retaining of the popular initiative clause.

*Re-labelling.* This will also be a grand exercise in re-labelling as signalled by the wonderful euphemistic question asked by the German representatives to their counterparts to, "assess the proposal made by some Member States using a different terminology without changing the legal substance (sic), for example with regard to the title of the treaty, the denomination of EU legal acts and the Union's Minister for Foreign Affairs. The binning of the Constitutional term is a given. So most likely the term "minister" which for the British has remained a red line. And to call EU legal acts, "European law" was an innovation suggested by a convention in which after all the 12 new member states, often sensitive to state-like EU drift, did not have much of a say. In this case, we will have an de-labelling of the Convention's re-labelling!

*Renouncing.* Otherwise, much will have to be given up. Everyone seems to agree on giving up part III on policies, although the likes of Giscard plea for retaining its main innovations. The demands by the Poles, British and other to delete any provision which appear to engineer significant transfers of sovereignty to the EU will certainly be taken seriously. So will state-like symbols, which in any case, live in the eye and hears of the beholders. The EU flag is here to stay: will a lack of textual basis pull it down from the masts? And who sings the European hymn with or without a dedicated article? Why would be need to restate explicitly the primacy of EU law, raising the red flag to the British tabloid bull? The Charter on Fundamental Rights will most likely be left on its own shelf.

In spite of such an apparently straightforward bargain, Merkel, Sarkhozy and Barroso should not underestimate the conflictual dimension of this new treaty reform. The success of the whole enterprise depends on publics "buying in" the slight of hand implied by the re-labelling tricks therein. Recycling, as we know from our private experience, is about what should go together in a single box. The (semi) consensual adoption of the institutional provisions of the constitutional treaty should not obscure

the fact that very painful concessions were made at the time, not in the name of an "institutional package" but in the shadow of a perceived constitutional moment. If the small and medium countries ended up acquiescing the death of the rotating presidency or the loss of their commissioner it was not because they "gained elsewhere in the package" but for fear of bringing down the constitutional dynamic altogether.

Recycling may also be a problem when some of your next-door neighbours would like to do more. So the Dutch are saying today that if we are to retain the subsidiarity clauses, why not make them more biting and citizen friendly. Everyone might have accepted a change in voting procedures, but in introducing the idea of square root of population long cherished by many in the academic community, the Kazinski brothers may be challenging us with a superior recycling approach.

Finally, no country renounces its pet reform until absolutely cornered. Many will hang on to constitutional clauses including a single EU personality; overcoming the pillar structure; the binding legal status of the charter human rights; the general 'passerelle' and revision clauses; or indeed the extension of majority voting, especially in areas like police and judicial cooperation on civilian matters, an undoubtable UK red line.

Let us not forget the difficulties participants will have in renouncing proposed clauses that are not even in the constitutional treaty draft, including in the fields of energy/climate change or illegal immigration, the inclusion of the Copenhagen criteria in the article on enlargement, and last but not least the social dimension of the EU.

Unless, member states stick to the three R's and leave the constitutional project for the next decade and the next generation, even the current pragmatic and minimalist plan for treaty reform might flounder on pipe dreams and grand rhetoric.


*Additional commentary provided:*

**"Europe at fifty: towards a new single act" by Kalypso Nicolaïdis and Phillipe Herzog**

The European Union may have turned fifty but it has yet to overcome its midlife crisis. At its summit in Brussels on 21-22 June 2007, the German presidency [1] has promised to do exactly that and fulfill the promise contained in its sober Berlin declaration, "to place the European Union on a renewed common basis before the European Parliament elections in 2009". There exist many divides in Europe; between rich and poor countries, old and new members, big and smaller states. But none has been more relevant to the German presidency than that between "constitutional purists" who argue that the eighteen states who have ratified the constitution cannot revisit their votes, and "constitutional minimalists" who point out that - according to rules of the games unanimously agreed to - the French and Dutch "no" votes cannot be overridden.

The combination of Angela Merkel's determination to reach a compromise on the way forward and Nicolas Sarkozy's determination to clear the ground for what most matters to him - his national programme of reform - has meant that we are heading towards a compromise at the Brussels summit around Sarkozy's idea of a "mini" or "simplified" treaty.

In this event, neither side will have won the day. Constitutional purists will have to give up the belief that with a bit of cosmetic surgery, like a "social annex", misguided publics can be made to vote the right way a second time. Even if they could, how sad and lacking in ambition it would be if the first constitution for Europe were to be passed with the narrowest of majorities, coercive popular "revotes" or discrete parliamentary decisions,

against a background of both widespread opposition among European citizens and a general lack of enthusiasm. But minimalists too will need to accept that the constitutional ambition will not simply disappear in the name of a Europe of results and pragmatism. Too much symbolic capital has been invested in it. In short, the idea of a constitution will and must remain (like Schrödinger's cat) both alive and dead in the years to come - even if under a different name such as "constitutional charter".

*Between maximum and minimum*

This does not mean giving up on the idea. Opinion polls indicate that an overwhelming majority of Europeans think the European Union needs a constitution - not this constitution. If "making it our own" is to be the motto of their constituents, politicians must give time to time and resist the temptation to play Russian roulette with the idea of a constitution. Indeed, pundits tend to forget the second part of Nicolas Sarkozy's message in autumn 2006 ("EU reform: what we need to do"), which opened up such a perspective for after 2009. We believe even more time will be needed before Europeans are ready to engage in such an exercise, on this occasion in a truly inclusive and creative manner.

In short, the way forward lies with an old recipe of diplomatic and democratic deal-making: sequencing - institutional reform in the short run followed by a "Europe of result" in the middle term, and a constitution in the longer term.

In the short term, the name of the game in Europe today is to produce institutional reform while avoiding referenda at all cost. For the constitutional purists this still means asking "what is the maximum we can get away with?"; for the minimalists, the question is "what is the minimum reform we must accept?"

In trying to cater to both these sides, the German fudge will set out the outline of a future text to be negotiated by an intergovernmental conference in autumn 2007 which will recycle most of part one of the draft constitution "with the necessary presentational changes resulting from the return to the classical method of treaty change" as stated by the German presidency. In spite of such an apparently straightforward bargain, Merkel, Sarkozy and Josè Manuel Barroso should not underestimate the conflictual dimension of this new treaty reform. The success of the whole enterprise depends on publics "buying in" the sleight of hand implied in re-labeling tricks therein, including dropping the word "constitution".

The (semi)-consensual adoption of the institutional provisions of the constitutional treaty should not obscure the fact that very painful concessions were made at the time, not in the name of an "institutional package" but in the shadow of a perceived constitutional moment. If the small and medium countries ended up acquiescing in the death of the rotating presidency or the loss of their commissioner it was not because they "gained elsewhere in the package" but for fear of bringing down the constitutional dynamic altogether. Why should they do so in the new context?

However contested some of the issues surrounding the forthcoming intergovernmental conference, it will be even more necessary to achieve the ambitions of the policy-making phase that follows. The middle-term objective of this period, we believe, can be given both a name and antecedents: a new single act for a single Europe.

*A restored momentum*

The adoption of such a single act would depend on a dramatic surge of political acumen on the part of European leaders and on their commitment to demonstrate that postponing in the long run the idea of a constitution or constitutional charter target is

not synonymous with paralysis. After the 21-22 June summit they would commit to launching a wide European debate on Europe's policies. In this context, the preparation of such a single act should be the main challenge for the 2009 elections of the European parliament.

Such an approach broadens the idea of a "mini-treaty" and anchors it where it should always have been: on a functionalist drive. The first single European act masterminded by Jacques Delors that came into force in 1987 overcame what was called then Eurosclerosis by setting out a clear programme of action, with a method, a calendar and a deadline. Crucially, institutional reform, at the time a radical extension of qualified majority voting, was accepted by Margaret Thatcher, precisely because it was seen as a means to achieve a highly desirable end: the completion of the single market by 1992.

We can emulate this method today with a new single act whose goals are adapted to European reunification in the post-cold-war era and to new challenges, such as globalisation and demography. In our view, such a single act should put forth a coherent and forward-looking programme of action in three core areas:

- completing (yet again) the single market that is after all Europe's proudest and longest-lasting achievement; this includes clarifying the status of public and private services

- bringing together the disparate threads of the EU's core structuring policies - in climate change, energy security and pan-European infrastructures

- delivering on Europe's role as a globally responsible actor, through a renewed statement of purpose and the development of practical instruments across relevant policy domains.

In a new single act, these programmes of action would be accompanied by a package of new institutional tools. The institutional treaty expected soon will probably be on a minimum package that would include a stable European council presidency, reform of the commission, and the installation of a foreign minister or representative along with a diplomatic service. The treaty will also, it is to be hoped, contain the consensual democracy-enhancing provisions of the draft constitutional treaty, extension of co-decision and qualified majority voting among them.

The single act would build within and around this framework to lay out a substantive agenda for the post-2009 parliament and commission.

Either way, institutional reform and policy agenda cannot be divorced and the single Act approach would link them. This would in turn pave the way - perhaps in a decade - to revisit the constitutional story.

The approach we propose calls for modesty and realism. The new president of France has given up the idea of a renegotiation of the constitution in the short term followed by a new referendum. Britain and Poland should also switch from veto politics to consensus-building. On this basis, the passing of a single act for a single Europe would recreate the momentum Europe now so dearly needs - as did its predecessor, before the upheavals which changed the face of Europe forever.

Note: The full text is available at www.opendemocracy.net

# Session III: Europe as a global actor

## *"The EU as a Global Economic Player" by Jean Pisani-Ferry*

*1. Why it matters*

Globalisation has become the central theme of the European narrative for the 21st century. This year, on the occasion of the 50th anniversary of Europe's Treaty of Rome, heads of state and government proclaimed that the EU is an effective response to major global challenges which allows Europeans to 'shape the increasing interdependence of the global economy and ever-growing competition on international markets according to [their] values'. Many leaders, such as European Commission President Barroso, have declared that the new *raison d'être* of the EU is 'to use its collective weight to shape globalisation' in order 'to help Europeans prosper in a globalised world' and 'to create a new and better global order'.

This way of considering the EU is new. As recently as twenty years ago, it was primarily envisaged as a regional integration experiment among a relatively small number of participating countries. 'Europe' was about tearing down the walls that separated member countries and prevented their economic and political integration. Accordingly, the EU's external policy was essentially a side-product of its internal dynamics. There were even fears of a 'fortress Europe' that would have liberalised internally while closing borders externally. But then came globalisation and Europeans began to realise that in a world of freer trade, global capital flows and globally integrated enterprises, they could hardly define the entity they were building by reference to the differential degree of integration within it – that is, as a single market. An EU defined in this way – by 'negative integration' in the jargon of EU scholars – was bound to steadily lose relevance as global integration developed.

The inward-looking view of the EU still has supporters among those who advocate building a European shield against the winds of global change. But it is increasingly challenged by another view which sees Europe primarily as a player in a fast-changing world. According to this view, the EU should be characterised by the role it plays in shaping its environment rather than by its economic borders. Europe should not define itself by the degree to which it is closed to flows of products and capital from the rest of the world but by its stance on the global rules governing these flows, and by the role it plays in defining them. Again according to this view, Europe should not solve its identity crisis by arbitrarily deciding that enlargement has come to an end but by actively promoting development and stability in its neighbourhood. It should certainly retain economic legislation that corresponds to the preferences of its citizens and member countries but, just as importantly, it should contribute to defining global rules for integrated markets and companies. And it should first and foremost wake up to the full extent of its responsibilities as one of the few players with an ability to tackle questions related to the global commons: climate, global diseases, world poverty.

This approach raises two issues that are addressed in the remainder of this note. The first (Part 2) has to do with the substantive agenda Europe is confronted with and the setting of priorities vis-à-vis its main partners. The second (Part 3) regards the way responsibility for external economic relations is shared between the Union and the member states.

*2. Europe's three agendas*
How important are the external challenges and how good is Europe at addressing them?
A way to structure the discussion is to start from the three agendas Europe has to face at
the global, transatlantic and regional levels (Sapir, 2007).

**A global agenda**
The first agenda relates to increasing economic integration world wide and its
management in a way conducive to growth, development and financial stability through
enhancement and reform of the core set of multilateral rules and institutions. It also
relates to the provision of global public goods such as containment of climate change.
What is at stake here is adjustment and the response to the emergence of new global
economic powers in some parts of the world (mainly Asia) and the absence of progress
elsewhere (mainly Africa) in a context of increasing awareness of risks to the global
commons and tensions about access to resources world wide. The main policy
instruments are trade policy, international finance and development policy, which are
managed globally by three multilateral economic institutions - the World Trade
Organisation, the International Monetary Fund and the World Bank - as well as
environment policy, for which there is no single forum or world institution.

The EU is in all these fields an undisputed player. It is one of the few key participants in
all trade discussions, the issuer of one of the two main global currencies, a major
stakeholder in the international financial institutions, the number one provider of
development assistance and a leader in the field of environment. However, the
effectiveness of its policy in these areas varies depending on its internal governance
structure - from excellent (in trade) or acceptable (in international money and finance) to
second rate (in development). In comparison to the other main player, the US, the EU
sometimes exercises world leadership (in trade and the environment) and sometimes
seems happy to take a secondary role. Furthermore, the EU faces the need to adjust its
representation in international fora in accordance with its rapidly declining relative
demographic and economic weight. The challenge here is one of effectiveness and, as
developed in this book, this calls for significant reforms of internal governance and
external representation.

**A transatlantic agenda**
The second agenda involves both bilateral EU-US relations and the stance of the two
sides of the Atlantic on global issues. What is special about the EU and the US is that
they jointly continue to be the 'regulators of the world'. Even though together they only
account for 40 percent of world GDP (at PP) and world trade and a little more than 10
percent of world population, they probably produce around 80 percent of the
international norms and standards that regulate world markets. Although this leadership
is bound to dwindle eventually as new powers emerge and become more assertive, it is
likely to persist for a few decades yet, because China, India and the other emerging
powers are still far from having developed at home the set of elaborate body of law and
institutions that are essential in order to be effective regulators. In fields like competition
policy, product and financial market regulation or technical standards, the US and the
EU are, and will remain, ahead of the pack by virtue of their level of development, their
experience and the size of their markets. Even Japan, a country of comparable
development, has not really challenged their leadership in this area.

A big question is whether the EU and the US will act separately or even as rivals on the
global regulatory scene or whether they will cooperate with each other and also involve

the new global powers. Voices on both sides of the Atlantic complain about the other side's suspected pretension to act as the regulator of the world. Regulatory competition is certainly healthy as it helps to sort out which rules perform best. But this should not hide the fact that the main joint challenge for the EU and the US is what role they will jointly play in setting the rules for the world economy of the 21st century, and with whom they will do so.

How well is the EU equipped for this task? Its effectiveness in external regulatory matters varies again depending on internal regulatory organisation. It is either excellent (for instance, in competition policy) or merely satisfactory (for instance, in external financial market policy). But what has until now been in short supply is the strategic perspective, as illustrated by repeated failures to provide an overall framework for the transatlantic economic dialogue. German Chancellor Merkel's recent initiative in this field is a welcome attempt to put EU/US dialogue onto a promising track. Yet as it involves, by the nature of the exercise, a host of different issues, responsibility for which is scattered among many agencies, the challenge of implementation is a significant one.

**A regional agenda**
The third agenda involves the relationship between the EU and its EMENA neighbours. Of the three agendas, it is here that one would expect the EU to be most effective, since it is the undisputed regional economic power and has much to gain from peaceful development in the region. From the Maghreb to the Middle East and from the former Soviet republics to Russia itself, and in Turkey, the EU's neighbours have considerable potential. Experience in other regions of the world, especially Asia, illustrates the extent to which integration between countries of different development levels can benefit all partners' successful integration within the web of world trade and FDI. But economic failure and political instability at the border can also act as major drags on prosperity.

Paradoxically, however, it is on this front that the EU is in fact the least effective. Two reasons account for this paradox. First, the European Neighbourhood Policy, which was meant to provide a framework for countries with little or no prospect of joining the EU, is in complete shambles: it is a plane without a pilot. Partners are drawn into procedures but are not given a credible political and economic perspective for their relations with the EU. Second, the EU has little or no common approach in two areas that are particularly important for interaction between the EU and its neighbours: migration policy, owing to proximity and income differentials, and energy policy, since the EU possesses little oil and gas and its neighbours hold between 70 and 80 percent of the world's reserves. In spite of the Commission's recent efforts and the agreement reached in March 2007 on a common energy strategy, the effectiveness of EU policy in these two areas is not what it should be, simply because a common migration policy and a common energy security policy do not exist. What is missing, therefore, is a genuine political commitment in these fields supported by effective implementation.

The three agendas clearly suggest a need for an integrated, coherent foreign policy to confront Europe's global, transatlantic and regional challenges. They raise the issue of the governance of Europe's external economic relations.

*3. The governance challenge*
In the 'legacy' paper he posted at the end of his mandate as a trade commissioner, Pascal Lamy (2004) gave a sanguine view on the European Union's (EU's) ability to play a

leading role on the world economic stage: "The lesson to be taken from the experience of the past five years," he wrote, "is that, when it chooses to pursue a truly federal policy, the EU can play a decisive role on the world stage. Together, we have a far greater 'weight' than the sum of the member states. We have the ability, not only to resist initiatives that we do not support [..], but also to set the international agenda".

However another senior European policymaker gave an unequivocally less upbeat view. In a controversial paper entitled 'Powerless Europe: Why is the Euro Area Still a Political Dwarf?', Lorenzo Bini-Smaghi wrote that Europe "has much less influence over international policy issues than would be expected on the basis of its relative economic weight. This is particularly the case in international institutions like the International Monetary Fund (IMF) where, as compared to the WTO, Europe is much less influential than the United States" (Bini-Smaghi, 2006). As a precondition for a stronger EU voice in the IMF, Bini-Smaghi advocates the consolidation of European chairs.

Those two views emphasise the importance of governance. Indeed, arrangements for Europe's foreign economic policy are complex, evolving, and sector-dependent. Their overall efficiency is questionable, and the choice of governance models is inherited from history rather than based on efficiency criteria. Whether or not they will be reformed is key to the ability of the EU to perform as the global player it wishes to be.

In fact, depending on the issues and the fora, the EU is indeed sometimes a leader and sometimes a follower, sometimes a vocal player and sometimes a silent one. While the US exercises leadership over the entire scope of international economic relations, Europe can be characterised as an "accidental player", whose international behaviour lacks consistency.

As a remedy to this situation, a consistent school of thought advocates a further federalisation of external economic policies. Yet other explanations can be offered to account for a high degree of variance in the external economic role of the EU. To start with, the EU could have more to gain in developing an external economic policy in certain fields than in others. Also, the desirability of a common policy depends on the degree to which the member states agree with each other. It is by no means obvious that more centralisation will systematically result in improving the Europeans' welfare.

*Where is centralisation desirable?*
Theories of federalism have studied the allocation of public goods by different levels of government. In this line of thinking, decentralised decisions match best the preferences of citizens, unless preferences are homogeneous and economies of scale are significant enough to justify devolution to the federal level. The modern literature on political unions builds on the same insight, i.e. a trade-off between economies of scale and the heterogeneity of preferences, as in the model of Alberto Alesina, Ignazio Angeloni and Frederico Etro (2005). For scholars of Europe, this echoes the familiar trade-off between deepening and widening.

