



Leuven Centre  
for Global  
Governance Studies



TRANSATLANTIC STRATEGY FORUM

# The European Union, the United States and Global Governance: Major Trends and Challenges

3-4 December 2009

Royal Flemish Academy of Belgium for  
Science and the Arts Brussels (Belgium)

With the support of the European Commission's Directorate-General  
for External Relations – Relations with the US and Canada and  
the Royal Flemish Academy of Belgium for Science and the Arts

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CONFERENCE REPORT



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# Foreword



The Leuven Centre for Global Governance Studies of the University of Leuven has the honour of presenting the following report, based on the **Transatlantic Strategy Forum on the European Union, the United States and Global Governance - Major Trends and Challenges**, which it organized in the majestic premises of the Royal Flemish Academy of Belgium for Science and the Arts in Brussels on 3-4 December 2009.

The purpose of the Forum was to contribute to the construction of a shared transatlantic vision of the strategic challenges the United States and the European Union are confronted with. Indeed, as the 2003 European Security Strategy states:

*"The transatlantic relationship is irreplaceable. Acting together, the European Union and the United States can be a formidable force for the good in the world."* The ESS' 2008 implementation report added to this that "[f]or Europe, the transatlantic partnership remains an irreplaceable foundation, based on shared history and responsibilities."

Many strategic challenges, such as climate change, energy security, the global economic and financial crisis, international terrorism and migration, are unprecedented in their intensity and scope. Their global dimension necessitates appropriate global solutions. In his inauguration address President Barack Obama rightly stressed that "[...] the world has changed and we must change with it." The identification of potential transatlantic responses to these challenges was one of the key objectives of this Forum.

The Forum followed an intensive and dense two-day programme, with a first plenary session focusing on the EU and the US in global governance and a second plenary session dealing with transatlantic challenges and the return to multilateralism. We had the honour of welcoming very distinguished speakers and are immensely grateful to Dr. Ronald D. Asmus, Prof. Doug Cassel, former UN Under-Secretary-General Jan Egeland, Chargé d'Affaires Mr. Christopher Murray of the US Mission to the EU, Prof. Michael Smith and Prof. Thomas Weiss for sharing their thoughtful ideas with us. We likewise express our gratitude to H.E. Ambassador Hugo Paemen and H. E. Ambassador Günter Burghardt, two former Heads of Delegation of the European Commission in Washington D.C., for chairing the plenary sessions so diligently.

Next to the plenaries, the programme comprised not less than five parallel workshops, covering a great variety of topics in the fields of peace and security, human rights and rule of law, energy and climate change, migration and trade and political economy. Starting from a comparative analysis of EU and US policies through selected paper presentations, each workshop produced valuable insights on how to forge a transatlantic response to common challenges. In a final plenary session, workshop co-chairs Prof. Doug Cassel, Dr. Pamela Doughman, Dr. Virginie Guiraudon, Prof. Bart Kerremans and Prof. Weiss presented a synthesis of the discussions and their main findings and recommendations, followed by a plenary discussion. We are grateful to Mr. Ellis Mathews, acting Head of Unit, Relations with the US and Canada of the European Commission's Directorate-General for External Relations, for delivering a lucid closing keynote address.

The organisation of the Forum has been a joint effort. We sincerely thank the European Commission for its support. We are also grateful for the excellent cooperation with the GMF Transatlantic Center, the Freeman Spogli Institute for International Studies at Stanford University, in particular Prof. Tim Josling and Prof. Christophe Crombez, the Royal Flemish Academy of Belgium for Science and the Arts and, last but not least, the staff and many junior and senior members of our Centre, in particular Dr. Steven Sterkx.

**Prof. Dr. Jan Wouters**  
Director, Leuven Centre for Global Governance Studies

# Executive Summary

On 3 and 4 December 2009, the **Leuven Centre for Global Governance Studies** of the University of Leuven organised a two-day **Transatlantic Strategy Forum** on 'European Union, United States and Global Governance - Major Trends and Challenges', with the support of the **European Commission**, Directorate-General for External Relations.

The purpose of the Transatlantic Strategy Forum was to contribute to the construction of a shared transatlantic vision of the strategic challenges that will confront the United States and the European Union in the coming years, and the identification of potential transatlantic responses to these challenges with a global dimension. The Forum and its follow-up aim to help building up a transatlantic capacity to identify the long-term trends in a number of key policy areas and to keep policy-makers on both sides of the Atlantic informed of the near and medium-term implications of these trends. The report at hand is part of this ambitious effort.

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The Forum consisted of both plenary sessions (Thursday 3 December) with keynote speeches and parallel workshops (Friday 4 December) focusing on policy challenges in the field of: (i) peace and security, (ii) human rights and rule of law, (iii) energy and climate change, (iv) migration, and (v) trade and political economy. The final session on Friday afternoon featured the main conclusions of the intensive workshop deliberations, as well as a closing keynote address.

## Plenary Sessions

H. E. Ambassador **Günter Burghardt** (Former Head of Delegation European Commission, Washington D.C.) chaired the first plenary session, in which three keynote speakers addressed the topic 'The EU and US in global governance' from various perspectives. In his address on '**Upgrading EU-US Relations**', Dr. **Ronald D. Asmus** (Executive Director, GMF Transatlantic Center) stressed that the so-called unilateral moment in the world is over, and that current transatlantic relations qualify for an 'upgrade' to a more cooperative and strategic partnership. He singled out five areas where progress can and should be made: financial and economic relations; homeland security or justice; energy and climate; development cooperation; and foreign (and security) policy.

Addressing the topic '**President Obama's UN Policy – Implications for the EU and Global Governance**', Prof. Dr. **Thomas Weiss** (Presidential Professor of Political Science, Director, Ralph Bunche Institute for International Studies, City University of New York) was 'guardedly optimistic' about the political commitment of the Obama administration to bring about US leadership on global challenges. He argued that it is once again commonplace to state that many of the most intractable problems are 'transnational'. Addressing climate change, migration, and pandemics to terrorism, financial stability, and proliferation of weapons of mass destruction requires 'global actions'. The problem, however, is that the current structures for international problem-solving are inadequate. The UN, in this respect, requires an overhaul to become – in Obama's own description – a global institution that works. In terms of representativeness and possible effectiveness, the emergence of the G20 is an interesting new development, which requires further research (in particular on the links between G20 and the EU and between G20 and the UN), but only the UN is qualified to formulate truly global norms. Professor Weiss, however, is sceptic about whether the UN – due to its many 'imperfections' – is actually 'ready' for renewed US leadership.



Similarly, doubts can be raised about whether the EU is ready for a multilateral US. There are signs – among which the election of ‘low-key personalities’ for the positions of EU President and High Representative – that the EU will remain an economic but not a political force to be reckoned with. For that reason, upgrading the EU military contribution to the transatlantic partnership is essential. Finally, on the need for ‘global governance’, Professor Weiss underlined that the concept has analytical value (describing what is happening in the world today), but lacks prescriptive power. He called for a ‘Global Governance Plus’, with supranational EU-like attributes, rather than hoping somehow that the decentralized system of states and a pooling of corporate and civil society efforts will be sufficient to ensure human survival and dignity. The question is when and whether the Obama administration and the EU’s Member States will have the audacity to revert to thinking in this direction.

The third keynote, by Prof. Dr. **Michael Smith** (Jean Monnet Professor of European Politics, University of Loughborough), on ‘**EU and US in the Global Governance Architecture: the Role of EU Diplomacy**’, examined the ways in which EU-US engagement might strengthen or weaken the overall evolution of global governance. Professor Smith argued that – although global governance largely resembles an ‘architecture without an architect’ – the EU and US have been central to the process and emerging architecture of global governance: the EU through its own model of regional (transnational/ multilevel) governance; the US through its international leadership and role as ‘governor’ of global governance; and the transatlantic relationship as the foundation of EU and US mutual engagement in the broader process of global governance. What is more, the EU and US embody the power of what can be termed ‘bi-multilateral’ relations and negotiations, in the sense that their bilateral relations can have major effects for multilateral processes through either positive or negative externalities, and that their bilateral relations in turn can be significantly affected by their entanglement in a wide range of multilateral bodies. This entanglement forces policy-makers on both sides of the Atlantic to adequately manage their relationships in a series of intersecting arenas, and to practise the politics of linkage and coalition building that inevitably arise from this situation. In terms of diplomacy, the challenge for the EU will be to – on the basis of the Lisbon Treaty provisions – engage in ‘strategic’ (relations with strategic partners) and ‘structural’ (creating change within partner countries) diplomacy. The US, on the other hand, will have to ‘prove’ its commitment to the new diplomacy of engagement and multilateralism, because elements of ‘coercive’ and ‘transformational’ diplomacy are still apparent. However, at the same time as both EU and US diplomacy are undergoing these challenges and changes, also the landscape of global governance is changing (e.g. strengthening of G2; emergence of G20). The question is how the EU and US will accommodate these changes. In conclusion, Professor Smith argued that – despite of the rather mixed ‘scorecard’ of EU and US engagement with the architecture of global governance - there is significant evidence of a convergence of EU and US activities in relation to global governance. Although significant differences of emphasis and of approach remain, the EU and US have much in common and much to gain from further coordination.