This framework can be used to address the external dimension, with only one proviso: economies of scale have to be understood in a broad sense, i.e. including the gain to EU member states from jointly exercising market power or from pooling their votes in international organisations. Figure 1 plots the distribution or preferences for centralisation for 15 policy fields considered in the Eurobarometer surveys. Policies with a significant external dimension are plotted in black; policies that are mostly internal are

plotted in white. The length of the bar corresponds to two standard deviations (across countries), thus the longer the bar, the greater the heterogeneity within Europe as regards the desirability of centralisation.

Desire for centralisation is strong in fields where the opinion rightly perceives that spillover effects from national policies are high (research) or that national states do not have the required dimension (global crime). However this is not always the case: there is only weak support for centralising competition policy/consumer protection/industrial policy (which have been aggregated because questions asked often cut across sub-domains). There is also preference for centralisation in fields with an external dimension, however with the exceptions of defence (where heterogeneity is high) and energy.

**Figure 4: Preference for Centralisation, 1989-2005**
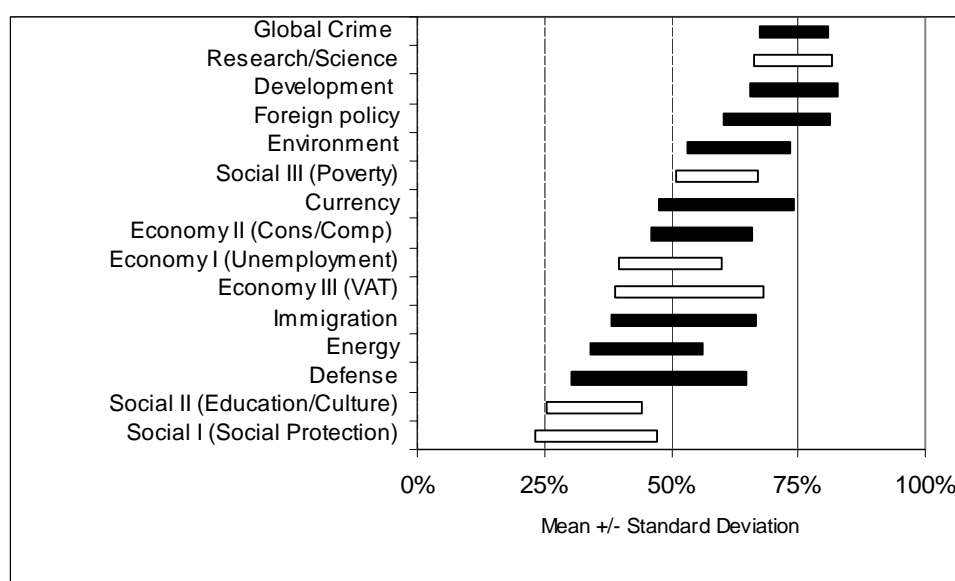
Comparing substantive policy preferences across fields is more delicate. Coeuré and Pisani-Ferry (2007) have made an attempt to provide measurement based on opinion surveys. Their results are given in Figure 2, where heterogeneity of preferences as measured by the intra-EU variance of national responses is plotted on the horizontal axis and the desire for centralisation (measured by the proportion of EU citizens who respond that the corresponding policy should be allocated to the EU level) on the vertical axis. Candidates for centralisation should be found in the north-west corner while decentralisation should be preferred in the south-east corner.

What Figure 2 shows is that as far as public opinion is concerned, development and foreign policy are the prime candidates for centralisation. The environment and trade-related policies come next, however with a markedly higher index of policy preference heterogeneity. A third group is composed of energy and immigration, for which support for centralisation is somewhat weaker and preference heterogeneity somewhat stronger.

**Figure 2: Desire for Centralisation vs. Heterogeneity of Preferences**
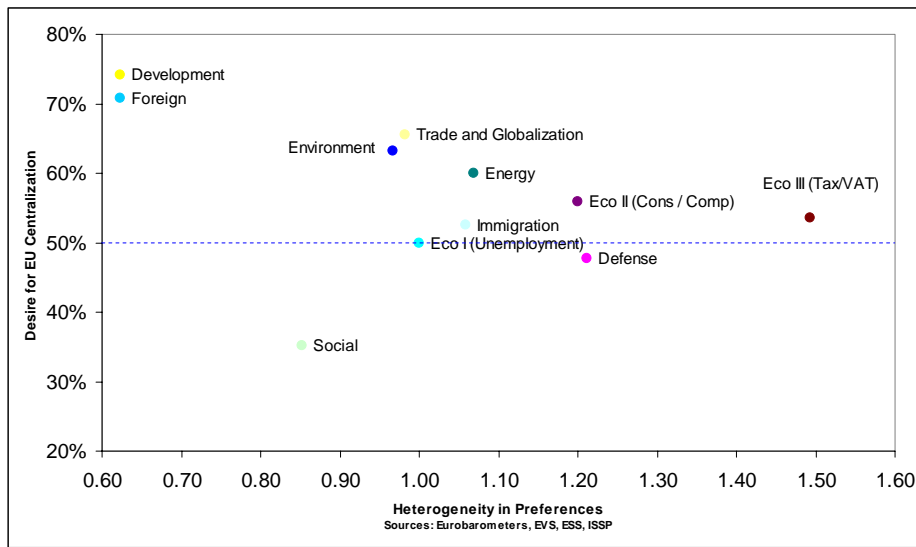


Source: Coeuré and Pisani-Ferry (2007)

Policies can be ordered using a 'centralisation index' *I* that combines the two dimensions of preference for centralisation and heterogeneity of preference (Figure 3). Graphically, *I* measures the distance of a given policy to the North-West corner of Figure 2. The case for centralisation is very strong for development assistance and foreign policy and strong for trade and the environment. It is weaker for energy and weak for competition and migrations, fields which actually involve both internal and external dimensions.

**Figure 3: Desire for centralisation and preference heterogeneity in the EU:**
**the centralization index**
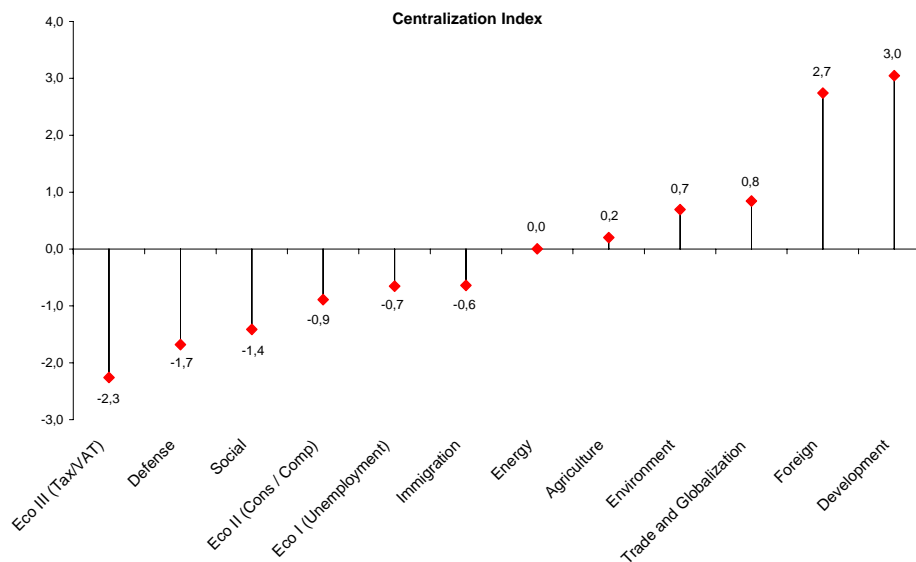


Source: Coeuré and Pisani-Ferry (2007)

There is only approximate correspondence between our results and the current assignment of preferences. Development assistance is not centralised (at least for the most part), foreign policy is coordinated but not centralised either, while trade and competition (above thresholds) are. Energy is currently very decentralised (but the case for a EU approach is being discussed); the situation varies in the field of environment.

Trade is interesting because it is a policy which is centralised since the early days of the European Community, while opinion- and policymakers exhibit a fair degree of preference heterogeneity. This must be taken as an indication that a common policy can be run in spite of diverging preferences, provided the governance structure allows decision-making.


*What governance models ?*

Centralisation is not the only dimension along which the current setting can be addressed. The other one is the nature of governance. To discuss it, it is useful to introduce three basic models for the governance of EU policies.

In the first model, *Unconditional delegation,* competence to act is entirely assigned to an EU body according to, and within the limits of, a predefined mandate. This body then retains full discretion within the limit of its mandate and can only be made accountable on an ex-post basis. This applies for example to the Commission's competition policy decisions or to the monetary policy decisions of the ECB. The only constraints on the autonomy of the agent are its mandate, the threat of an appeal to the Court of Justice, and possibly to non-jurisdictional checks and balances.

The second model, *Supervised delegation*, is one in which an EU body acts as an agent while the member states (and generally also the European Parliament) actively monitor and steer its behaviour. The standard case in this respect is trade policy where the role of principal is exercised by the so-called Committee 133 made of trade officials named by the member states, which meets frequently to monitor the negotiation process and give guidance to the trade commissioner. *Mutatis mutandis*, a broadly similar pattern applies in other fields such as environmental negotiations, with the difference that the Council Presidency plays the role of the agent.

The third model, *Coordination,* is one in which member states do not delegate responsibilities or external representation roles to the EU but coordinate among themselves while retaining their seats and speaking with their own voice in international fora. This is a soft commitment, though the ECJ considers that in those areas that fall within the competence of the Community, coordination has the character of a legal duty.

As an example, the EU cannot formally be a member of the IMF under the Fund's current bylaws, but European member countries have to speak with one voice and coordinate with the Commission when it comes to trade or single market issues. Increasingly, they aim at defining common positions on major topics of discussion.

From a normative standpoint, choosing a model is a complex decision which involves other dimension that the mere choice between centralisation and decentralisation. Reasons for unconditionally delegating policy responsibility to a European agency can be that the field requires technical expertise and real-time response (such as crisis management or decision on rapidly evolving matters), or that governments are excessively sensitive to specific interests, for example those of national companies. Reasons for choosing instead supervised delegation or coordination can be that policies systematically involve significant redistribution across states and therefore cannot be decided upon by an agency because there is no mandate that can give it authority for that. Finally, reasons for excluding intermediate solutions and for favouring the corner

solutions of decentralisation and unconditional delegation can be the changing character of the agenda, which may make the cost of constantly renegotiating a common position or a mandate excessively high.

Another issue is the voting rule when applicable. As emphasised by Meunier (2000), unanimity is more conducive to the status quo than majority voting, which means that the need to adopt a voting rule that facilitates decision-making – QMV rather than unanimity, straight ballots rather than consensus-building, and double majority rather than the Nice system – is higher where the EU has an 'offensive' interest, meaning that its members' preferences are further away from the status quo than those of its negotiation partners. A good example here is global warming: a majority rule that unites Europe around a common position strengthens the bargaining power of the EU vis-à-vis the US and other countries. When the EU's (stated) interests are defensive – say on agricultural protection – its bargaining position is strengthened by an inefficient voting system.

*Recommendations*

This approach leads to highlight three economic fields where reform of governance would seem appropriate:

- *Development.* The current combination of partial centralisation and loose coordination is hard to justify on economic grounds. Its persistence comes from the member states' desire to use development assistance as a way to enhance their political influence, and from dissatisfaction with the way EU development policy is run. Those are not strong economic rationales. If European development policy is inefficient it should be reformed, not decentralised.

- *Environment.* Climate preservation is the closest possible thing to a global public good and Europeans exhibit a high degree of unity in respect of it. The complexity of the current arrangements whereby the Union and the member states compete for competence is hardly satisfactory. The changing nature of the agenda calls for giving the European negotiator sufficient autonomy, while the offensive character of the European negotiation stance calls for an efficient voting procedure.

- International macroeconomic and monetary affairs. There is a case for centralisation in this field and because of the evolving nature of the agenda, there is a need to delegate representation to a representative of the EU (or of the euro zone) with sufficient autonomy.

It is important to note that there is not much scope for further unconditional delegation. The conditions for this model to be efficient are strict and they do not appear fulfilled, except where (competition, monetary policy) authority is already delegated. In all other domains, the choice is between coordination and conditional delegation. The case for coordination is generally weak on legal and efficiency grounds, while the conditional delegation model is very flexible: unconditional delegation can be approached by granting long-term mandates and by limiting the agent's remit to general principles with full operational flexibility, as is the case for central bank governors and at the other extreme, short mandates allow member states to retain and exercise control rights and can be regarded as a way to structure coordination

The question then becomes how to improve on the conditional delegation model. It would be advisable to mirror what is in the US called the 'fast track' system for trade negotiations: the Council and (depending on Treaty provisions in the field under

consideration) the Parliament would vote and grant the agent (say, the Commission) negotiating power for a given term and within a given remit. The term could be longer or shorter depending on the field. The traditional case for long mandates rests on independence from vested interests, continuity and flexibility in international negotiations, and the need to build experience and acquire knowledge in technically complex areas. Incidentally, this favours delegating to the Commission or to a specialised agency rather than to the Council, unless the Council finds a way to escape from the rotating presidency and introduce more stability (as it is the case now for the Eurogroup, which elects its President for a two-year term).

**Notes**

(1) This note extensively draws on the foreword written jointly with André Sapir for the forthcoming book The Fragmented Power: Europe and the Global Economy (edited by André Sapir, Bruegel, 2007) ; and on the chapter on the governance of the external economic relations of the EU written jointly with Benoît Coeuré for that book.

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## "Some thoughts about common interests of the EU" by Michel Foucher

*1. If Europeans have common interests, why are they so difficult to enounce?*

a) It is up to the EU Commission to protect and promote the European general interest. In order to achieve this goal, it has an exclusive legislative competence. But this general interest is not globally defined since its concrete fields are limited to a selected range of communitarian realms.

b) In the European Strategy paper drafted by Solana and endorsed by the European Council in Dec. 2003, the concept of interests is referred to only twice; firstly as far as good governance of countries located next door is concerned and secondly when dealing with the risk of new dividing lines created by enlargement. In several cases, the word interest was replaced by the notions of priorities and objectives, stakes and opportunities. But is it possible to base a Union with political and geopolitical ambitions upon external opportunities and agendas decided outside? Why is the concept of interest missing in the annual report of the Commission dealing with the EU as a global actor?

c) Obstacles to such a due reference seem to be the following:

- the main task remains in the hands of the Council, which is a forum of well established national interests. Of course, if they are alike, common actions may be taken.

- a short list of MS have full capacities to play a more global role even if the notion of Europe as a powerhouse ("Europe puissance") is not shared by all.

- when significant diplomatic initiatives are undertaken (EU3 on Iran, Lebanon), the prerequisite for a European label is a close coordination with the US. There is no agreement among the EU 27 on autonomy of action. The times of the last EU enlargements along with NATO expansion have produced a kind of labour division where strategy is on the NATO (means US) side whereas economic catching up is on the EU side: in between, there may be a vacuum, an unthought-of concept of EU as a political actor.

- the only domain in which the European interest as such is considered lies in the international trade negotiations for which the ad hoc commissioner has a clear mandate.

- the only explicit consensus is to preserve the European way of life ("Artleben" according to Angela Merkel) in the context of globalisation and to promote European values. This basic interest is a classical one in every major collective structure. But different ways to reach that goal are proposed, according to specific national cultures and practices.

*2. At the world scale, which can be the European interests?*

- A new western representation of the world is spreading out, based on the analysis that this new stage of globalisation is not Eurocentric and Eurodriven any more. Financial offensives by Mittal, CVRD, CNOOC or, partly, Gazprom, the competition for energy,

the Chinese geo-economic strategy in Africa, alliances between emerging countries of the South within the WTO, transfers of industrial and now services activities have growing influence on Western public opinions. For some, the new risky world is perceived as a threat and the first political demand requires protection, by the State or the EU.

- On a more geopolitical level, it is quite unlikely that the West will dictate the international agenda to the rest of the world in the next decades. And the medias which provide representations of the world today are becoming more diversified and beyond control. Global circulation of selected images may convey stereotypes and fuel resentment, which in History is often underestimated.

- On European level interest seems to elaborate its own view and analysis of not only the current situation but also of the major trends. Some people doubt that the expansion of NATO structures beyond the Transatlantic area is an adequate answer.


- The international system is becoming more interdependent and more heterogeneous, with a complex and contradictory combination of States which are suffering interconnected crisis or regional conflicts, power politics driven by emerging countries and, at the same time, stronger multilateral and regional organisations such as the EU, Mercosur or ASEAN. The main asset of Europe is in its half a century experience of regional integration. It is based on the sharing of some elements of sovereignty and the production of collective norms to frame competition within mechanisms of compromise.

- In a world which is structuring itself in a little cooperative "polycentrism" (the coexistence of powerful centres doesn't produce more stability than the famous "concert of nations" in past Europe), the stake for the EU is to promote a new "grammar" of interstates relations based on multilateral efforts, whenever it is possible.

- By doing so, the EU, as a "modèle réduit" (scale model) of cooperative decision-making structure, is perceived outside as a factor of legitimacy; the existence of a rather original European reality is understood by others. Another option for the EU could be a new kind of isolationism and protectionism with their populist "relays" favouring closed societies.

- At a strategic level, the EU ranks first in financial assistance as far as development, share of UN budget and contribution to peace-keeping and civilian operations are concerned. Several MS have global resources for external actions, world wide diplomatic capacities for negotiation and analysis of the complexities of "transformation diplomacy". These MS provide the EU with a capacity to play as an international actor in terms of security – prevention, stabilisation, reconstruction – even if it is not always duly assessed. This European interest - to share responsibilities of a strategic actor – is not supported yet by all MS but appreciated by public opinions who would like the EU to do more. ESDP should be enhanced with a more integrated defence capacity.

- At economic level, the new stage of polycentric globalisation may become the main driving factor of the international system; market forces may take over political regulations. As the first economic and trade power, the EU should gain from taking responsibilities in global governance, beyond trade negotiations: currencies, issue of American deficit, strategy of Bretton Woods institutions, reducing of energy dependency, climate change, etc.

*3. Shared interests at the European continental scale and in Eurasia*

- Shared interests should be more obvious and easier to determine but in many cases, individual states seem to give strictly national interests priority. They do it either through bilateral agreements that they sign without taking account of the impact on other MS (energy, visas), or, on the opposite, by using the EU to implement policies which fit with specific national priorities (immigration, ENP). In some specific cases, active support by individual MS to EU continuous extension is presented under the cover of general interest.

- A panoramic review of neighbourhood may nevertheless sketch some common interests. In its relation to the Russian Federation, the EU should make a choice between containment and roll back, transformational diplomacy (messianism) and partnership. A more assertive Russian Federation is skilled enough to play the divide-and-rule game and to anticipate reluctance and critics from new MS; its goal aims at reaching parity with the EU as such and having more a say on common issues, through new mechanisms of co-decision. Enlargement is still perceived as an imperial move.

- As for Turkey, accession talks are going on, on a slower pace and, under France's influence, they are limited to chapters which are not directly linked to EU integration (review of the chapter on statistics but not on monetary union). The European Council of next December will set up a working group on "EU borders". This is a matter of serious disagreement between MS.

- In Western Balkans, EU accession is offered as the best leverage for stability and reform, even for protectorates. Croatia is busy with its six new chapters and would like to conclude them in 2009. Serbia wants to resume talks on ASA and not limit EU affairs to the issue of Kosovo. Macedonia is expecting a signal from the next Slovenian Presidency. What is missing is a more comprehensive approach to the process of "Europeanization" of the region.

- Looking south, relations with Maghreb are gaining importance for the EU (immigration, energy and pipelines, security, transfer of activities in services, opening of EU market for agriculture). Pragmatism is required, beyond resentment and rhetoric. Paris has recently launched the concept of Mediterranean Union, supported by Spain, Italy, Portugal and Greece. The articulation with the present EU has still to be designed.

- In the Near-East, there is a consensus to consider the Israel-Palestinian issue as a key concern; Brussels is active and generous with the PA (650 m euros in 2005). But no breakthrough is possible without a less unbalanced US commitment Several MS are involved in Southern Lebanon but have no clout on the porous Syria-Lebanon border.

*4. Shared interests at the Union's scale*

- There is still homework to be done within the EU to improve mutual knowledge and understanding. Let's remind that many MS have no diplomatic offices in the 26 others. History of the neighbours is often ignored. It took 60 years for the first joint Franco-German textbook to be published; no major divergence of interpretation emerged between authors, except on the role of the US in Europe, presented as more positive by the German historians. EU issues are treated in a rather uneven way in the national media.

- We are experiencing "Europe vécue" (a passive way of experiencing Europe); the necessary next step is to turn into "Europe conçue" (actively chosen and defined Europe). This means a more assertive definition of identity, a more attractive picture of

the EU's role in today's world, a common strategic culture based on better consideration for national security interests of every individual MS, including the new ones. The new Member States also joined Europe with their deads. As long as Europe will rely on the US for its own security, there is no hope for it to influence world affairs and show closer internal solidarity.

- Nation-States are the cornerstones of the EU; national interests rank first, even when they are promoted through European channels. But it seems to me wishful to establish a short list of explicit shared interests to be served by a limited number of objectives.

-Two options are possible: the first one is rather ambitious, the EU as a global actor must be able to shape global rules (regulation) and norms and to project multilateral experiences: it is an open Europe. The second one is more defensive, based on security and stabilisation of borderlands: it is a closed Europe. The budget review in 2008-9 could be an opportunity to redesign common policies. As Javier Solana once stated after the double no in France and the Netherlands: "We have reached a point where citizens want to know the final destination of the journey". The answer is: common policies based on common and explicit interests.

## *"Europe as a global actor" by Ulrike Guérot*

*I. Europe is a global actor already, yet not visible*
When considering the question whether Europe is a global actor or how it could become one, one can easily argue that Europe, more precisely: the EU, is already a global actor, yet not visible (enough) in many respects. In short, the EU is strong, visible and united in all policy fields, in which it acts in a acts in a supranational setting, most evidently the singles market, the euro, common agricultural policy and trade policy. Also, with Schengen, the EU is increasingly visible as zone for common home & justice policies and as a single travel zone.

Things are different when it comes to foreign policy. In many respects, the EU already does have a common foreign policy in terms of development polices, neighbourhood policies or even common action, i.e. with regard to Iran, Lebanon etc. And it is quite successful in these policies and actions. The whole peaceful transformation of the eastern part of Europe through the recent enlargement process is probably one of the biggest foreign policy successes in history. However, in foreign policy, the EU is not visible (or hardly visible) and, thus, cannot 'cash' the gratification of success.

When it comes to foreign policy, national traditions are still very dominant and the wish to 'merger' foreign policy is limited. The EU, indeed, could improve its external representation and visibility, if it were to take decisive decisions and to really 'pool sovereignty', as it did with the euro. In this respect, the problem to get a visible foreign policy for the EU resembles to the problems the EU faced with the introduction of the euro: 13 directors of national central banks, especially the German one, Pöhl and Tietmeyer, were not particularly keen to give up power and competence in favour of the director of the ECB. And today, Axel Weber, head of the Bundesbank, is much less known as Mr. Pöhl and Tietmeyer were, just because his position is, indeed, much less influential than the one his predecessors had. Today, the pattern is the same for the current foreign ministers, who have vested self-interest to keep the position of a EU foreign minister limited, in order to secure individual/ national powers – and the member states (and the ministers themselves) are lacking political will to change something substantial about this.

If they were to do so, a couple of things could be improved. The EU could think of merging its seat and shares within the IMF in order to get greater visibility; it could think of a European Security Council to discuss the biggest security questions; it could go for a single representation of the Euro-zone within the G-8. It could 'merge' its representation in the UN-Security Council with respect to the non-permanent seats. And it could even consider, over time, to lay the foundations for a European army. Of course, none of these decisions would be easy to realise (but has the euro been a simple undertaking?), and I do not ignore the many problems stemming from these suggestions. The point is only, that, if the EU really wishes to move ahead with a single-voice approach in foreign policy, there are many areas out there, in which the EU could actually improve its visibility and external representation, if the political will were there. And if the EU does not, it should at least consider the loss of influence, if it does not live up to its own potentials. I am personally convinced that the EU had much to gain – also in terms of transparency and visibility for citizens – if it had a 'single voice' in, say, the IMF (with the potential, as the biggest 'stake-holder', to bring the IMF-headquarter to Europe), or within the G-8. Even if to many this sounds first glance as being perfectly unrealistic, one

should not forget that the EU took 30 years from Werner plan to 2002 to realise the euro. When thinking about a 'single voice' approach in foreign policy, it is therefore necessary to put the efforts in a realistic time-line. 'Pooling sovereignty' in foreign policy within the EU may well be an undertaking for the next 30 years or so, with slow incremental process; it won't come all of the sudden.

*II. The EU and Russia*
When thinking about the as global actor, the most important task in the future will be to figure out the relations of the EU to the other world's biggest player, especially Russia (as it is somehow on the same continent and neighbour) and, of course, the United States of America, allied with Europe since World War II. Of course, China and other players are also important. But Russia and the USA (see point 3 of this presentation) are especially important as they are both the former external federators of the EU – the one, the former USSR, as the 'negative federator', providing a fundamental security 'threat' as basis and need for European integration (and transatlantic cooperation); and the other, the USA, as the 'positive federator', promoting European integration in order to stabilise it precisely against the Soviet threat. Evidently, the relationship of Europe (the EU) with both, Russia and the US, must change with the course history has taken in 1989 and 2001. In a way, they both, Russia and the US need to be in parallel, separated from and newly integrated into the new European foreign policy structures.

Russia matters a lot, especially because of the European energy dependency. And for EU-Russia relations, Germany is key. In a nutshell: a crucial point for future developments will be whether or not Germany 'goes national' with its policy towards Russia, or whether Germany will be ready to sort of 'Europeanise' its own relations to Russia. For evident historical reasons, Germany has a very privileged relationship with Russia, which, in tendency, resembles a German 'hegemony' within European relations to Russia. German has certainly the strongest impact on Russia, but it also the most dependent partner from Russia (also in terms of energy). The point is that one can draw an analogy to the Euro. Germany had, with the D-Mark, the strongest currency among the European currencies and the D-Mark was the anchor currency in the EMS. However, Germany decided to 'pool' monetary sovereignty and opted for the euro (despite heavy domestic discussion about 'abandoning' the D-Mark), so it basically gave up its 'hegemonic' position that it had in monetary policy for a common approach, which revealed to be a 'win-win' story for everybody. The point is whether or not Germany is ready and able to do the same with respect to European relations with Russia. EU-relations to Russia are strongly related to energy and energy policy is probably the most important policy field in the future, where the EU should act united as much as it can. Seeking for a common energy policy reminds also the very fundamentals of the EU which started with the ECSC, a community for coal and steel, with the intention to 'merge' the resources which are most rare (and of which misuse could lead to war. For oil and gas, the same applies today. A single market and a euro-zone are difficult to imagine without the underpinning of a single energy policy, in which all countries do share the same rights, dependencies and the same standards for energy supply.

*III. The EU and the USA: transatlantic partnership on an 'equal footing'?*
The relations between Europe and the US have been continuously changing over the past decade for various and many well-known reasons and need to be readdressed in a fundamental way. The point here is to not be nostalgic about the past, but prepare a new setting for the future.

*1.      New parameters for the relationship*
We tend to neglect the profound changes in perception (and knowledge!) with respect to younger generations when it comes to the old parameters of transatlantic/ international relations that have been valid so far and driving most of our thinking. To start off with one figure: if one polls the sympathy for Russia and the US among German citizens on a 1 to 100 thermometer-curve, Russia comes out with 50% and the US with 51% sympathy. This – somehow dramatically – proves that 18 years after the fall of the Berlin wall, the US peace dividend (the gratitude for 40 years of emotional, political, economic, financial, and military engagement) are gone. Other polls show that large part of young people throughout the EU do no know what NATO is nor have they ever seen NATO in action. They have seen the US, but not Russia in war, which means that large parts of reference systems that formerly hold together the Atlantic Alliance during Cold War times has gone – and so has the validity for the international system and institutions that have been set up post WW II. In Turkey, 'sympathy' for the US ranges 6% which is another key figure for the shift of thinking and in values (Turkey is a long-standing NATO member!) when it comes to international relations. All this has to be taken into consideration when it comes to reassessing and readdressing transatlantic relations

*2.      The problem with 'equal footing'*
The biggest problem in EU-US relations is the fact that an increasing number of Europeans wishes to be more on an 'equal footing' in international politics with the US – but that this is not always easy to realise in concrete terms.

Partly, the faults are on the European side. It is 'chicque' in European foreign policy to declare its own country 'best friend of the US'. This is the position that the Czech as much as the Dutch or Danes or Slovaks – let alone the UK – claim for their country. In short: the EU is far from being united when it comes to how behave with respect to the US – and many do not dare to take different positions too openly. (Footnote: My personal experience from 10 years of international conferences is that Europeans DO speak differently on both, policy issues and the US, when no Americans are in the room, than when there ARE Americans in the room.) So there is a European problem to unite positions when it comes to the US and transatlantic relations (as many do not want to harm the US), and when it comes to creating a 'reality' the US could deal with, i.e. giving them the one 'position' (or phone number…..) the US many times wishes.

However, there is a US fault-line, too, as often, when the EU, indeed, gets its act together (so when it does precisely what the US wishes), the American reaction is often ambivalent, to say the least: this has been so with the introduction of the euro, as much when ESDP has seen substantial progress or even when the EU talked about the 'Constitution' that has also been seen as a 'security risk' for the US in some circles. The situation resembles the one of a child that grows out of the family (but sometimes still need the parent's credit card). The EU and the US must learn to somehow move out of each other in a reciprocal and mutually encouraging momentum. The US will ultimately cede to be balancing power on the European continent and must accept this without nostalgia; and it's Europe's duty to create the reality of a European 'single voice'.

*3.      NATO as a case study*
Perhaps the necessary changes in transatlantic relations can be best explained when looking at NATO and the EU-NATO relationship. In a way, the talk about 'improving EU-NATO' relations is structurally misleading and one should stop it, as both institutions cannot be compared: NATO is a single-issue, international institution; the

EU is a comprehensive and (partly) supranational entity. At best, NATO and ESDP can be compared, with ESDP not being the strongest element of the EU. Within an EU-NATO setting, one problem is that (most) of the EU countries 'talk to themselves', as there is large congruency in membership. The only country that really matters and which is in NATO and not in the EU is the US. It is precisely because the US is in NATO (and not in the US) that there is a natural tendency of the US to channel policies towards Europe through NATO, but the EU. The problem is, however, that for most of the recent or current transatlantic problems and contingencies, NATO is no longer the most appropriate institution. Firstly, because topics like Iran or Iraq or things like the Chinese arms embargo are not on the NATO agenda. Secondly, because the institutional setting of NATO (unanimity) does NOT allow Europe to 'voice difference', when it comes to policy decisions on how to deal with a threat, although this is precisely what European citizens and governments want (and what they experienced during the Iraq war). So NATO makes it systemically and institutionally difficult for Europe to remain friend but 'voice difference' with the US.

The point is not that NATO is obsolete (we still need it for article 5). The point is that NATO cannot deliver on what the US wants most on the European continent: when it comes to questions like Turkey or Balkans (Kosovo) or Ukraine, it is the EU that can deliver ultimately peace, prosperity and stability through a membership perspective or active neighbourhood policies, whereas NATO was essential to secure peace (i.e. in the Balkans), but can not offer a future.

All this leads to say that EU and US relations should be put on another setting, also institutionally, in order to better prepare the – different – future of the relationship, rather then wanting to rebuild the past.

*IV. Europe in the world*
The last short sentence or thought of this presentation is that, whatever Europe does globally and in the world, or whatever it wants to do together with the US, it should learn 'limbo-dancing' – meaning that ultimately, the EU, but also the US (or 'the West') will loose influence on a global scale. One figure is that by 2050, the US and the EU combined will account for only roughly 7% of world population. This is to say that international relations are about to change drastically, as the 'West' will probably no longer set the rules and the tone (nor the institutions?) of the international system of the 21st century. This accounts also for international crisis as the current one on the nuclear proliferation of Iran or other sensitive issues. I do not think that ultimately, the 'West' will have the right (nor the power) to impose or to decide for to the rest of the world what they have the right to possess and what not. More importantly, it can not be expected that the other parts of the world will durably allow 7% of population to consume nearly 60% of the world resources (energy, water, metals….). Either the EU (and the US) anticipate actively these changes and promote them, or they risk both to be out-ruled in some time to come. We need to think over the standard sentence of transatlantic relations which is that if only the US and the EU work together, the world is a better place – a sentence which is not so much believed in many other parts of the world.

The EU could have the ambition to become a (soft-) superpower. It could try to go for a sort of (positive) 'Euro-Nationalism', if it wants to live up to its potentials. In a multi-polar world of increasing regionalisation and an increasing number of (national) big players (as there are China, India, Brazil, US and Russia), the EU should think about the question of its sustained influence, if it ultimately does renounce on playing a 'Euro-national' card and if it shows unable to clearly define 'European interest' in a broader

sense than a zero-sum game of 27 national interests within the EU. Those reflections should also lead the EU's thinking of Turkey. Taking Turkey into the EU is probably the most important question in international relations in the 21st century, as the EU is the only political entity that can proof Samuel Huntington's 'clash of civilisation' wrong, by taking Turkey into the EU and, thus, by demonstrating, that the EU is not a 'Christian club', but a political entity based on rule of law, good governance and human rights, able to promote a moderate European Islam. This is the prominent role of the EU, when it comes to solving the dichotomy between 'the West' and the 'Muslim' world, which I consider increasingly misleading, and which ought to be overcome, but which may determine large parts of international relations in the 21st century.

## *"Europe as a global actor"* by **William Wallace**

*Europe is partly a global actor – in managing the global economy*

In global trade negotiations, European governments act as a relatively coherent bloc. National competences in many fields have been transferred to the Commission, which negotiates with the USA as an equal on its member states' behalf. On some of the 'new' WTO agenda, EC competences and Commission experience have also given the EU a coherent voice, to which the USA and other major players listen: on competition policy and mergers which impact on global markets, on regulation and standards.

On global economic management, the four largest member states and the Commission participate in G7/G8. But the absence of any consensus among the Eurozone members about external exchange rate policy, and wider confusion – or disagreement – on preferred regulatory regimes for international banking, offshore financial centres, hedge funds, global financial imbalances, etc., severely limits European influence. The bilateral trade imbalance between the EU and China, for example, is now approaching the level of the US/China imbalance; but it is the USA which is driving discussions on China's external exchange rate and reserve policy, not the EU.

*Europe should be a stronger global actor – within global institutions*

EU-27 is in itself a significant caucus within IGOs, reinforced by the inclination of EEA states and EU applicants to associate themselves with the positions EU states adopt. 4 of the members of the 15-member UN Security Council are EU members – two of them the UK and France, as permanent members. EU member governments contribute collectively 40% of the UN budget, and 40% or more of the budgets of UN agencies: considerably more than the 20/22% the US contributes. On some issues EU members form an effective caucus. On many others, however, the absence of a collective view on the role of multilateral institutions and how to strengthen them leaves European governments exerting less collective influence than they could.

I see little evidence that the separate and permanent seats that France and the UK hold on the UNSC are a major obstacle to a more effective EU voice. The underlying weakness seems to be an absence of commitment to active diplomacy, and a reluctance to agree on and put forward a coherent concept of multilateral institutions and rules.

Comparison of the roles that Canada and Norway play in IGOs, through active diplomacy, supports the view that most EU members prefer to play a passive role – with the possible exception of climate change as a global issue, on which EU members have done much to shape the agenda..

*Europe is not a global actor – in containing global insecurity*

European governments withdrew from extra-European military ambitions and commitments in the decades after 1945. Even France and Britain now lack the capabilities for military deployment at intercontinental range. European governments have studiously avoided addressing questions of regional insecurity in East Asia, as their stumbling approach to removing the arms embargo on China demonstrated; they have little to say on the issues of North Korea and Taiwan, and less influence – even though every member state maintains its own embassy in Beijing.

It is arguable that European governments do not need to concern themselves with issues of global insecurity, and that the development of any autonomous approach to global security issues would arouse American hostility, and so impact adversely on the security of the European region. US Administrations define global security threats, and expect their allies to assist in resisting them: as the majority of current member states assisted, at least with small contingents, in Iraq in 2003-4, and as a significant number are now contributing – again mostly with small contingents – in Afghanistan. It is implicitly understood in almost all European capitals that any substantial move towards a collective European view of global insecurity would cut across American assumptions about preferred order and potential threats; and that without any serious capability in terms of 'hard power' to manage global threats autonomously, it is wise to avoid challenging American hegemony. European governments lead on some 'new' threats, above all climate change, but have not developed a collective view on the complex of threats presented by the demographic explosion in the Middle East, Africa and South Asia, the failure of political and economic modernization in many of the societies and states in those regions, and the spillover of crime and terrorism associated with that failure.

*Is Europe a significant actor in shaping the security and order of its own region? If so, how wide does the relevant 'region' extend?*

The most successful achievement of European foreign policy, we can all agree, has been the assimilation of the former socialist states of central and eastern Europe into the EU: a strategic move accepted with much reluctance by many member governments and their publics, but strategic nevertheless. Further enlargement is, however, deeply contested – resisted in terms of its implications for the EU's internal cohesion and balance, as against the wider regional responsibilities which the inclusion of Turkey (for example) would bring. But it is notable than even the strongest advocates of Turkish entry have said little about the more active policies this would require towards such new neighbours as Iraq and Iran.

The EU's Neighbourhood Policy carries implicit assumptions about future relations with Russia and our 'shared neighbourhood' – but these are rarely addressed openly. The Samara Russia-EU Summit was almost the first occasion on which the collective EU managed to present a position which held together across political, energy, economic partnership and food safety issues; and that does not appear to have addressed some of the delicate questions about Russian entanglement in 'frozen conflicts' in Moldova and Georgia, on which again the USA sets the agenda.