The second plenary session was chaired by H. E. Ambassador **Hugo Paemen** (Former Head of Delegation European Commission, Washington D.C.), and dedicated to the topic of ‘Transatlantic Challenges and the Return to Multilateralism’. In his keynote address on ‘**Transatlantic Challenges: Broadening and Deepening the EU-US Partnership**’, Mr. **Christopher Murray** (Chargé d’Affaires, a.i., US Mission to the EU) emphasized that EU-US relations have entered a phase of ‘partnership’. Nevertheless, this partnership faces many challenges: the challenge to understand each other; the challenge to foresee the role that the EU will be playing on the global scene; the challenge and complexities of EU decision-making; the challenge of dealing with and overcoming mutual criticism; and finally the challenge of NATO relations. Mr. Murray concluded that the EU and US have to work together and set joint goals. That is the way forward. The US is in particular interested in effective policies.

The final keynote speech was given by Mr. **Jan Egeland** (Former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Director of the Norwegian Institute of International Affairs). In his exposé on ‘**A Transatlantic Return to Multilateralism**’ Mr. Egeland argued that effective multilateral action has achieved peace and relief in many parts of the world. For the vast majority of the world’s population, the situation has improved, as indicated by figures on life expectancy, child mortality, refugees, education, peace and democracy. On the other hand, inequality has grown: the world is becoming more socially unjust. As shown by the examples of Darfur and Burma, multilateral action is very fragile when regional organisations and the United Nations lack the political will and the minimum of economic and security resources needed from their Member States. There is however reason for optimism: under the Obama administration, we will witness a revival of multilateral action, largely due to the experience of recent years which has proven the costly futility of unilateral force. Mr. Egeland asserts that, as we move from a uni-polar to a multi-polar world, the emerging powers (like China and India) will have to assume responsibility in the collective effort of multilateral action. Vice versa, the institutional machinery (the UN Security Council and the G8) should reflect the economic and political reality of this century and not the world as it was in 1945. In the new multi-polar world, the right country must push the right cause, not the most eager actor with the most engaged domestic audience. It is not in the interest of humanitarian or human rights action that it is identified with one Western corner of the world only. Finally, whereas the conflict in Iraq acts as a symbol of unilateral impotence in our time and age, the worst war zone of our generation, the Democratic Republic of Congo (DRC), can become a signal of multilateral potency. However, this will require strong commitments of the Security Council powers and the European Union. Mr. Egeland concluded with optimism that the coming generation will be able – due to access to better means and greater resources, and the involvement of a vast network of inter-governmental, governmental and non-governmental organisations – to achieve global progress, both in the DRC and other parts of the world.

## Parallel Workshops

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Prof. Dr. **Thomas Weiss** and Prof. Dr. **Jan Wouters** (Director of the Leuven Centre for Global Governance Studies at the University of Leuven) chaired the **Workshop on Peace and Security**. The chairs and authors primarily discussed following topics: security threats and strategies; the involvement of the EU and US in the Mediterranean and Middle East; East-West relations; the challenge of nuclear disarmament and non-proliferation; and the future of NATO as well as its relationship with the European Security and Defence Policy.