North Africa and the Middle East constitute the most sensitive neighbours in Europe's wider region. Beirut is now less than 200kms from the EU's external border, Tel Aviv some 300kms; Libya and Morocco are also very close neighbours. In spite of the Barcelona Process, now under way for 12 years, the EU appears to have little coherent sense of a political approach to its southern neighbourhood. It is the USA which defines (and redefines) the Middle East region, and largely sets the terms for Western policy towards the Arab states and the Israel-Palestine conflict. The French-led attempt to define a more independent partnership with the Arab states, in 1973, and the British-led attempt to spell out an autonomous approach to the Israel-Palestine conflict, provoked sharp reactions from Washington. The collective EU has been a minor player in the 'Quartet' (as has Russia); the USA has continued to set the agenda on Israel/Palestine..

The UK, France and Germany have played a useful intermediary role on Iran, but have achieved little more than maintaining diplomatic conversations.

The USA has been the hegemonic power in the Middle East since 1956, and remains the dominant military and political player in what has now become a deeply unstable region. European governments could only develop a more autonomous approach by challenging American predominance – at an unavoidable cost to other European interests, a cost which no European government is prepared to incur.

*Does Europe need more effective 'hard power'?*

European governments collectively spend half as much on defence as the USA; their separate efforts are estimated to provide around 10% of the deployable forces for operations outside the EU, with far less capable equipment and very little capability for transport and resupply at long range. In the even of a major state-to-state threat to global order, European governments would still depend on the USA for protection, through NATO; if a missile/nuclear threat emerged, they would depend on the USA for the provision of anti-missile defence.

European governments do not need to duplicate US military efforts. Nor is there any possibility that their electorates would allow them to spend enough to come close to achieving such an aim. Furthermore, EU governments do not share US faith in high-technology weapons, in 'shock and awe' tactics. There is an evolving European approach to war, based on conflict containment and resolution and state reconstruction. Even for this, however, European resources are limited, and heavily dependent on French and British provision. Current operations in the Western Balkans, Afghanistan, Iraq (for some) and sub-Saharan Africa (for some) have stretched resources; helicopters in particular are in very short supply. If Europe collectively is to become an effective global actor, greater investment in this field is vital.

*Europe has not yet developed a concept of its preferred global order*

The most remarkable aspect of the European Security Strategy exercise was that it attracted so little debate within national capitals. Until this document was drafted, formal commitment to a Common Foreign and Security Policy had not led any European leader to spell out what might become a European approach to global order. There had been three 'common strategies', but these were wish-lists without intellectual depth.

The ESS was drafted by Solana's Secretariat as a response to the USA's National Security Strategy, to demonstrate to Washington policy-makers that their European partners did share a distinctive but complementary view of the world. The reluctant response of member governments, most of whom avoided any debate on the document in their parliaments or media, indicated that this view was at most a tentative one. Since then Solana has been extremely active in Middle East and Iranian diplomacy, but without setting out any broader lines for European foreign policy. No national leader has attempted to do so, either; President Chirac undermined European solidarity towards Russia, but did not spell out a coherent Gaullist alternative.

The elephant in the room, which European governments hesitate to recognise, is the United States. US Administrations expect to set the agenda for Western international policies, towards the Middle East, towards Russia (including NATO enlargement), towards East and Central Asia. Serious moves towards common foreign policy in those fields would require careful presentation in Washington of the rationale for a more active and autonomous European approach.

One of the greatest weaknesses in European foreign policy is the preference so many governments retain for special bilateral relations with the USA (reinforced for many EU members by their links to ethnic lobbies – Irish-Americans, Greek-Americans, Polish-Americans – within the USA).  Until Samara, the French and German governments had also preferred special bilateral relations with Moscow to common policy.  Closer coordination of diplomatic relations, and of political messages delivered to key partners, is a prerequisite for effective foreign policy.

But above all European political elites need to debate and develop a concept of Europe's global role, and of their preferred global order.  Without that, they will continue to follow the twists and turns of US policy, sometimes willingly, often unwillingly.

# Session IV: Is there a social Europe?

## *"Is there a Social Europe?" by Xavier Prats Monné*

> *"Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do as well as to determine what we shall do".* Bentham.

EU social policy has never been a homogeneous set of objectives or instruments: some of its aspects were born with the original EC Treaty, and have further evolved through qualified majority voting and the Single European Act (free movement, health and safety, the European Social Fund). Other areas acquired a Treaty basis only in the 1990s. And since the late 1990s (European Employment Strategy, Lisbon), the traditional regulatory approach has been left aside in favour of the soft law of the Open Method of Co-ordination: if the focus of EU social policy was once on regulation as opposed to outcomes, now it is on process as opposed to substance.

This paper takes the view that:

•       On the one hand, in the foreseeable future, with 27 Member States, the minimum common denominator that determines progress in EU policy development is at or below zero in many policy areas, including social policy. The wide differences between macroeconomic constraints and welfare systems of the Member States will not allow significant social policy initiatives – especially in traditionally national competency areas such as taxation or social insurance. EU social policy will focus on a limited number of areas, trying to set minimum standards (i.e without the traditional EU focus on harmonisation) and encourage Member State and interest-group cooperation;

•       On the other hand, the foreseeable future is a very short period of time. A large majority of Europeans genuinely want a "Social Europe", although they may differ on the policy translation of such political wish. In the longer term, Social Europe can facilitate the adjustment of national welfare systems to globalisation and to European integration: paradoxically, EU social policy might contribute to the strengthening and stabilisation of national welfare regimes, rather than to their convergence into a single "Social Europe". Two recent initiatives suggest that a new approach might be in view: flexicurity and the European Globalisation Fund;

•       In the end, new and significant social policy initiatives will require difficult political choices from a redistributive, political, and/or institutional point of view. Beyond the current acquis and the accumulation of declamatory statements, with 27 or more Member States Social Europe can only be developed by accepting that progress in European integration requires some form of differentiation. In the field of soft law, one could explore a transition from the "Open Method of Co-ordination" to "Critical Mass Co-ordination" of policies without the pre-requisite of EU-wide consensus.

## 1. THE PAST AND PRESENT OF "SOCIAL EUROPE"

The declamatory chorus of EU institutions and leaders about Social Europe has been remarkably consistent, at least since the Maastricht Treaty, arguing in essence that:

- politically, the reinforcement of the "European Social Model" is indispensable to the long-term viability of the European project (see for ex. the Berlin Declaration of 25 March this year);

- in policy terms (see for ex. the Dec. 2000 Nice European Council conclusions, or the Commission's Third Cohesion Report), economic, employment and social policies are mutually reinforcing. Promoting social integration and combating discrimination is crucial to prevent social exclusion and to achieve higher rates of employment and economic growth, notably at regional and local level.

In June 2007, the European Council agreed on EU Objectives for the new Treaty, where Social Europe remains as prominent as before: "The Union shall (…) combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. It shall promote economic, social and territorial cohesion, and solidarity among Member States."

So, taken at face value, the Union's answer to the question "Is there a Social Europe?" is a resounding yes - especially if the question is slightly modified to "should there be" rather than "is there".  However, this consensus shows mainly that it is in no one's interest to start a quarrel on abstract concepts or ideological principles (such as, say, equality and opportunity) which do not lend themselves easily to compromise.

Social Europe is thus not challenged in theory, but in practice. The EU enlargement of 2004, and the debate on the 2007-2013 financial perspectives, broke the taboo over the added value of Community action, i.e. not over the pertinence of social policy per se, but on the need and opportunity of EU as opposed to national action, particularly as concerns redistributive policies such as Cohesion and social policy.

Today, in the on-going debate on Europe and globalisation, a new postulate may be slowly becoming what Galbraith called "common wisdom". Simply put, the argument is: a) globalisation, and in particular the emerging BRICs, have a lasting impact on the economies of the Member States; b) as a consequence of globalisation, the EU as a regional organisation has lost relevance and must adapt to this new reality; c) in particular, the "European social model", synonymous with Continental welfare state regimes and social protection policies, is an inadequate response to the challenge of globalisation (since it has produced 17 million unemployed due mainly to over-regulation and inflexible labour markets); and d) the only way to increase EU growth, competitivity and employment, is through de-regulation, market flexibility and the empowerment of the individual: an excess of redistribution and social protection reduce individual incentives and the market's ability to provide jobs.

The extent to which this argument prevails, or is replaced by a more EU-centred or articulate view of the implications of globalisation, will largely determine the future social dimension of the EU - and whether the EU will have relevance and added value in the

coming years. In any event, the case for Social Europe, for the "European Social Model", for the social dimension of the EU, will need to be argued anew.


## 2. THE ELUSIVE "EUROPEAN SOCIAL MODEL(s)"


*One, three, four, five European models…*

Most definitions of the "European social model"[1] consist rather generally of: a) a broad objective of social justice; and b) the postulate that (financial) solidarity actually contributes to economic efficiency, productivity and growth - this being the rationale for the establishment of EU Cohesion policy in the 1980s. These are not just words: EU Member States on average spend much more on social protection (25% of GDP) than the US or Japan (15-17%), and many developing countries and emerging economies consider the EU as a benchmark in many social areas.


So the concept of Social Europe resonates - strongly in some Member states, less so in others - as a series of overall objectives and values of the EU, as they were elegantly defined in article 3 of the now defunct Constitutional Treaty. But has the evolution of social policy in the EU resulted in a "Social Europe" or in a "European social model" distinct from other socio-economic areas? The translation of such concept into operational Community policies is quite difficult.


If by Social Europe we broadly mean social protection and welfare state(s), the consensus in academic literature is that there is no single European social model (or, or ex. a clear-cut division between Continental Europe and UK), but a number of variations around three to five broad "typical" regimes: Scandinavian, Anglo-Saxon, Continental, Mediterranean, Eastern European. Indeed, Commission papers now often add an "s" to "European Social Models". These typical welfare regimes are complex systems which reflect the radically different ways in which European countries have organised themselves throughout the XXth century: the structure and volume of social benefits; eligibility criteria (e.g. Bentham utilitarianism and empowerment of the individual, or citizenship rights and social capital); subsidiarity in delivery; family policies, and so on.


*… with advantages and shortcomings*

Each of the welfare regimes found in Europe has its advantages and shortcomings, and is responding differently to the impact of globalisation and demography. For ex., the UK delivers very low unemployment (4.7%) and high employment rates (71.7%), but also relatively low productivity per worker and per hour (still slightly below EU 25 average), a high gender gap, and high poverty rates (e.g. almost twice as many children in jobless households as the EU average: 16.5% versus 9.6%). Continental and Mediterranean regimes have different challenges: in Spain, for ex. the widespread use of temporary and short-term contracts[2] has helped raise employment and halve the unemployment rate since 1993 (to 7.8% today: same as the Eurozone, i.e. below EU-25 average) – but they have contributed to the country's segmented labour markets and low levels of productivity, innovation and mobility.

Welfare regimes are not just about degrees of labour market flexibility and liberalisation, but also about social policy, i.e. the different possible combinations between social protection on the one hand, and active labour market and family policies on the other. The meaningful distinction for EU social policy is not so much between the 3, 4 or 5 "European social models", but between those countries with strong active labour market policies, and those without: this explains why Scandinavian countries can combine high levels of public expenditure and social protection with high employment rates (due to active policies encouraging the return to work). And it is active policies which explain the good employment performance of countries and "Models" as diverse as the Netherlands, Ireland or Spain.

*3. THE CHALLENGES FOR SOCIAL EUROPE*

Three key issues would need to be addressed by any future EU social policy in a context of globalisation:

• the social concerns of EU citizens. While policy and opinion makers tend to dismiss any criticism of market openness and globalisation as old-fashioned or biased, national and EU-wide surveys underline that a large majority of Europeans: a) are strongly attached to social protection and the Welfare state, and thus have no inclination to change their perception of Social Europe or the European Social Model; and b) consider that the legitimacy of the EU largely depends on the preservation of the "model", the values, that Europeans have built over the last 40 years. Fears of the consequences of globalisation and technological development may be exaggerated – but they are nonetheless widespread and real and should be addressed, mainly by national political leaders but also by the EU, since the EU is (seen as) a key actor in trade liberalisation. It would be disingenuous and counterproductive to pretend that globalisation has no losers – and yet it is interesting that many of those who argue that there should be a pause in European integration because European citizens do not want more Europe, are very keen to pursue liberalisation even against public opinion – with the argument that they know best what Europeans need;

• the radical differences in welfare and wealth between Member States. For all the emphasis on the impact of globalisation, social change in EU Member States is mostly internally driven: the crisis of welfare states is not so much the result of globalisation, but of social transformations at national level: the maturing of welfare provisions, low fertility and ageing, changes in family structures, and of course technology. National social policies have wider breadth and depth than EU social policy, and greater political legitimacy. More importantly perhaps, the EU discourse seems still curiously unwilling to acknowledge the profound policy and political implications of the differences in social and economic development in EU27. If until a few years ago the EU could conceivably be considered as a group of post-industrial countries facing globalisation under similar conditions, an analysis of "late modern" societies (see e.g. A. Giddens) based on personal well-being and consumer choice does not fit easily in Bulgaria, where the poverty threshold remains below 80€ a month[3] – or in Romania, where the main social policy response to market openness and globalisation, for a few million people, is still…subsistence farming;

• the new social risks that are increasingly affecting all Member States, although with varying degrees and impact, and which cannot be solved exclusively through social protection and flexibility. Globalisation is not just about trade: social structures are also changing dramatically -  yet national social protection policies are still often organised around an increasingly outdated traditional, stable nuclear family model; thus, the structure of public expenditure is also traditional and stable (pensions, health assistance), and ignores the massive socio-economic and political impact of immigration, the new family types, female unpaid work, lifelong learning needs, etc. The EU and Member States must respond to these new social risks as urgently as to trade openness: they are all part of the same process of modernisation.

## 4. THE FUTURE

The Commission's Bureau of Economic Policy advisers (BEPA) launched in February this year a stock-taking of "Europe's Social Reality". This paper, where the Commission declares itself in a "listening mode" with a view to future proposals, brings to mind – especially in Nafplion - the Nicomachean Ethics read through Bentham utilitarian glasses: Europe rediscovers eudaimonism and "social well-being" as the new focus of Social Europe. But how to re-define social well-being for 27 Member States? What common policy (and spending) objectives, and what acceptable balance between EU and national responsibilities? What EU added value, beyond the usual and somewhat overstated exchange of best practices?

The answer is not there yet. But given the focus of last week's European Council on the balance of powers between Member States, and on stripping the EU of the symbols of supranational identity, it seems that for the foreseeable future Member States' governments and social protection systems will retain their influence, distinctiveness, size and resilience. If so, given social protection concerns of EU citizens, the radically different welfare regimes, and the new social risks, what role, what prospects for EU Social Policy?

### EU social policy will focus on new social risks…

The approach consisting in the establishment a direct link between EU social policy, democratic citizenship and EU legitimacy (as outlined in Delors' Green Paper of 1993) does not seem a realistic policy option today: the EU agenda has clearly shifted from a regulatory agenda and a strategy of institution building to the softer option of the Open Method of Coordination (OMC). But there are some signs that the EU might be moving toward a  new rationale for Social Europe.

In the near future, the scope for social policy rests mainly in encouraging Member States and interest group co-operation, and promoting best-practice, with three thematic areas which look most promising: youth, anti-discrimination and equal opportunities, and - perhaps above all - immigration.  Policy initiatives are likely to focus on new social risks for two main reasons. Firstly, the Member States' economic and monetary constraints (especially but not only in Cohesion countries) limit their ability to deal with non-traditional welfare issues. Secondly, since the 1990s Member States are not willing to allow Community action in "traditional" areas such as taxation and social insurance. For a majority of Member States, the new social risks policies now pursued (e.g. with the

European Employment Strategy) are compatible with the market-focussed approach to EU integration; they limit the risk of competition between national welfare regimes; and they avoid the politically unrealistic approach of European institution building through the obligatory harmonisation of social policies.

One example of this trend is that the eligibility criteria of the new ESF Regulation for 2007-2013 (approved in June 2006) focuses much more broadly and explicitly than in the past the new social risks such as youth, childcare, immigration.

*A new policy priority for Social Europe: flexicurity…*

This week the Commission adopted a Communication on "Common Principles of Flexicurity", which will be incorporated into the next 3-year cycle of the Lisbon strategy (the text will be made available to the participants in the seminar on the day of its adoption, Wednesday June 27). It is arguably the best example of today's Commission approach and narrative on employment and social policy. Flexicurity will increasingly become the key concept to encompass the debate on EU employment and social policies, and their adaptation to globalisation, over the next 3-year cycle of the Lisbon Guidelines and European Employment Strategy.

Flexicurity encompasses concerns for liberalisation and protection, by relating simultaneously to the flexibility of labour markets, of work organisation and labour relations, and to employment security and social security. Flexicurity widens the discussion from "security on-the-job" to security in the broader sense: from job security through strict employment protection legislation, to security of employment through policies favouring human capital investment and offering security in transition. Flexicurity can also address the increasing problem of segmented labour markets that many Member States are facing. Segmented markets are characterized by high formal protection of some workers while others are trapped in less secure employment, or undeclared work, with fewer opportunities to progress into better jobs and often face precarious labour market conditions; segmentation is also linked to gender segregation, since women are overrepresented in low-skill employment.

The concept of flexicurity thus addresses the three key challenges outlined in chapter 3 - security concerns, diversity and new social risks -, and combines four main policy areas related to the impact of globalisation: flexible contractual arrangements; active labour market policies, lifelong learning systems, and modern social security systems.

*…and an example to follow: the European Globalisation adjustment Fund (EGF)*

The EGF, which entered into force this year, is admittedly limited in scope – financially and politically, since it is meant to palliate rather than anticipate the consequences of globalisation. But it is another good example of a promising way to provide EU added value by contributing to its adaptation to globalisation, and by addressing its key challenges.

The rationale of the EGF is simple: a) the opening-up of economies to international competition brings new opportunities in terms of economic dynamism, competitiveness and the creation of high-quality jobs; b) however, the EU trade opening also leads to an unequal redistribution of gains and losses: there is a significant asymmetry between the

overall benefits of openness, which are diffuse and often take some time to materialise, and its adverse effects, which are more visible, immediate and concentrated in specific individuals and areas; therefore, c) acting as a sign of EU solidarity, the EGF will support workers made redundant as a result of trade-related adjustment changes, in complement to the efforts of Member States at national, regional and local levels.

The challenge for the Union is to ensure that the adjustment process, as part of a broader adaptation to structural changes resulting from globalisation, works as smoothly as possible. Meeting this challenge thus depends on the capacity of the Member States and the Union to positively manage change while limiting the adjustment costs for individuals, territories and society. In this respect, the EGF is, for the time being at least, one of the few tangible, concrete examples of EU action. This instrument will become - and should become - much more visible for Member States. The French Presidency of the EU in 2008 will benefit from the first year of experience of the EGF: it will thus have an opportunity to assess its performance and raise its scope, since a review of the EGF is foreseen after one full year of activity.

*The broader picture: towards "Critical Mass Coordination"?*

Social Europe does not occur in a vacuum. In order to assess the feasibility of EU policy initiatives in the social field, one should look at the overall context of EU integration. With enlargement to 25 and now 27 Member States, the minimum common denominator - which the EU and its institutions require to function and thrive - is very close to zero. So the key challenge over the next few years will not be so much the deepening of EU (social) policies, but the preservation of existing ones - not least in the social field -, as the EU institutions and policies digest the accession of 12 new members in a rapidly changing economic environment.

Whatever one may think of the old debate on widening versus deepening, it would be unrealistic to assume that the EU can become "an ever closer Union" (a taboo concept by now) no matter how many members join the club and how diverse they are. This challenge is particularly acute in those aspects of European coordination that depend mostly on financial redistribution or on regulatory measures and harmonisation. The field of soft law should provide more scope for progress - and indeed progress is needed in this field too: if the different realities of Member States are not acknowledged, even soft processes such as the Open Method of Coordination (OMC) might lose credibility and become administrative exercises with little policy relevance.

In this context, it is interesting to note that "soft law" and in particular the OMC can be seen, on the one hand, the one area of Community initiative that by its sheer nature should represent the least threat to Member States' competencies. On the other hand, paradoxically, the OMC is more strictly bound by unanimity and consensus than some "hard law" or redistributive domains, just because the Treaty base is lighter.

Perhaps one could reflect upon the possibility of addressing the OMC in terms of "critical mass", as opposed to considering that "Open" in this context means mainly that it is extremely difficult to close a discussion. In practice, for example, policy messages or

Council conclusions could be discussed with a view to achieve a sufficient "critical mass" of opinion that could imply for policy development without the need for EU-27 consensus. Thus, the OMC could be transformed into "CMC": a method of "Critical Mass Coordination", as it were, of policy areas where consensus – or agreement on the basis of qualified majority – would not have to paralyse the Union's policy development. This transition would possibly have the advantage of requiring practically no institutional change – and the possible inconvenient of "softening" even more a umber of Community policies which are already in danger of putting process ahead of substance.

**Notes**

\* The views expressed in this paper are strictly personal and do not reflect the views of the European Commission.

**References**

(1) For ex.: Commission contribution to the Hampton Court summit: COM(2005)525, 20.10.2005

(2) Two thirds of the 900,000 new jobs created in Spain in the year to June 2005 carried contracts of 6 months or less. A flexicurity type of agreement with social partners was signed in May 2006, running until end-2007, to curtail the use of short-term contracts.

(3) About 40% of Bulgarian households survive on an average of 58 euro a person a month, the official poverty threshold below which the physical survival of a person is considered to be in danger. 70 per cent of households live on an average income of 80 euro a person a month (2004).

**"The EU Budget: is it irrelevant to the future of social Europe or could it be part of a response to globalisation?" by Iain Begg**

The EU budget has, the accompanying table shows, been largely unchanged in its broad structures since 1988, although there have been significant changes within spending programmes that have re-orientated its distributive impact.

*Table: Budget features compared[1]*

| Facet of budget | 1988-1992 FP | 2007-2013 MFF | Comment |
|---|---|---|---|
| Own resources ceiling | Rising to 1.2% of GDP | 1.24% of GNI | Marginal increase, but offset by lower take-up |
| Actual expenditure commitments, average over FP | Planned: 1.17% of GNP Out-turn: 0.99% | Planned: 1.05% of GNI | There has been a tendency for the out-turn to under-shoot |
| Share of CAP spending, % end of FP/MFF | 51.4% | 32.0% direct payments, with an additional 8.2% on other elements | Major changes made in 1992 and 2002 in the character of the CAP, but real level of spending maintained |
| Share of cohesion spending, % by end of FP/MFF | 30.2% | 35.6% | Shift from 'cohesion 4' to recently acceded members |
| Administration costs, % end of FP/MFF | 4.7% | 6.0% | Increase partly caused by re-definitions |
| Formal abatement | UK | UK | Relatively minor changes in formula |
| Implicit 'rebates' | DE | DE, NL, AT, SE | Increasingly messy and opaque arrangements |
| Share of funding from inter-governmental transfers | VAT: 58% (avg) GNP: 9% (avg) | VAT: 16% (2007) GNI: 69% (2007) | Switch from VAT resource to GNI resource, but de facto both transfers |

To a visiting Martian, the lack of radical development of the budget since 1988 would appear puzzling, even if it is no great surprise to hardened EU-watchers. Consider what has happened within the EU over the last two decades - there has been:

- An increase in the membership of the union from 12 to 27

- Completion of the internal market

- The extension of EU ambitions in external policy from development to international security

- Monetary union has gone from a distant prospect to a euro that will be well into its adolescence by the end of the current Multi-annual Financial Framework (MFF) in 2013.

In addition, globalisation has continued its inexorable advance, China has become reconnected to the global economy and its growth (along with that of India and a number of other emerging economies) has been a major shaping factor in international economic relations as well as restructuring of economic activity within the EU. Technological developments too must be expected to result in new expectations of public policy.

To the question, 'what does the EU budget do for social Europe?', the direct answer is 'not very much'. Common Agricultural Policy (CAP) spending has shifted towards direct payments and the expectation is that there will be a progressive switch towards income support for lower-income farmers. As such, the policy has shifted from being one which

is predominantly allocative in intention (by subsidising farm production) to be more re-distributive in character. It is likely that CAP spending will continue to move in this direction, while also assigning greater weight to rural development, once the present settlement that is scheduled to last until 2013 (subject to a so-called 'health check in 2009) expires. At the level of the Member States, CAP spending favours the lower-income countries of the EU, but also provides net benefits to a number of richer ones, such as Denmark, France and Ireland.

Cohesion spending, the second major heading of EU budgetary spending, has some direct social objectives insofar as the European Social Fund supports initiatives to retrain, to promote active inclusion and to foster equal opportunities. But the amounts devoted to these facets of cohesion policy are relatively small. The great bulk of cohesion policy is aimed at stimulating regional economic development, with the understanding that such development is, in itself, a public good in which the EU wishes to invest. Cohesion spending manifestly transfers resources from (on the whole), richer to poorer Member States. What is less clear is whether it achieves re-distribution in the more conventional sense of transferring income from richer to poorer individuals. An extreme view is that the EU budget transfers money from poor people in rich countries (to the extent that the net payments these countries make imply lower social spending) to rich people in poor countries (if it is the economically active and the entrepreneurial classes who benefit most from economic development, rather than the inactive of the socially excluded).

Even if it is accepted that economic development does trickle-down to all segments of society, so that all will benefit if cohesion policies result in convergence of lower income regions towards the Community average, it is important to recall that poverty rates are usually expressed in relative rather than absolute terms. Indeed, there is a well-established empirical finding that in periods of catch-up growth, income inequality tends to widen before eventually narrowing again as social aims become higher priorities.

*Globalisation and its social consequences* [2]
There is a widespread fear in many parts of the EU that globalisation will have damaging social effects, notably by triggering a race-to-the-bottom in social standards. Opinion polls testify to the strength of these fears, with more EU citizens regarding globalisation as a threat to their jobs, rather than an opportunity. Yet the conclusion from a recently completed study is that globalisation is much more an opportunity for added growth than a social menace. However, the benefits of globalisation cannot just be assumed to happen and, with an increased pace of change, it is inevitable that there will be losers as well as winners, with marked social consequences. It follows that the European social model is not doomed - far from it - and the idea that only free market approaches are consistent with sustained prosperity is clearly wrong. Indeed, the success of the smaller open economies testifies to the scope for prospering, even with extensive and generous welfare states.

It has also to be repeated that globalisation is not a zero-sum game. Nevertheless, in assessing the benefits of globalisation and the social impact, three issues need to be taken into account.
- The gains are not uniformly distributed across individuals, regions and countries.

- The costs of globalisation are more likely to be concentrated in the short-run, while benefits will take longer to materialise. So the very speed of the globalisation process is part of the policy challenge.

- The gains will not accrue automatically, but will depend instead on successful adaptation which, in turn, means undertaking appropriate competitive, regulatory and social reforms.

Equally, potential threats from unfettered globalisation encompass distributive impacts, such as adverse consequences for specific groups and regions, issues of cultural hegemony, potential environmental damage and geo-political disruption. Threats may also arise to the stability of public finances and from social tensions associated with migration.

The key message for policy-makers is that for the EU and its Member States to ensure that the balance of effects of globalisation is as positive as possible, a range of policy responses will be required. A core challenge is to achieve economic flexibility with better social protection in order to create an environment capable of making the best use of the opportunities offered by globalisation. In this context, social policy has a vital role to play, not least in endowing people with capabilities, with a premium on active policies that intervene early rather than passive, reactive policies. The policy challenges of globalisation can be grouped under three main headings:
- Equipping the economy to compete in the globalising age

- Smoothing adjustment

- Improve socio-economic governance

The Lisbon strategy is, in many ways a response to globalisation, insofar as its primary aims are to reposition the EU in the global economy, but it is important to recall that the strategy also has as key goals creating employment and assuring social cohesion. Plainly, a strategy that 'only' targets growth and jobs may not be enough and will need to be complemented by effective policies to protect those who lose from globalisation. Much can be achieved by re-training and other active policies aimed at re-deploying workers, but there will be some groups beyond the reach of such measures. In particular, solutions are needed to the 'Catch-22' problem that many of those most affected by globalisation are least able to re-connect to the labour market. Modernised solidarity policies should, therefore, be seen as an essential weapon in the policy armoury. Moreover, in the integrated (since 2006)open method of co-ordination of social protection and social inclusion, there are a number of themes that reflect policy challenges – notably immigration – that are closely associated with globalisation.

Most of the adjustment will, inevitably, be carried out by Member States using their own regulatory interventions and public expenditure. But a complementary EU level response is bound to be needed, prompting questions about how it is formulated, implemented and financed. In particular should the EU budget become more explicitly focused on the policy response to globalisation? While labour market policies have to be to at the forefront of an adaptation strategy, a coherent and complementary strategy for social protection and social inclusion remains vital. The ease with which adjustment can be achieved will also be shaped by the degree to which Member State governments are prepared to co-operate, both within the EU and in wider fora. Regulatory fragmentation and the dominance of national regulatory regimes in could result in a zero- or negative-sum game, placing a premium on effective co-ordination processes at EU level. Today, the European Social Fund is, effectively, the only budgetary instrument available.

*Where next for the EU budget?*
It is noteworthy that in the extensive reform of economic governance that took place in 2005, it is the budget which emerged least altered, despite the fact that it underwent a presentational makeover that, for example, saw 'structural operations' re-defined as 'cohesion for growth and employment', albeit with much the same level of resources. While the seemingly vast capacity of the EU to fudge deals cannot be ignored in looking to the future of the budget, it is hard to see how the present system can survive beyond the present budgeting period of 2007-13. In an intriguing paradox, the long periods involved seem to make reform more difficult, rather than giving ample time for reflection.

It is against this backdrop that the EU is now gearing up for a review of the budget, due to take place in 2008/9, and supposed to be subject to no taboos. All headings of expenditure are to be examined and the terms of reference also make clear that the UK rebate is to be on the table, offering some hope that things might change, despite the disappointing outcome of the 2005 deal. Consequently, the review offers the first opportunity for many years for the EU budget to be re-thought from first principles, at least selectively. More importantly, it can help to shift the agenda for what the EU budget should do. One direction for change was robustly signalled in the Sapir report which called for a better division between EU-funded policies that target growth, restructuring and convergence. While this proposal has obvious advantages in terms of clarifying the objectives of EU spending, it does not obviously embrace any overt social objectives, except to the extent that spending on restructuring can be portrayed as an active labour market policy.

From a 'social Europe' perspective, a number of options can be considered, such as:
- Promoting flexicurity is, primarily, about national policies, but there is likely to be a role for the EU level, including a demand for spending programmes to assist the reform of national systems. These might be limited to technical assistance, but could also extend to the financing of specific training or inclusion programmes.

- Once such is the Globalisation Adjustment Fund which is regarded as a social policy response, but in its current form has a somewhat ambiguous mandate and rules, and has a very limited budget.

- Enhancement of human capital is widely seen as a key response to a globalisation process that puts a premium on success in knowledge-intensive industries. Again, national budgets must be the main source of funding, but potential cross-border measures – whether in research or higher level education -  need to be explored.

- Inclusion of migrants can be expected to become a more pressing issue if, as is expected, the number of migrants entering the EU for economic reasons increases markedly, especially if families follow. Here new initiatives are needed, a number of which can only function to full effect with EU level support – both administrative and financial

Internally, an issue that may need to be confronted head-on is the shape of the EU budget. An emerging consensus is that the CAP must be scaled-back, that more must be spent on Lisbon/growth related tasks and that a future EU budget should be much more about the provision of EU public goods than 'side-payments'. A dilemma in this regard is whether public goods should be financed purely on the basis of excellence, possibly with

the outcome that more is spent in richer Member States, or whether spending programmes should aim for explicit allocations among Member States, even if excellence is compromised.

Beyond the public goods sphere, the question of net transfers will not go away. At present these are the outcome of spending decisions that are, in part, deliberately skewed towards poorer Member States (cohesion), but are partly also the result of the design of policies (notably the CAP). Net balances are however, arrived at by increasingly messy and opaque mechanisms, including rebates on rebates and reduced take-up rates that mean that the richer member States often pay-in a lower proportion of their GNI to the EU than poorer partners.

An iconoclastic possibility to deal with this would be for the EU to agree on a target for net transfers, justified on social or cohesion grounds and to make equalisation payments without hypothecation to specific spending programmes (similar to the *finanzausgleich* systems operated in Germany and Austria). But is the EU ready politically for such an approach? The answer may tell us where social Europe's boundaries lie….

**Notes:**
(1)From Begg, I. (2007) 'The 2008/2009 review of the EU budget: real or cosmetic' Cesifo Forum 1/2007
(2) This section draw extensively on Begg, I., Mortensen J. and Draxler, J. (2007) 'Is social Europe fit for globalisation? A study of the social impact of globalization' Study for DG EMPL

## *"On social Europe" by Nikos Koutsiaras*

What is social Europe? Or, to ask directly, why is social Europe meant as (a bigger role for) EU social policy – this is the common wisdom, isn't it? Europe is social – and social Europe is realized – when European citizens' preferences for social services and social protection are met. Europe is no less social if those preferences are met – indeed satisfied - by national welfare states, acting autonomously or in a (softly) coordinated fashion. And this is not a subject of conceptual clarity only. As a matter of fact, social Europe, at any rate in the way the concept of social Europe is regularly employed, has paradoxical, indeed absurd political connotations. Thus, it implies a bias (a priori) in favour of centralised, EU level provision of social policy, at the same time placing the burden of proof about who is better placed to supply social policy on the shoulders of its physical owners, i.e. the member states, rather than those demanding a share, i.e. the so-called supranational institutions, yet being unable or unwilling to buy it, in the sense of providing for EU fiscal expenditure and, of course, redistribution.

We also are often told, and we were told here, that social Europe is threatened – in the short to the medium run it was added – by the widening wealth and structural disparities within EU membership. It is alleged that, firstly, widening disparities strengthen the incentives for regulatory arbitrage on the part of capital, while, secondly, as a result of those same disparities, (hard) coordination of social and labour market policy, in order to stop a regulatory race-to-the-bottom early, is harder to achieve. However, diversities do not really matter much. Firstly, empirical evidence on competitive deregulation is conspicuously lacking and, secondly, policy coordination is not seriously and practically envisaged, lest labour market rigidities are reinforced and regulatory failures further entrenched. To put it otherwise, we obviously are short of a (social and labour market policy) benchmark, or, for the sake of precision and in the name of current orthodoxy, the Scandinavian model(s) is no less than an inaccessible ideal for the rest of Europe.

And that brings me to my third and final comment. The Commission has just published its communication on flexicurity, where a very flexible approach is adopted, indeed thousand of flowers are let blossom – notwithstanding the pathways' taxonomy. Yet, I wonder whether all flowers are equally pleasing. And it inevitably strikes me that the financial dimension of flexicurity policies is so poorly discussed – and understated – and, moreover, surprises me that the alleged Community's financial contribution is associated with the European Social Fund, the European Regional Development Fund and even the tiny Globalisation Adjustment Fund, as if flexicurity was solely and unconditionally about training and lifelong learning. I am sure that the authorities of those member states which are included in the three (out of four) pathways – i.e. all but Scandinavian member states – will find the idea …amusing.

# Session V: How much can we politicize?

## *"Politicising the EU: arguments and counter-arguments" by Stefano Bartolini*

*The 'classic' democratic deficit argument and its critique*

The European Union 'democratic deficit' argument points to the unclear vertical and horizontal division of powers; the lack of responsible government (Commission and Council); the weak legislative and absent constitutional powers of the European Parliament; the feebleness of trans-national European parties; the perverted balance between national executives and their respective parliaments; the lack of interest, information, and competence of the European publics and electorates, and, more generally, the distance between the ordinary citizen and the highly technical, bureaucratic and opaque centres of power in Brussels. These arguments usually lead to the conclusion that some institutional reform should be done towards redressing this.

Against these views, critics suggest that democratising reforms are unnecessary given the regulation and market failures policy goals of the EU, which are better left to experts and bureaucrats, in consultation with affected interests, isolated and shielded from political pressures; given the EU nature as an international and intergovernmental organization competence, expertise, procedural rationality, transparency, accountability by results are sufficient to legitimise it and to justify the delegation of necessary powers; democratisation may also be fundamentally illegitimate given the absence of the prerequisite of a ethno linguistic demos capable of communication and symbolic exchange, and/or of a level of trust and solidarity among the community members.

These critiques have not convinced the 'democratic deficit' theses, probably because they all rest on highly contentious assumptions. That the EU (should) only regulates, and that regulation is Pareto-optimal are postulates at least as contentious as the conclusion to which they lead. The widened scope for qualified majority decisions, the parliamentary co-decisions, and the momentous ECJ case law (with direct implications for individual European citizens) all challenge the application to the EU of the international organizations' standards of legitimacy. The 'demos' prerequisite can be easily confuted from the historical point of view by underlining that most states creating their demos and that community's identities are not built exclusively on pre-existing ethno-linguistic 'primordial' codes of closures.

These debates have primarily focused on 'polices' and 'institutions'. 'Politics', in the more lofty sense of the study and formation of structures of interest representation, political agenda formation, political competition, party system formation, etc. was relatively left outside this early debate. 'Politics' was reserved for the national arena, where European issues could be incorporated within the main and established lines of political divisions. More recently, a number of scholars have the merit to have presented with coherence and exhaustiveness the case for the 'politicisation' of the internal processes of the EU.

Recent papers by Hix and Follesdal are representative of a wider set of opinions and works and have the advantage of advocating in a thorough, consistent, and complete way the thesis that European issues need to be widely and thoroughly 'politicised' and that this will be advantageous to the prospects of European integration. Democratisation is advocated in terms of an injection of political contentiousness, contestation, and

competition of the EU political agenda and of the EU top leadership positions and debates. It is claimed that this can be done and should be done without major changes in the treaties and institutions of the EU. Political elites should commit to open the door to more politicisation of the EU agenda'.