The **Workshop on Human Rights and Rule of Law** was led by Prof. Dr. **Doug Cassel** (Director of the Center for Civil and Human Rights at the University of Notre Dame) and Prof. Dr. **Paul Lemmens** (Director of the Institute for Human Rights at the University of Leuven). Both chairs presented an excellent overview of the human rights issues at stake – ranging from counter-terrorism and the role of international human rights organisations to religion, freedom of expression and the Israeli-Palestine conflict – in the transatlantic relationship. The workshop participants presented detailed insights into the correlation between WTO membership and improvement of democratic rights, EU-US consultation and dialogues, US engagement with the International Criminal Court, the topic of Guantanamo, and the role of the EU in the Human Rights Council (including the Council's review process).

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Dr. **Pamela Doughman** (Technical Director of the Renewable Energy Office at the California Energy Commission (acting in a personal capacity), and former Professor of Environmental Studies at the University of Illinois, Springfield) and Prof. Dr. **Marc O. Bettzüge** (Director of the Institute of Energy Economics at the University of Cologne) were the invited experts to chair the **Workshop on Energy and Climate Change**. The chairs presented an introduction on US climate policy, the opportunities for cooperation with both states and other levels of governance (in particular the state of California), renewable energy policies in California and the EU, with an emphasis on the electricity sector. The workshop papers and presentations drew attention to EU-US climate governance and the Copenhagen climate negotiations, and to the governance of energy security – addressing the role of the EU, multilateral energy institutions and transatlantic energy relations.

Mrs. **Susan Ginsburg** (Director of the Mobility and Security Program, Migration Policy Institute) and Dr. **Virginie Guiraudon** (Research Director of the National Center for Scientific Research (CNRS) and Co-Director of the Centre for Politics (CERAPS) at the University of Lille) introduced the **Workshop on Migration** by means of an overview of the main transatlantic challenges in the field of migration, and a discussion of the prospects for transatlantic cooperation (with an emphasis on mobility security). The workshop examined EU and US immigration discourse, the EU agenda on labour migration, the differences between the EU and US legal framework for attracting highly-skilled labour, the need for a comprehensive migration policy, and the transatlantic dimension of border security management.

Finally, the **Workshop on Trade and Political Economy** was chaired by Prof. Dr. **Christophe Crombez** (Visiting Professor at the Freeman Spogli Institute for International Studies of Stanford University and Professor at the Faculty of Business and Economics at the University of Leuven), Prof. Dr. **Timothy Josling** (Professor Emeritus at the former Food Research Institute and Senior Fellow by courtesy at the Freeman Spogli Institute for International Studies of Stanford University), and Prof. Dr. **Bart Kerremans** (Professor of International Relations and American Government at the Institute for International and European Policy of the University of Leuven and senior member of the Leuven Centre for Global Governance Studies). Their introductions highlighted the novelties of the Lisbon Treaty, the politicization of the transatlantic trade relationship and EU-US cooperation in the multilateral trade system. Discussions and interventions throughout the workshop focused on the transatlantic pattern of trade, transatlantic cooperation in response to the financial crisis, the prospects for a transatlantic free trade agreement, the EU-US Open Skies Agreement, the effect of the EU-Canada Comprehensive Economic and Trade Agreement on transatlantic trade, EU-US trade disputes (in the context of WTO and the Sanitary and Phytosanitary Agreement) and EU-US approaches to market access and preferential trade agreements (emphasizing the role and interests of policy-makers).

## Closing Session

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In the final session, the workshop chairs presented tentative conclusions on EU-US relations in the selected policy fields, and Mr. **Ellis Mathews** (Acting Head of Unit, Relations with the US and Canada, Directorate-General for External Relations, European Commission) held a closing keynote address on the future of the transatlantic relationship. For Mr. Ellis, the challenge is to bring to the table all issues that amount to the external aspects of EU policies. Specific challenges that need to be dealt with are economic cooperation (in particular the Transatlantic Economic Council), the climate change agenda, trade and investment, development cooperation and foreign policy, energy, aviation, and justice and home affairs. Mr. Ellis concluded that the situation for a reinvigoration of the economic and political relationship is favourable. In particular, he saw a need for a comprehensive review of EU-US efforts on international peace and security, and for more intensive relations between the EU (via national parliaments) and the US Congress.

# Report Plenary Sessions

## SESSION 1 – THE EU AND THE US IN GLOBAL GOVERNANCE

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Chair: H. E. Ambassador **Günter Burghardt**, Former Head of Delegation European Commission, Washington D.C.