This argumentation reverses the mainstream 'democratic deficit' reasoning. The latter envisages in most cases the need of wide ranging treaty and institutional reform in order to foster, facilitate, generate as a result a more clear political mandate, a more open political contestation, more political responsibility, and, as a direct consequence, a growing attention, information and concern of the European citizens for the EU project. The 'politicisation' thesis argues that the similar results can be achieved with more political competition and with minor institutional reform. The thesis overemphasizes the political dimension of the deficit, rather than the institutional one.

*The advantages of 'politicisation'*

The main point of this new line of reasoning is that 'a democratic polity requires contestation for political leadership and arguments over the direction of the policy agenda. This aspect, which is ultimately the difference between a democracy and an enlightened form of benevolent authoritarianism, is an essential element of even the 'thinnest' theories of democracy. Yet it is conspicuously absent in the EU'.

'As the EU is currently designed there is no room to present rival set of leadership candidates (a government 'in waiting') and a rival policy agenda'. 'Without electoral competition there are few incentives for the Commission or the governments to change these policies in response to changes in citizens' preferences'. 'In a 'normal' democracy, rival groups of elites (parties) would have incentives to develop and promote competing policy positions, a majority would form in favour of a particular policy package, and a mandate for action would be established. Without such democratic contestation the EU is simply less capable of assessing and addressing …. the central issues facing European policy-makers'. 'Political competition is an essential vehicle for opinion formation'.

This emphasis on more direct political contestation and competition is based on a positive view of the development of the Euro-parties, parliamentary groups and party federations. It is argued that their legislative behaviour shows a level of cohesiveness that is higher than that of American parties in Congress, and that parliamentary groups tend to vote more and more on a 'left-right' alignment, rather than along national lines.

More left-right voting and partisan orientation seem to be emerging also in the Council and the Commission. Hence, over time the Council is likely to become more like the European Parliament, operating as a more open and conflictual legislature and with shifting left-right divisions and coalitions. As far as the Commission is concerned, The Nice treaty changes makes that its composition mirrors the composition of the Council and the orientation of the Parliament at the moment of its appointment.

Given that politics within the EU is increasing ideological, it is necessary to increase incentives for EU politicians to coordinate political positions and respond to citizens'. Moreover, these more politicised battles are also 'desirable' because increasing the political stakes by allowing the Parliament to set its agenda, making more open political alignments in the Council, making more competitive the election of the President of the Commission will a) produce a more clear political mandate for reform; the latter b) will overcome institutional gridlocks, and c) will foster policy change, eventually d) increasing the legitimacy of decisions.

This politicisation will eventually link the emerging pattern of EU politics to citizens interest and preferences more clearly and firmly. European citizens will be enabled 'to identify policy options, take side in a debate, and ultimately accept being on the losing side in one period in the expectation that they will be on the winning side in the near future'.

The concrete proposals to achieve these effects include electing the President of the European Parliament for a legislature; making more partisan the appointment of committee chairs in the EP; making more transparent the Council's and Commission's deliberations; recording and making public the legislative votes; making more 'majoritarian' the appointment of the Commission's President and the commissioners through alternative candidates competition declaring their programme before the EP elections, issuing manifestos for their term of office, and forcing parties to declare their support for one or the other candidate.

In the longer run it is expected that the reform of the procedure for electing the Commission President provides the possibility that the same political majority in the Council and Parliament that elects the President and its Commission, will then adopt the legislation proposed by them. 'If a political contest for the Commission President emerged, a mandate could evolve, which would allow a broad coalition to govern for a limited period'.

Finally, it is also suggested to isolate the purely 'Pareto improving' functions of the Commission (e.g., the merger control authority) and to give them to independent agencies. The Commission should concentrate on 'political functions', such as defining a work programme for five years, initiating social, economic and environmental laws, and preparing the multi-annual and annual budgets.

It is stressed that allowing for ideological conflicts with winners and losers, opening the door for further contestation, and fostering a greater connection between voters' preferences and coalitions and alignments in the EU institutions, may not require massive constitutional overhaul. This can be achieved by progressively injecting a bit of 'majoritarianism' in the existing consensual architecture of the EU. The thesis recommends that the politicisation should be 'moderate' to minimise change and reduce risks.

These theses and proposals represent a comprehensive and coherent programme for the injection of mass politics within the EU without a major reform of its institutional design. They however rest on a number of factual statements that are object of debate and on a number of conjectures about the likely outcomes of the proposed 'politicisation. Both need to be investigated in details.

*The risks of 'politicisation'*

The 'politicisation' thesis constitutes a coherent argument that enphasises the positive aspects of such development. It is however an argument that tends to overlook or minimise the difficulties and the risks. These can be summet us presenting five counter-scenarios that emphasise the risks rather than the advantages.

First, can we be assured that politicisation will spare the 'constitutional' or 'constitutive issues of the EU? Constitutive (or constitutional) issues concern 'membership' (the geographical boundaries of the Union), 'competences' (what should be done at the EU level as opposed to other levels of government), and 'decision making rules' (how collective decisions should be taken). Normal policy issues are similar to the national

issues (levels and types of market regulation , welfare, citizenship rights, immigration policy, law and order issues, etc.)?

Indeed, if left-right issues prevail that are quite similar to the national ones, then European politics can be structured along lines that are similar and compatible to those at the national level. However, it is a fact that so far national parties and electorates divide more often on European constitutive issues than on isomorphic issues. In the 36 referendums held between 1972 and 2003 in the member and candidate countries the profound splits among party leaders and between party leaders and their electorates have affected both right and left wing parties and have all resulted from the politicisation of the constitutive issues of membership and new treaty ratification.

 Yet, politicisation must absolutely avoid spreading to 'constitutional' issues, which would create tensions that cannot be politically managed in left-right terms. It cannot simply be assumed or hoped that this will not happen.

Second, to what extent the Euro-parties (parliamentary groups and federations) are capable of offering a coherent and significant left-right alignment and competition and handle the delicate gatekeeper task that the politicisation thesis attributes to them?

European parties have been undoubtedly strengthening. National parties coalesce in a number of European party groups that is less fragmented than national party systems are in most cases; the number of groups has remained fairly stable; the number of 'one party groups' has not increased over time; the percentage of MEP belonging to one party group has declined; a number of studies come to the conclusion that parliamentary parties show a growing degree of voting cohesiveness. All this has happened in spite of continuous enlargement

However, the institutional environment of Euro-parties remain unfriendly to their consolidation: 1) they are 'unconstrained' by the discipline required for executive formation, composition, and tenure; 2) decisions by absolute majority of members force large coalitions that limit the differentiation of voting choices; 3) the need to support the overall influence of the EP in the institutional architecture of the EU makes partisan alignments often secondary; 5) the lack of control over candidate selection deprives Euro-parties of resources to sanction and discipline their members and/or national sub groups; 6) the defection of the national delegations that exercise influence through the intergovernmental institutions is still frequent.

Considering these problems, the diagnosis of a slow but steady trend toward the strengthening of Euro-parties is not fully convincing. The recent positive development of the European parliamentary groups and party federations can also be due to 1) the recent decisive support of the EU institutions (recognition; statute, financing); and 2) to the low ideological temperature, political visibility and electoral importance of their activities ((Danish and British conservatives in the EPP). That is, to their weakness rather than to their strength.

It is at least doubtful that these delicate conditions would sustain and survive a strong politicisation of the EU agenda. These types of Euro-parties, rather than being the key agencies of the politicisation, could be its first victims.

Third, how can we combine the concept of a political mandate, emerging out of public and contentious exposition of different platforms and agendas, with the narrow policy boundaries of the treaties and with the pre-defined goals of the EU?

It can be argued that more political contentiousness and competition will 'produce a mandate for the winner' and such mandate legitimates policy change. But in case of EU

politicisation, would it be possible to pursue a mandate  if alternative candidates and political alliances were publicly advocating different programmes and policy packages?

Political mandates for reform are hard to develop within the narrow limits of the Treaty predefined goals. They risk to be frustrated by the autonomy of the European Central Bank, by the case law of the ECJ, by the blocking vetoes in the Council, by treaty specified duties and competences.

These Treaty obstacles would generate so intense political frustrations that would immediately spill over to the institutional constraints that make it impossible to implement the mandate politically defined.

The argument that the political mandate so defined will be accepted by those on the loosing side in the expectation that in the future they may be on the winning side is therefore visionary abstract,  and it would become tragically dangerous if it were to rise expectations that cannot de facto be satisfied.

Forth, will political mandates coordinate policy positions across EU institutions, the Council, Commission, Parliament, so as to overcome institutional gridlocks among them?


If left-right partisan alignments were to predominate then this alignment would represent a higher organizing principle able to coordinate the activities of the different institutions and may y help to overcome the institutional gridlocks among them.

However, more clear partisan alignments within the Council, Commission, and Parliament, if possible, would generate permanent and unstable divided government, given the different timing of formation and composition of these bodies.

The coordination of policy positions thanks to partisan alignments has to overcome the disturbing element of commissioners appointed by governments no longer in charge and of Councils changing political orientation during the life of a European Commission and Parliament. This divided government  will not only be a permanent reality, but also be highly unstable, changing directions and intensity in an unpredictable and relatively random way.

As thinks stand, clear-cut partisan alignments will not solve problems of cross-institution coordination, but may add problems of political and partisan coordination to the already existing problems of institutional coordination.

Fifth, will the emerging pattern of left-right politicisation  link citizens' interests and preferences to the EU 'politics'? The expectation is that, if the set of contentious EU issues were more openly politicised, then this may provide a stronger linkage between citizens' interest and preferences and the EU internal political debate.

We do not know enough about the extent to which the preferences of the voters on the European issues are congruent with or diverge from those of their traditionally preferred party. On this problem research evidence is hard to assemble and remains debatable. We are therefore not sure that an increasingly politicised and partisan debate among European parties leaders and commissioners will link with and represent the European public opinion on EU issues.

The emerging pattern of left-right politicisation may link citizens' interests and preferences to the EU 'politics' only if the large pockets of anti-EU feelings and distrust among European citizens and sub-elites can be slowly converted and channelled into mildly different versions of the integration process.

But, any politicisation of integration/independence issues may also increase the gap between parties and voters, and split and tear apart Euro-parties. In any case, politicisation is likely to generate high expectations into the public and these could be frustrated later and widen the gap between normative expectations and reality.

*Conclusions: Which is the balance between pros and cons?*

In the current depressed mood of the EU milieu and unrealistic perspectives of further institutional reform the proposal of moderate politicisation sine institutional reform is appealing.

It is inevitably difficult to draw clear cut conclusions concerning the balance between expected advantages and possible risks of even a moderate politicisation of EU issues within the existing institutional framework of the EU.

This list of uncertainties and of potential unexpected and unwanted effects is, however, too long and too momentous. These uncertainties listed above all derive from the fact that the current EU institutional architecture is not designed to handle partisan conflict management and the EU polity is currently deprived of those solid political structures (interest organisations and parties) that can guarantee that politicisation will be channelled as to avoid unmanageable tensions and conflicts.

For sure, the injection of competition/ contestation/ politicisation in the decision-making process of the Union is one possible way of strengthening intermediary political structures of representation. But to achieve this goal, the risks are too high to unbalance the entire institutional architecture. Representation structures are vehicles for different ideas, interests and identities, and their specific content cannot be engineered too much prior to their coming into being. It is hard to predefine the 'amount' and the temperature of partisan politicisation and even a modicum politicisation may raise expectations and offer promises that cannot be satisfied. It is possible that growing partisanship and politicisation may raise more public expectations that it can actually meet, and that it will eventually deepen the gap between the EU and citizens, rather than reducing it.

Politicisation is risky because failure will strain the integration process to the point of jeopardizing its progress. Within the constraints of the current treaties and without institutional reforms congruent with and compatible with 'politicisation', the latter may overwhelm the weak EU political structures rather than strengthening them.

For these reasons, the EU and national elites should continue to concentrate their efforts on giving convincing institutional responses to the already rather high level of political dissatisfaction, rather than deliberately work towards its further politicisation, in the uncertain hope this will have benign effects. The medicine may prove worst than the disease.

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### "How much can we politicise? Some questions for discussion" by Helen Wallace

*1. Some definitional issues:*

- What do we mean by politicisation?

- Is politicisation a choice or a sign of the times?

- Is politicisation a sign of a maturing polity or an indication of contested integration?

- What are the patterns and processes of politicisation?


*2. Where do the cleavage lines lie in the decision-making processes of the EU?*

In the Council, the Commission, and the European Parliament… And how far do they correspond across the member states?

- Left-right contestation across the EU institutions, and to what extent aggregated by transnational party groupings?

- Richer-poorer contestation, or in old EU-15 speak north-south contestation

- Protectionist-liberal political economy spectrum

- Different models of capitalism/social-market approaches

- More or less Atlanticist

- More or less willing to engage in active defence and interventionism

- More or less liberal in terms of societal inclusion and acceptance of incomers

- Larger-smaller member states

- Older-newer member states


*3. Domestic politics and the European dimension*

- Varied salience of the European dimension in different member states

- But increased salience of European dimension in some countries where previously uncontested

- Entanglement of European dimension with other current issues, notably globalisation, economic under-performance, immigration and new forms of terrorism, and consequential insecurities

- Widening phenomenon of forms of Euroscepticism

- Differential access of domestic political actors to European political space, with limited access for 'opposition' politicians (esp in countries with adversarial systems)

- Limitations of multi-layer European political process for aggregating political currents from member states and ways in which the 'democratic deficit' operates in practice

- Temptations of recourse to (short-termism) of referendum politics

*4.     Recent developments: new foci for polarisation*

-       The arguments about constitutional/institutional reform, with a strong strand of reinforcement of state-centric and parochial concerns in the operating system of the EU

-       Tensions between the old policy agenda and new policy challenges

-       Different judgements about whether enlargement (recent and prospective) has positive or negative consequences


*5.     Possible futures*

-       Politicisation as retrenchment of integration

-       Politicisation as the pathway to new politics of  choice re future directions

-       Exporting of political tensions to decisions re extra-EU policies such as enlargement, Atlanticism etc

# Session VI: Towards a more differentiated membership?

## *"A Differentiated Europe – 12 Theses" by Janis Emmanouilidis*

*Executive List*

Thesis 1: The increasing diversity of interests, the growing heterogeneity of national capabilities, and diverging expectations concerning the future of the EU call for a higher degree of differentiated integration. At the same time, there is a need to dedramatise the debate about differentiation.

Thesis 2: There is no one single model but rather a range of diverging forms of differentiation: (1) Creation of a new supranational Union, (2) Differentiation via established instruments and procedures, (3) intergovernmental cooperation outside the EU, (4) differentiation through opt-outs, (5) differentiation through enlargement, and (6) differentiation through withdrawal.

Thesis 3: The creation of a new supranational Union – with an independent institutional structure and an independent set of legal norms – entails the risk of creating new dividing lines in Europe.

Thesis 4: Differentiated integration creates numerous opportunities, however, it bears also a number of potential risks, especially if cooperation is organized outside the EU.

Thesis 5: Differentiated cooperation within the EU framework should be preferred to initiatives outside the Union.

Thesis 6: Differentiated cooperation within the EU framework should not follow a single master plan with a predefined idea of Europe's finalité.

Thesis 7: Differentiation within the EU should follow the concept of functional-pragmatic differentiation, which does not follow a predefined master plan but rather aims to overcome specific blockades of certain member states case-by-case.

Thesis 8: The widespread use of the opt-in by the UK and Ireland in the area of JHA is proof that even a radical instrument such as an opt-out can result in integrationist dynamics throughout the Union.

Thesis 9: In some cases it might be better to make a step forward outside the Union instead of waiting indefinitely for a small step inside the EU. Cooperation should however follow the concept of an Intergovernmental Avantgarde, which aims to integrate the legal norms into the EU as soon as possible.

Thesis 10: The temporary or indefinite exemption of new EU countries from certain policy fields as an effect of enlargement can alleviate and speed up the accession of new member states and open up the prospect of a "limited EU membership".

Thesis 11: The voluntary withdrawal of one or more countries from the Union can enable a further deepening of integration. However, the EU and the withdrawing state(s) must redefine their relationship if they want to avoid a deep and enduring political rift.

Thesis 12: A highly differentiated EU will require (i) the elaboration of a narrative of differentiated integration portraying to European citizens the objectives and the overall logic of differentiation and (ii) the development of novel procedures, instruments and institutional settings for managing and supervising a Europe of different speeds.

*Detailed List of Theses*

Thesis 1: The increasing diversity of interests, the growing complexity of decision-making, the increasing heterogeneity of national capabilities, and diverging expectations concerning the future path of integration in an enlarged EU call for a higher degree of differentiation. However, the debates about directorates, triumvirates, pioneer and avantgarde groups or centres of gravity are characterized by threats and by semantic and conceptual misunderstandings, which overshadow the fact that differentiation provides a key strategic opportunity. There is thus a necessity to dedramatise the debate and to open it up for rational arguments.

*Thesis 2:* There is no one single model but rather a range of diverging forms of differentiation. One can distinguish between the following six forms (see also overview of the key characteristics and consequences on pp. 7-8):

(1)     Creation of a new supranational Union: A group of countries, which hold that a further deepening of integration seems impossible within the framework of the existing EU, creates a new Union. The new entity aims at a higher level of supranational cooperation and entails a transfer of competences beyond the level inside the "old EU". The legal basis of the new Union is laid down in a separate treaty or constitution worked out, approved and ratified solely by the participating states. The new entity would require a strong executive, a parliamentary dimension securing democratic legitimacy, and a separate judiciary for settling legal disputes within the new Union.

(2)     Differentiation via established instruments and procedures: A number of member states raise their level of cooperation by applying general instruments of differentiation (enhanced cooperation) or predetermined procedures for specific policy areas (e.g., EMU, JHA, permanent structured cooperation), which are laid down in the Union's primary law. One can distinguish between two different sub-forms, which mainly differ with respect to their final objective: (i) Creation of a federal Union guided by the idea that the employment of treaty-based instruments and procedures of differentiation should lead to the creation of a federal political Union – e.g., creation of a "United States of Europe" comprising the countries of the Eurozone (Verhofstadt). (ii) Functional-pragmatic differentiation, which follows a case-by-case approach without a pre-defined final outcome. In other words, differentiation is not guided by a master plan, but rather aims to overcome specific blockades of certain member states, which are either not willing or not able to engage in a higher level of cooperation.

(3)     Intergovernmental cooperation outside the EU: A group of member states intensifies cooperation on the basis of intergovernmental mechanisms and procedures outside the EU framework. Cooperation is limited to governments and includes no (immediate) transfer of sovereignty rights to any supranational authority. One can distinguish between three sub-forms: (i) Europe of Nations: The participating countries assume that further progress in the respective (sub-)policy area can only be achieved outside the EU and not on the basis of supranational instruments and procedures. Cooperation is not guided by the wish to transfer national competences to a higher supranational authority at any stage. (ii) Intergovernmental Avantgarde: The participating countries hold that further progress in a specific (sub-)policy field will only be possible if a group of states takes the lead by cooperating outside the EU framework. There is a clear goal to integrate intergovernmental cooperation into the Union as soon as possible (Treaty of Prüm, Schengen-Model). The participating countries work out a treaty or agreement laying down the objectives and the organisational and legal details of cooperation. (iii) Loose coalitions: Intergovernmental cooperation is established to fulfil

a single task or purpose (Contact Group, EU-3, G6 or Salzburg-Group). Loose coalitions are characterized by a very low level of institutionalization and by a very limited number of participating states.

(4)      Differentiation through opt-outs: The opposition of certain member states towards a further deepening of integration in a new (sub-)policy field is overcome by the allocation of an opt-out (Denmark/UK concerning the Euro; Denmark/Ireland/UK concerning Schengen; Denmark in the defence area of ESDP). The opt-out initiative comes from the country wishing to be excluded. The decision to grant an opt-out must be agreed unanimously and the legal and institutional rules and procedures regulating an opt-out must be laid down in the EU's primary law.

(5)      Differentiation through enlargement: Different levels of integration between EU countries can be the result of the enlargement process. New member states – at least temporarily – do not enjoy all the benefits of membership in certain policy areas (examples: late introduction of the Euro, no immediate abolition of border controls, limited access to labour markets etc.). New EU countries could also be excluded from one or more policy areas if both parties – the EU and the acceding country – agree to an exemption. In other words, new member states would not take part in certain (sub-) policy areas (e.g., EMU, Schengen or ESDP) or would not be obliged to apply certain legal norms, which have been adopted for example in the framework of enhanced cooperations.


(6)      Differentiation through withdrawal: The countries of the EU pursue a higher level of cooperation after the voluntary withdrawal of one or more countries from the Union. The member states remaining inside the Union are able to intensify their level of cooperation only after the countries opposing more integration have left the EU. The withdrawing state or states conclude an agreement with the EU setting out the legal, institutional and political arrangements guiding the withdrawal from the Union.

*Thesis 3:* The creation of a new supranational Union – with an independent institutional structure and an independent set of legal norms – entails the risk of creating new dividing lines in Europe. The members of the new Union would concentrate their political energies on the development of their newly founded entity. In return, the "old EU" would gradually become marginalized. In this case the "old EU" would not be able to function as a kind of bracket between the two entities. The idea that the "old EU" could ally the more integration-friendly European states and those less willing or able to further integrate in some sort of a "stability community" would not materialize. On the contrary, the rivalry between the Unions could even lead to a division of Europe into two opposing camps – on the one hand the members of the new Union, and on the other the excluded states which seek their political fate in other (geo-)political constellations.

*Thesis 4:* Differentiated integration creates numerous opportunities, however, it bears also a number of potential risks. Cooperation among a smaller number of member states can (i) lead to the creation of parallel institutional structures, which have the potential to weaken the EU's supranational institutional architecture, (ii) exacerbate the coordination between different policy areas and thus damage the overall coherence of the EU, (iii) lead to a fragmentation of legislation, (iv) decrease the level of transparency and democratic accountability, and (v) in the worst case even carry the seed of creating new dividing lines in Europe. These potential risks are particularly high if cooperation is implemented without clear procedures and norms and without the involvement of supranational institutions. This is especially the case, if differentiated cooperation is organized outside the EU.

*Thesis 5:* Differentiated cooperation within the EU framework should be preferred to initiatives outside the Union. Differentiation inside the Union (i) respects the EU's single institutional framework, (ii) limits the anarchic use of flexibility, (iii) preserves the supranational powers of the European Commission, the European Parliament and the European Courts, (iv) guarantees a high level of calculability due to the existence of clear-cut rules concerning the inception, the functioning and the widening of differentiated cooperation, (v) is characterized by a high level of openness as participation must be open to every member state at every time, (vi) guarantees a high level of democratic legitimacy through the involvement of the European Parliament, (vii) enables the continuous development of the Union's acquis in line with the requirements of the EU Treaties and most importantly (viii) reduces the overall risk of a confrontational split between the "outs" and the "ins".

*Thesis 6:* Differentiated cooperation within the EU framework should not follow a single master plan with a predefined idea of Europe's finalité. The idea to use the instruments of differentiation to create a "United States of Europe" (Verhofstadt) is not (yet) realistic and counterproductive. The wider public and even parts of the elites also in the most integration friendly countries are not (yet) willing to surrender or to pool substantial national competences in order to develop some sort of a federally organized political union. Moreover, in many EU countries the idea to create a "United States of Europe" via instruments and procedures of differentiation is (mis)perceived as an attempt to create a closed core. Especially the Union's smaller and new countries fear that they could be excluded from such an exclusive club. These fears raise distrust between member states and in the end decrease the chances that the instruments of differentiation are constructively employed in practice. Calls for a European core impede differentiation and thus in the final analysis do a disservice to the future development of integration.

*Thesis 7:* Differentiation within the Treaty framework should follow the concept of functional-pragmatic differentiation, which does not adhere to a predefined master plan, but rather follows a case-by-case approach while aiming to overcome specific blockades of certain member states, which are either not willing or not able to engage in a higher level of cooperation (e.g., harmonisation of the corporate tax base; military cooperation; EU missions). In the years ahead greater use should be made of the various instruments of differentiated integration laid down in the EU Treaties in order to reduce the wide spread scepticism concerning differentiation and to limit the necessity for extra-EU cooperation. It will be particularly important that the EU institutions and the member states become familiar with the instrument of enhanced cooperation. Only then will it be possible to ascertain how well the current legal provisions concerning enhanced cooperation work in practice and where improvements are needed in order to increase the usefulness of this key instrument of differentiation.

*Thesis 8:* One should not demonize a Europe à la carte, as the limited granting of opt-outs allows a further deepening of integration despite the staunch opposition from one or from a limited number of member states. The widespread use of the opt-in by the United Kingdom and Ireland in the area of Justice and Home Affairs in recent years is proof that even a radical instrument such as an opt-out can result in integrationist dynamics throughout the Union. Further advantages of opt-outs relate to the fact (i) that the EU's single institutional framework is not questioned, (ii) that the adopted acquis also applies to future member states (not the case with enhanced cooperation as laid down in the Constitutional Treaty!), and (iii) that the affiliation of the opt-out countries limits the danger of a divide between the opt-out countries and the other member states.

*Thesis 9:* Despite numerous risks associated with cooperation outside the EU, it might in some cases be better to make a step forward outside the Union instead of waiting indefinitely for a small step inside the EU. In this case cooperation outside the Treaties should follow the concept of an Intergovernmental Avantgarde, which aims to integrate the legal norms adopted outside the EU into the Union at the soonest possible moment. However, the experience with the Treaty of Prüm shows that the integration of a legal acquis into the EU can prove to be difficult. This is particularly the case if (i) the legal norms conflict with existing or planned law in policy areas which are (partially) covered by the EC/EU-Treaties, (ii) if cooperation outside the EU covers issues which are strongly disputed between the member states and the "outs" are not willing to accept a set of legal norms that was enacted without their participation, (iii) if EU institutions are not associated with or at least continuously informed about the activities outside the Union, (iv) if cooperation outside the Union has decreased trust between the "ins" and the "outs", which will make it difficult or even impossible to find a qualified majority inside the Council in favour of integrating the legal norms for example via the instrument of enhanced cooperation. Dividing lines between the "ins" and the "outs" and between the "ins" and the EU's supranational institutions can not only hinder the overall progress in the respective policy field, but also lead to negative spill-overs in other policy fields. Cooperation outside the Union should not follow the model of a Europe of Nations, because long-lasting cooperation that escapes the EU and engages only the governments of a limited number of member states has the potential to fundamentally weaken the Union.

*Thesis 10*: Transitional periods or other forms of derogation or the temporary or indefinite exemption of new EU countries from certain policy fields as an effect of enlargement can alleviate and speed up the accession of new member states and open up the prospect of a "limited EU membership", which legally entails a full-fledged membership but excludes the acceding countries from (key) policy areas. However, the introduction of a second or third class membership could lead to a rupture between the old and the new member states, if the latter feel discriminated by the former. A deep rift between the new and the old member states could negatively affect the EU's ability to act and structurally impede the Union's further development.

*Thesis 11:* The voluntary withdrawal of one or more countries from the Union can enable a further deepening of integration within the institutional and political framework of the EU. However, if the Union and the withdrawing state(s) fail to redefine their relationship one might witness a deep and enduring political rift between both sides. The departure of one or more countries from the Union can in particularly weaken the EU if the number of countries exiting the Union is high and if the withdrawn states have played a significant role in a certain policy field (e.g., UK in ESDP). In order to avoid a deep and enduring political rift the withdrawing state(s) could decide to join the European Economic Area in order to benefit from a functioning inter-institutional structure (EEA Council, Joint Committee, Consultative Committee) and in order to continue to benefit from the advantages of the Common Market. The participation of former EU states in the European Free Trade Association could lead to a renaissance of ETFA, which in return would become more attractive for countries aspiring but not yet able to join the EU.

*Thesis 12:* The need for more differentiation in an EU 27+ and the application of very diverse forms of differentiation inside and outside the EU framework will lead to a twofold challenge: (1) The complexity of a Europe of different speeds will require the elaboration of a narrative of differentiated integration portraying to European citizens the objectives and the overall logic of differentiation. (2) The effective management and

supervision of a highly differentiated Europe will require novel procedures, instruments and institutional settings in order to avoid a split between the various groupings and in order to secure the coherence between different policy areas. A special responsibility will lie with the states participating in all major initiatives and with the European Commission as the central guardian of the Treaties.

***Table 1:*** **Key Characteristics of the Six Forms of Differentiated Integration**

| *Form* | New supranational Union | Cooperation via established procedures and instruments | | Intergovernmental cooperation outside the EU | | |
|---|---|---|---|---|---|---|
| | | Creation of a Federal Union | Functional-pragmatic differentiation | Europe of Nations | Intergovernmental Avantgarde | Loose coalitions |
| **KEY CHARACTERISTICS** | • group of MS creates new Union <br> • objective: higher level of supranational cooperation leading to a federal political union <br> • separate treaty <br> • immediate transfer of competences <br> • high degree of openness | • inside EU <br> • use of general instruments of differentiation or predetermined procedures for specific policy areas <br> • participation must be open to every MS at every time (but: participation criteria or minimum number of states) <br><br> • differentiation should lead to a federal political union – a "United States of Europe" | • functional case-by-case approach to overcome specific blockades <br> • no pre-defined final outcome | • (originally) outside EU <br> • limited to intergovernmental relations <br> • no (immediate) transfer of sovereignty rights <br> • cooperation adheres to principle of loyalty: supremacy of EU acquis; not undermine functioning of EU <br> • cooperation not possible in areas in which EU has exclusive competences <br><br> • no wish to transfer competences to higher supranational authority <br> • no motivation to integrate cooperation into EU <br> • rather low degree of openness | • Avantgarde takes lead <br> • integration of cooperation into EU as soon as possible <br> • independent treaty <br> • participation in principle open to every MS | • single task or purpose oriented <br> • very low level of institutionalization <br> • closed circle |

| *Form* | Differentiation through opt-outs | | Differentiation through enlargement | | Differentiation through withdrawal | |
|---|---|---|---|---|---|---|
| **Key characteristics** | • allocation of opt-out(s) <br> • initiative comes from opt-out country <br> • principle decision to grant opt-out requires assent of all MS <br> • basic legal and institutional rules and procedures laid down in EU's primary law | | • new MS – at least temporarily – do not enjoy all benefits of membership in certain policy areas <br> • differentiation via derogations (transition periods), non-fulfilment of participation criteria, indefinite exclusion or non-application of a legal acquis | | • EU countries pursue higher level of cooperation after voluntary withdrawal of state(s) <br> • withdrawing state concludes agreement with EU setting out legal, institutional and political arrangements guiding withdrawal <br> • EU Treaties/Constitutional Treaty cease to apply to withdrawn country | |

*Table 2:* **Key Consequences of the Six Forms of Differentiated Integration**

| *Form* | New supranational Union | Cooperation via established procedures and instruments | | Intergovernmental cooperation outside the EU | | |
|---|---|---|---|---|---|---|
| | | Creation of Federal Union | Functional-pragmatic differentiation | Europe of Nations | Intergovernmental Avantgarde | Loose coalitions |
| *Key consequences* | • no direct role of existing EU institutions <br> • creation of new supranational institutions <br> • no fertile coexistence, but rather disruptive rivalry between "old EU" and new Union <br> • weakening of "old EU" and danger of a new dividing line | • preservation of EU's single institutional framework <br> • clear cut rules guarantee calculability <br> • preservation of supranational character of European Commission, EP and Courts <br> • involvement of "outs" reduces risk of confrontational split <br> • (in-)ability to reform legislative procedures <br><br> • predefined idea of Europe's *finalité* limits practical potentials of differentiation | • practical experience with instruments of differentiated integration | • exclusion of EU institutions <br> • lack of democratic legitimacy even on national level <br> • insufficient judicial control <br> • "outs" confronted with legal *fait accompli* <br> • legal norms might conflict with existing or planned EU law <br> • potential decrease of trust between "ins" + "outs" <br> • new coordinative institutions <br> • long-lasting cooperation weakens EU | • new institutions authorised to take decisions <br> • possible alignment of EU institutions and "outs" <br> • problematic integration of legal acquis into EU <br> • danger of permanent fragmentation | • no or very low level of institutionalization <br> • alignment of EU and "outs" |

| *Form* | Differentiation through opt-outs | Differentiation through enlargement | Differentiation through withdrawal |
|---|---|---|---|
| *Key consequences* | • preservation of EU's single institutional framework <br> • opt-outs do not prevent further development of EU's acquis <br> • limited danger of a fundamental divide between "ins" and "outs" <br> • opt-outs promote *à la carte* Europe but also integrationist dynamics | • no weakening of the EU's institutional structure <br> • alleviation of EU accession <br> • prospect of "limited EU membership" <br> • danger of rupture between new and old member states | • unaffected institutional operability and limited institutional adaptations <br> • redefinition of relationship in order to avoid rupture <br> • potential weakening of EU <br> • potential renaissance of EEA and EFTA |

# *"Governance and membership in the enlarged EU" by Jan Zielonka*

*Introduction*

The recent waves of enlargement into post-communist Eastern Europe represented an enormous import of diversity in economic, political and cultural terms. More enlargements are on the EU's agenda despite anxieties in several member states. It is no surprise therefore that an uncomfortable question is being raised: is the ever larger Union still governable? It is difficult to imagine how uniform rules and policies can work properly in all the diverse EU member states. Would a more differentiated membership represent a solution to this problem? The paper will argue that EU membership is already highly differentiated due to various opt-outs, transition periods and the system of weighting votes. Moreover, the distinction between EU members and non members is quite blurred. This does not mean, however, that there is a "core" Europe consisting of the most affluent, homogenous and federative-minded members governing their mutual relations in a distinct manner. The idea of a core Europe never materialized because it was impractical and politically divisive. There is no reason to believe that this is likely to change. The key to proper management of cascading diversity is to introduce a new mode of governance. Successive EU enlargements have made hierarchical governance inadequate if not obsolete. The Union should therefore embrace a "plurilateral" system of governance envisaging more institutional flexibility and differentiation.

*Variations of differentiated membership*

A uniform membership of the European Union does not exist. There are certain laws, procedures and policies that do not apply to all member states. Likewise there is hardly a total equality of rights and duties for all member states. In other words, differentiated membership is a reality despite the so called "community method" and the ever wider body of common laws; the famous or perhaps infamous acquis communautaire. Each time the European Council makes a decision in the first pillar a complex and still contested system of weighting votes is applied. Individual member states have opted out from certain important policy fields such as the common currency or Schengen. Each time new members join the Union a certain number of so called transition measures have been agreed upon. For instance, a total of 322 transitional measures were included in the 2003 Treaty of Accession, some of them in such crucial areas as labour movement or purchases of agricultural property. Budgetary contributions and benefits also vary in each case. Moreover, certain non-EU members were allowed to opt into certain cooperative frameworks. For instance, Iceland and Norway are part of Schengen while Poland and Ireland are not. EU spending per capita is higher in Bosnia than in Sweden.

The above cited manifestations of a differentiated membership are quite understandable given the enormous diversity among 27 individual member states. However, they make governance of the Union quite a tricky issue. This is why the idea of a core Europe has been advocated. The purpose behind the idea is to apply similar governance measures to a more homogenous group of countries and by the same token to foster the project of European integration. It is hoped that an avant-garde group of states forming a European core would act as a magnet for those lagging behind or resisting further integration.

*Membership of the core and periphery*

Calls for a "hard core" or a "two speed" Europe intensified on the eve of the Eastern EU accession. For instance, in his famous speech at the Humboldt University in Berlin in 2000 Joschka Fischer advocated the creation of a "centre of gravity" within the Union, an avant-garde, the driving force for the completion of political integration. In the same year (and on the same site) Jacques Chirac also called for a "groupe pionnier" to foster further integration. However, the idea has never materialized because it was impractical and politically divisive. The cleavages of national interests within the ever larger EU are too diversified and complex for the emergence of any firm pattern of durable coalition between either large or small, the relatively poor and rich, Baltic and Mediterranean, Atlantic and Continental, or Euro-enthusiastic and Euro-sceptic member states. The idea was also divisive because the concept of "core" goes hand-in-hand with the concept of "periphery." They are two sides of the same coin. And if the contrast between the core and the periphery is not too significant, there is no need to create a core. If everybody can join the core group, there is no reason for having it.

Some new member states from Eastern Europe fear that the idea of a core is about perpetuating the division of Europe between the affluent and stable core, and an impoverished and unstable periphery. Some old member states such as Denmark or Great Britain fear that the threat to set up a core group is aimed at prodding them towards a more cooperative stance with regard to agendas set in Paris, Berlin, and Brussels. All these opponents of the core want to be full members of a Europe of equals, even if this Europe of equals can only represent the lowest common denominator. Proponents of the core do not want to become hostage to the least developed and the least pro-integration EU members. However, they never were able to assemble a group of states that would agree to form a core on their own. If France and Germany never managed to create a highly integrated polity is it realistic to expect that such a group would ever be possible in a wider setting?

*Semi-demi membership*

Another suggestion aimed at institutionalizing the distinction between the European core and periphery is to offer the new members only partial membership of the Union. A kind of privileged partnership as opposed to fully-fledged membership is currently being discussed in the case of Turkey. However, it is important to keep in mind that similar proposals have also been made in the early 1990s in relation to the new democracies in Eastern Europe. The most well known among them was President Mitterand's proposal to create a loose "European Confederation" as an alternative to enlargement, at least in the short and medium term. EC Commissioner Frans Andrissen launched another proposal for a European Political Area. And academics, such as Richard Baldwin looked at future European integration in terms of layered "wedding cakes." These proposals have never materialized because the prospect of membership was always needed to make the unstable EU neighbours behave in the way prescribed by the EU. In other words, the reason why countries accept the EU's vast and intrusive conditionality package is because at the end of the accession process they get full access to EU decision-making. The significance of the latter cannot be underestimated. The city of London or the region of Catalunia have much greater economic potential than, say, Estonia. Nevertheless, unlike Estonia they do not have a seat at the European Council. The Union is unlikely to have a

significant impact on its unstable neighbourhood by merely offering semi-demi membership. And it is easy to oppose further enlargements under good "weather" conditions. However, it would be naive to believe that the "weather" in Turkey, the Balkans or the Ukraine will remain good for ever. And so further enlargements on strategic grounds seem unavoidable, resulting in greater diversity and governance problems.