**Keynote address by Dr. Ronald D. Asmus, Executive Director, GMF Transatlantic Center**  
**Title: Upgrading EU-US Strategic Relations**

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### SUMMARY

Current transatlantic relations are in a position that enables an 'upgrade' to a more cooperative and strategic relationship. Dr. Asmus sees two main reasons for this. Firstly, that the function of the EU is changing and secondly that the US has changed as well. The view on what the US wants from the EU is changing as well.

Dr. Asmus stresses that the so-called unilateral moment in the world is over. The US has realised that it needs allies and partners all over the world. The question remains whether the EU and US will take this opportunity to upgrade their relations.

What is the US view of the EU? In the beginning, after World War II, this view was very positive. It shifted in the mid-60's, with the European project seen as an alternative project to NATO and transatlanticism. The next turning point was in 1989 after the fall of the Iron Curtain when many Europeans and Americans thought NATO would not survive.

While the US was looking to perpetuate peace in Europe, through NATO, the EU looked at Maastricht, Laeken and further integration. NATO was once the foreign policy body for the EU but at present it deals mostly with military and security affairs, and the EU wants to conduct foreign policy on its own. In addition, the role of NATO and US priorities have changed; Europe no longer tops the list of US priorities. The US has become less Euro-centric, and less military. The US is now focusing on other current global issues. It is here where the EU can become a partner in solving these issues.

George W. Bush was the first US President to visit the European Commission and had lifted EU-US relations from negative to neutral. However, he did not lift relations to a new level. President Obama is far more open, but it is not yet clear how the EU and US will actually deal with each other in getting things done. The EU-US relationship

has not been set-up for strategic partnership. In the triangle – with one leg being EU-US relations, the second leg NATO, and the third leg NATO-EU relations – the first is weakest as important issues are not being addressed in this leg of the triangle.

However, Dr. Asmus sees five possible areas for enhanced cooperation: (i) financial and economic relations; (ii) homeland security or justice; (iii) energy and climate; (iv) development (lack of EU-US coordination); and (v) foreign (security) policy (if there is a consensus, the EU and US can speak with one voice).

If coordination on that kind of agenda could be set up then it would qualitatively change EU-US relations. The question remains whether or when this moment will arrive.

With regard to the new leadership team of the EU (Ashton and Van Rompuy), Dr. Asmus hopes that – although their appointment was rather disappointing for the US – both leaders will not 'get stuck' in little or insignificant issues, but will instead address the agenda mentioned above.

**Keynote address by Prof. Dr. Thomas Weiss, Presidential Professor of Political Science, Director, Ralph Bunche Institute for International Studies, City University of New York**  
**Title: President Obama's UN Policy – Implications for the EU and Global Governance**

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By nominating his confidante Susan Rice as UN ambassador and restoring the post's cabinet status even before taking his oath of office, Barack Obama was clear about his belief that the UN is "indispensable – and imperfect." He announced that the United States was rejoining the world and that multilateralism in general and the UN in particular would be essential to U.S. foreign policy during his administration. His first address to the General Assembly in September spelled out clearly his "deeply held belief that in the year 2009 – more than at any point in history – the interests of nations and peoples are shared." These once again include those of the United States and Americans.

The Norwegian Nobel Committee's October announcement that the 2009 Peace Prize had been awarded to the neophyte president was surprising. They were saluting him for having "created a new climate in international politics" and pointed out that for 108 years the committee had been seeking "to stimulate precisely ... those attitudes for which Obama is the world's leading spokesman." It was a sign of how far America's global standing had fallen that the prize was given because an American president had reaffirmed the role of international law and the path of dialogue.

Washington neo-cons screamed, but the Nobel Peace Prize could strengthen Obama's resolve to fight off attacks by interest groups that somehow see a binary choice between macho unilateralism and a projected international weakness. Indeed, eight years of the Bush administration has clearly taken its toll. The idea of re-engaging the UN has appeal far beyond Obama supporters in the United States. About a month before the November 2008 election, Christiane Amanpour of CNN interviewed five former secretaries of state, none of whom was living in the Bush administration's ideological bubble. They did not agree on much, but they did stress the necessity of cultivating old friends (in both old and new Europe), finding new partners, engaging in multilateral diplomacy, and even talking with Tehran and Pyongyang.