### Its governance, stupid!

Differentiated membership is thus a fact of life in the Union, but efforts to handle it by creating a privileged group of members seem impractical and divisive. If creating a core Europe is not a plausible proposition we need to find a different way for handling the cascading diversity. This leads me to the topic of governance. There are many possible modes of governance and some of them are better suited for coping with diversity than others. The current hybrid system is no longer seen as being sufficiently efficient and legitimate. The question is: what kind of changes ought we to aim at? As in the past, the main battle is between two opposite camps; one supporting a hierarchical mode of governance and the other supporting polycentric, multilevel or network forms of governance. I use the term "plurilateral governance" for these various forms of non-hierarchical governance. The former camp envisages a clear hierarchical structure with a strong centre of authority in Brussels, while the former envisages a multiplicity of various overlapping functional regimes governed from different centres across the continent. For the former camp governance is about engineering and steering, while for the latter camp governance is about networking reflecting the principles of flexibility, subsidiarity, devolution and differentiation. The former camp advocates strict monitoring and sanctions for non-compliance with the acquis communautaire while the latter camp see compliance as largely voluntary and based on incentives. One can multiply the contrasting features of these two models.

### Hierarchical paradigm

At present, supporters of the hierarchical mode of governance are particularly vocal and they seem to be gaining the upper hand. They want the central government of the Union to have ever broader powers and a visible "face" in the form of a Union President, for instance. They want to strengthen the European bureaucracy to help the Commission guard the treaties and to offer strategic steering and guidance. They want the adoption of a European constitution that would not only delineate the competencies of European institutions but also establish a clear hierarchy among them. They want greater economic, political and cultural convergence among member states and they insist on a strict distinction between EU members and non-members. They are also sceptical about or even hostile towards any kind of pillarization, devolution and differentiation in the Union's law and policy. They try to ensure that EU laws are detailed, rigid and hard. They insist that the acquis communautaire has to be applied fully by all members without exceptions and call for an efficient system of monitoring and sanctions to ensure that member states comply with the acquis. Subsidiarity is a suspicious term for them. They argue that solutions such as subsidiarity or flexibility are not only vaguely defined but also quite dangerous because they disrupt the unitary nature of the EU institutional system and create unworkable procedures of decision making. In fact, they often see greater flexibility and differentiation as a step towards disintegration.

Hierarchical governance is also manifested in EU practice. The European Commission has radically strengthened its enforcement activities in the recent years. It now initiates nearly 1,000 infringement procedures per year and asks the European Court of Justice to impose ever higher penalties for member states failing to comply with its rulings in infringement cases. Enlargement policy is also run in a hierarchical manner with little room for manoeuvre for the candidate states. A similar blueprint is applied to all candidates and across various functional fields. The full adoption of the acquis communitaire by applicants is a condition for accession and the applicants are subject to intrusive guidance and screening. Moreover, at the June 2007 European summit the supporters of hierarchical governance have successfuly pushed for an office of the European Council's president with a tenure of 2,5 years and a site in Brussels.

*Hierarchy in a maze Europe*

In my view, the arguments advocating the expansion of hierarchical governance have serious flaws. First, many virtues of hierarchical governance are more apparent than real. Much order and fairness under hierarchical governance is illusory. Member states and transnational interest groups are able to manipulate the definition of the common good. Moreover, the implementation record of hierarchical governance is poor despite all the built-in monitoring and sanctions. And it is also increasingly evident that in the globalized world hierarchical governance is not very effective in addressing social conditions. Second, supporters of hierarchical governance use statist concepts and solutions in articulating their proposals. This is not surprising given that the rise and persistence of nation states is the most spectacular success story of hierarchical governance. However, the EU is anything like a state. The EU has no monopoly on violence within its territory. Its functional and territorial borders do not overlap and they are also quite fuzzy. Divided sovereignty is the norm in the Union. Multiple cultural identities coexist with no prospect of forming a pan-European demos. What worked well for nations-states will not necessarily work for a peculiar polity such as the European Union. Third, and most importantly, supporters of hierarchical governance ignore the basic law of governance which says that effective and legitimate governance must be able to represent the basic types of variety found in the system to be governed. This means that the more diverse the qualities to be governed, the more diverse the necessary governing measures and structures and the more diverse the relationship between them. As Tania Börzel once observed in the European context: "In an increasingly complex and dynamic environment, where hierarchical coordination is rendered difficult if not impossible and the potential for deregulation is limited because the problems of market failure, governance becomes only feasible within policy networks, providing a framework for an efficient horizontal coordination of the interests and actions of public and private corporate actors, mutually dependent on their resources."

*Plurilateral alternative*

Hierarchical governance seems therefore particularly ill suited for the highly diversified EU of today. We need to think about different ways of governing the enlarged Union, and the case in favour of plurilateral governance seems quite plausible in this context. In fact, plurilateral governance represents a sharp contrast to hierarchical governance. Instead of having a clear hierarchical structure, plurilateral governance is based on interpenetration of various types of political units and loyalties. There is no pyramid-like governmental structure. Rather it resembles a "junction box" or even a kind of "garbage can". There is no single centre of authority in charge of key functional fields, but a multiplicity of various overlapping military, police, and economic regimes operate on

different territories. Territory is not clearly demarcated as the system tolerates soft and changing borders. Governance is more about "gardening" than steering. Compliance is largely voluntary and based on incentives. Cultural and socio-economic diversity is cherished. Divided sovereignty is accepted.

Supporters of plurilateral governance admit that it is less structured and transparent than hierarchical governance. They see problems stemming from partisan policies of various networks. However, they also show that effective governance can tolerate deliberation and pluriformity. Governance can be about negotiation and persuasion rather than control and engineering. Incentives can produce better results than sanctions and coercion. Enablement skills can be more crucial than management skills. Effective governance can merge public and private spheres rather than keeping them separated. It does not need to be state-based or state-centric. It does not even need to be territorial or territorially-fixed.

Progressive implementation of plurilateral governance would mean a multiplication of various networks and informal arrangements with less hierarchy and enforced participation. The dominant governing principle would not be a centralization of power in the Commission, but delegation of power by both the Commission and member states to specialized autonomous bodies operating with different degrees of centralization. The Commission and the Council would perform some strategic tasks aimed at creating incentives for innovation and adaptation, but would not insist on having one single institutional solution for individual functional problems. This would allow for the institutional flexibility and differentiation demanded by the post-Soviet and post-modern Europe of today.

*Conclusions*

Membership in the EU is already differentiated and it will become even more so with further enlargement guided by geo-strategic considerations. This development makes hierarchical governance inadequate if not obsolete. The Union should therefore embrace a "plurilateral" system of governance envisaging more institutional flexibility. As the history of the EU plainly shows hybrid solutions are always possible, but they are by their nature inefficient. It is difficult to opt for discipline and flexibility at the same time. Pyramidal centralism is difficult to combine with variable geometry. This means that some choices ought to be made. Hierarchical governance might possibly work well in a core Europe, but the reality is a maze Europe characterized by cascading pluralism if not divergence. The paper has tried to show that flexible governance solutions are well suited for such a maze Europe.

# Some Concluding Remarks

## *"Global, Social and Political Europe" by Brigid Laffan*

The symposium organised by ELIAMP on Global, Social and Political Europe provided an opportunity to analyse and discuss a number of key dynamics that mould the European Union at the beginning of the 21st century. The event was timely coming as it did one week after the German Presidency achieved agreement on Treaty revision following the French and Dutch 'no' votes on the Constitutional Treaty. The issues raised during the discussions were not just of academic interest but impinge on key issues facing states and societies in Europe.

### *The Ties and Tensions of European Integration*

The papers delivered during the symposium dealt in a variety of ways with the key ties and tensions that animate the development of the European Union and European Integration.

### *I: The Balance Between the EU and the Member States and among the Member States:*

From the outset, the EU has grappled with the tension found in all multilevel systems of governance between the power of the centre and the component parts. The ties but also tensions between sovereignty and integration continue to challenge the EU and its member states. The Constitutional Treaty and the Reform Treaty have arrived at a more explicit balance between EU powers and state powers by establishing a more transparent set of competencies for the Union. That said, subsidiarity as a concept and practice has yet to become fully embedded in the Union. A number of examples, notably what should constitute maximum speeds on EU roads, were used to highlight the absence of subsidiarity in some areas of EU regulation. The implementation deficit was highlighted, on the other hand, as gap in member state compliance when faced with European law. There was considerable discussion of the large state/small state balance in the Union. The accession of many more small member states in the Union from the mid-1990s onwards has diluted the presence of all small states. Moreover, it has necessitated a rebalancing of the voting system to ensure that large states are adequately represented. Changes in the formal system have been matched by the growth of informal meetings of the larger states and the growth of informal practices in the Council. The small states have a combined interest in protecting and promoting the formal EU decision making processes as the key vehicle for agreement and decision making.

### *II: The EU as a problem solving entity and a polity:*

The EU was and continues to be driven by a strong functional dynamic, responding to issues (for example food safety) as they arise on the agenda either at global, EU or domestic level. EU policies, programmes and instruments are moulded by the problems that they are designed to address. The EU was and continues to act as a problem solving arena for its member states. However, the expansion in the reach and salience of

integration has meant that the EU has moved well beyond a problem solving entity and is now a polity or political system, however distinctive, in its own right. One of the liveliest debates during the symposium was on the issue of politicisation.

*III: Balance between states and markets:*

The dynamic of European integration given the centrality of market creation has been characterised by liberalisation from the outset, albeit managed liberalisation with side payments. The single market project injected considerable additional market creating pressures into the system. There was considerable discussion and contention during the symposium about the desirability and feasibility of Social Europe and just what Social Europe might imply at the beginning of the 21st century. While there was general recognition of the challenge to national regulation and fiscal systems from globalisation, there was less agreement on what might be done. There are two significant constraints concerning the development of a stronger Brussels role in the social sphere. First, the diversity of national systems and approaches to welfare militate against agreement on a strong role for the EU. Second, public opinion in the EU does not favour centralisation of these policies. Hence the role of the EU is and will remain constrained. There was considerable discussion of an EU role in agenda setting, notably, in relation to policy approaches such as flexicurity.

*IV: Balance between diversity and collective agreement:*

The session on variable geometry and the management of diversity went over old ground concerning various approaches to this challenge, core groups, avant garde and so on. There was a strong consensus that the practice of variable geometry should be limited, inclusive and not a solution of first resort.

*V: Balance between Europe and the wider world:*

Wider global geopolitics and geo-economics have played a central role in the dynamic of the development of the EU from the outset. However, the boundaries between the EU and the outside world and the pressures of globalisation have reinforced the impact of the Union's external environment on its development. A constant consideration during the symposium was the need for the EU to become a more strategic actor in the international environment, to project its power and to attempt to influence external events. The relationship with Russia, the Middle East, Trans-Atlantic relations, Africa, China and the other emerging economic powers in Asia were all identified as crucial to the future of the Union.

*Challenges for the Next Period*

The immediate challenges facing the Union relate to economic governance in the Euro-zone, processes of economic reform, the EU budget, the dynamics of enlargement and the reform treaty. The EU, it could be argued is entering a new phase. The 25 years from 1985 to 2010 have witnessed step change in the dynamic of the Union be cause of the impact of the single market, the growth of EU regulation, the expansion of the structural funds, successive rounds of enlargement and the iterative process of treaty change. The Union may well have come to the end of this phase of integration, particularly the process of treaty change. The next phase will be dominated by the interface between the

Union and the outside world and might be categorised as 'Europe in the World' and the 'World in Europe'. Arising form the discussion at the symposium, I would underline 3 major priorities. First, there needs to be a careful assessment of how the EU can respond to the demands for membership/association of states in its neighbourhood given the politicisation of enlargement. Second, within the Union and the member states, a discussion on the management of and response to internationalisation is over due. Third, the EU needs to develop more coherent and strategic approach to its critical relationships with third countries and other regions of the globe.

# Articles in the European press after the Seminar

## *Editorial : "C'est pas gagné ! " Le Monde*

Wednesday, 4 July 2007, page 02.

Daniel Vernet

La longue marche vers la ratification du traité « simplifié » qui doit doter l'Union européenne de nouvelles institutions vient de commencer. Elle ne sera pas de tout repos. Lundi 2 juillet, Nicolas Sarkozy l'a entamée symboliquement à Strasbourg, qui dispute à Bruxelles le titre de capitale européenne. Le texte sur lequel les chefs d'Etat et de gouvernement des Vingt-Sept se sont mis d'accord il y a dix jours doit maintenant être rédigé dans les détails, sous présidence portugaise, au cours d'une conférence intergouvernementale. Les Polonais ont déjà annoncé qu'ils en profiteraient pour remettre en cause ce qu'ils ont accepté « verbalement ».

Ensuite, il faudra que les vingt-sept Etats membres ratifient le traité. En France, le candidat Sarkozy avait déjà annoncé qu'il choisirait la voie parlementaire plutôt que le référendum. Dans d'autres pays, le peuple sera consulté. Le risque d'un nouvel échec n'est donc pas négligeable.

Le traité a été qualifié par le président de la République d' « improbable synthèse » entre les partisans du oui et ceux du non à feu la Constitution européenne. Il peut satisfaire les deux camps, comme il peut les mécontenter tous les deux. Il a vite été affublé de quelques surnoms. C'est, disent les Anglais, le traité du consens by nonsense - tout le monde tombe d'accord parce que personne n'y comprend rien. C'est le traité des notes de bas de page qui justement expliquent les obscurités du texte principal, constitué d'amendements aux traités précédents. C'est le traité des « trois R », comme Recycler - reprendre des dispositions contenues dans la Constitution (la présidence stable du conseil, par exemple) -, Renommer - créer les mêmes institutions, mais leur donner un autre nom (le ministre européen des affaires étrangères, qui devient le haut représentant de l'Union) - et Renoncer - supprimer le préambule et les symboles comme le drapeau et l'hymne.

Chacun devrait y trouver son compte. Dans les pays les plus « européens », en effet, les dirigeants mettront l'accent sur tous les éléments qui ont été conservés du texte mis au point sous la présidence de Valéry Giscard d'Estaing, pour obtenir la ratification. Dans d'autres, ils devront au contraire souligner tout ce qui a été sacrifié, afin de convaincre des parlementaires réticents ou de justifier l'abandon du référendum. L'intérêt de Nicolas Sarkozy rejoint celui de Gordon Brown.

La campagne qui sera menée dans chaque pays aura des conséquences chez les partenaires. Les dirigeants européens devraient donc être poussés à trouver un langage commun, contribuant ainsi à la naissance d'une opinion publique européenne. Ce serait toutefois se montrer bien optimiste. Les divergences d'intérêts, que reflète bien le texte de Bruxelles, risquent plutôt d'accroître la cacophonie.

### *"The EU's Big New Problems"*

William Pfaff, 4 July 2007,  http://www.williampfaff.com/article.php?storyid=236

Nafplion, Greece, July 3, 2007 – The European Union reached uncomfortable and possibly unsustainable compromise in Brussels the night of June 24, after prolonged and acrimonious discussion of what to put in the place of the constitutional treaty rejected two years ago by the voters of France and the Netherlands.

That constitutional treaty made a fundamental mistake about what citizens want from the European Union: an economic and political community, a form of alliance, or a federal state? The Coal and Steel agreement of 1951 was a treaty. The former wartime enemies placed their warmaking industries under common control. It was not an attempt to place Western Europe under a single government. It embodied the limited cession by France, Germany, Italy and the three Benelux governments of sovereign control over certain heavy industries essential to 20th century war.

Two important things then happened. The founders, and the civil servants who shaped the new Coal and Steel Authority, imagined a larger association in terms of a union of nation states in which there would be a wide merger of sovereignties. They wanted what would amount to a European federal government, implicitly modelled on the 18th century American federal union. This was a mistake. For many cultural and historical reasons the analogy with America was false.

Even the earliest European Union members, ready to cede a part of their national sovereignty to the union in order to prevent war, were determined to hold on to the rest of that sovereignty. They did not intend their states to disappear. The people remained firmly attached to national sovereignty and national interests.

This was not mere sentiment. People are attached to national parliaments, for example, for good reasons. Parliaments exercise power. Europeans have not been excited about the European Parliament that eventually was created. National parliaments possess the power to affect peoples' lives. The European Parliament deals with issues at second remove from ordinary lives. The European Commission is also remote from the population and has no direct popular mandate.

The Commission believed in expanding the EU. This was an elite goal, not a popular one, conceived as essential to rectify the political disaster that at Yalta and Potsdam at the second world war's end had left Central and Eastern Europe under Soviet domination.

Federal union was still generally taken as the ultimate European goal, despite explicit hostility to federal union by both Conservative and Labour governments in Britain and important political forces elsewhere in Europe (in France, to take another important example). Yet the French and Netherlands' referendum rejection of closer union in the constitutional treaty two years ago came as a demoralizing surprise to the leaders of the EU.

It is necessary to find a way to reconnect public opinion with the EU, but expansion or even "deepening" does not seem to be it. The EU is an inspiring project for various elites, for distinct reasons, but there is also a wide popular perception of its supposed dangers. The constitutional treaty became identified in France and the Netherlands as a threat to national sovereignty, as promoting further immigration, and as advancing market values seen as endangering living standards.

Expansion has had another effect. Poland by its conduct at the Brussels summit dealt a fearful blow to the cause of membership for the remaining East European and Balkan candidate-states. The blatant resentment of Western Europe ideas, initiatives and values expressed by some Poles, and by some Czech leaders, Bulgarians, and political figures in some other candidate-states, has caused some West Europeans to ask why such people should be invited to join the EU, only to make trouble?

The Monday evening after the Brussels summit, Polish international television broadcast (with English subtitles) a long, exhaustive, and horrifying recapitulation of what the Nazis did to Poles and to Poland during the war. Nobody would wish to deny any part of this. But the specific and empowering purpose of creating the European Union institutions was to close the door on the war, however difficult that might be. The Catholic Poles, the governing Kaczynski brothers and their more fanatical supporters, should understand that Europe was created for those willing to renounce praying for vengeance and substitute praying for redemption. Other Poles recognize this.

Some Poles also hold Western Europe responsible for their national sufferings under the Nazis and the Soviet Union, while hailing the United States as their liberator.

It was the Soviet army that drove Nazi armies out of most of the eastern countries -- and then imposed a new Communist oppression. The Poles were not saved from the Nazis by the United States. They were saved from Soviet domination by their own efforts, in Poland's Solidarity movement, and by Mikhail Gorbachev, who ended the cold war.

The United States signed the Yalta treaty, dividing Europe with the Soviet Union, dismissed British suspicions of Stalin's intentions in 1944-45, and rejected Churchill's wartime plan for an invasion of "the soft underbelly" of southern Europe to block Soviet expansion into the region. It was Britain and France who started the second world war because of Germany's invasion of Poland. They were not in a position to do much to help the Poles, but they could at least start a world war for them. Nobody else did anything to help. Americans were doing their best to stay out of the war