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Perhaps as much as any recent event, the global financial and economic meltdown made clearer what previous crises had not – namely the risks, problems, and costs of a global economy without adequate international institutions and regulation, democratic decision-making, or powers to bring order and ensure compliance with collective decisions.

What does a new face in the White House potentially mean? While British Prime Minister Gordon Brown, French President Nicolas Sarkozy, and other heads of states have mentioned a "new Bretton Woods," they are ignoring the limited results of the old one, even at its peak, established in 1944. The collective lack of historical perspective plagues everyone. The New Hampshire resort's recent \$50 million facelift exorcised the ghosts of John Maynard Keynes whose proposals for what became the International Monetary Fund originally called for resources equivalent of 50 percent of world imports. While the harshest critics claim the IMF has too much power, the fund's reserves traditionally amount to less than 2 percent of world imports, which epitomizes the perilous gap between proposals and practices.

The April 2009 London meeting of the G-20 agreed to a \$750 billion reinforcement, but the IMF had largely been missing in action until then. Instead of a global stimulus package, domestic interests have led individual governments piecemeal to pursue business-as-usual, namely to commit trillions of dollars, euros, and pounds to paper over problems. In a lecture earlier this year to the International Labour Organization in Geneva, Joseph Stiglitz challenged us to think about a counterfactual. What if the U.S. stimulus package alone had been used to create a bank with a conservative leverage of 12 to 1 (not the risky 30 or 50 to 1 of bailed out banks), then a lending package of some \$8.5 trillion would have been more effective in jump starting the world economy. It is just this kind of thinking that should come from the Obama White House.

Perhaps I should be expecting less because expectations of the new administration were already impossibly high even before the Nobel announcement, and on both sides of the pond. However short Obama's honeymoon, there will be many opportunities for Washington to take charge – in the financial crisis, in the Middle East, in nuclear non-proliferation, in climate change. Council on Foreign Relations analyst Stewart Patrick makes a persuasive case that "the fundamental questions facing the 1940s generation confront us again today. As then, the United States remains by far the most powerful country in the world, but its contemporary security, political, and economic challenges are rarely amenable to unilateral action." Looking back on a "remarkable generation of leaders and public servants," Sir Brian Urquhart recalls earlier U.S. leadership. They were pragmatic idealists "more concerned about the future of humanity than the outcome of the next election; and they understood that finding solutions to post-war problems was much more important than being popular with one or another part of the American electorate."

My argument today amounts to a guardedly optimistic assertion that a similarly farsighted political commitment could rise again under the Obama administration, or if not in 2010 hopefully by the end of a second term. I hope that you do not think that I have been inhaling as well as smoking.


Let me ask today and answer five questions:

- What is the atmosphere in the United States toward the "indispensable" UN?
- Is the "imperfect" UN ready for a potentially energetic United States?
- Will the United States make the UN a central piece of its strategic interests?
- Is Europe, with the Treaty of Lisbon now in effect and in light of the elections of its president and high representative for foreign affairs and security policy, ready for a multilateral United States?
- Are we, on both sides of the Atlantic, ready for a third generation of world organization, or a kind of global governance on steroids?

## 1. IS THE UN PERCEIVED AS INDISPENSABLE, EVEN IN THE UNITED STATES?

Most countries, and especially major powers, are loath to accept elements of a central authority and the inroads that this would make into their autonomy. The logic of globalization, technological advances, and interdependence along with a growing number of trans-boundary crises should place this eventuality somewhat more squarely on the agenda, even in Washington. It is certainly not far-fetched to imagine over the coming decade that the international community of states will see a gradual advance of intergovernmental agreements and powers along the lines that Europe as a whole has nurtured since World War II, which is what the director of the State Department's Policy Planning Staff Anne-Marie Slaughter has hinted. Why should what Ernst Haas once described as moving "beyond the nation-state" remain merely a European aberration?





The scent of reinvention may already be in the air. As host, Gordon Brown told the G-20 in London: “We believe global problems require global solutions.” This was the second such gathering in five months – even former president George W. Bush pulled together the first in the midst of the initial fall-out from the economic and financial crisis because the old G-7/8 excluded the countries that now account for most of world economic growth and credit. And since September we have a permanent G-20.

Think tanks have followed suit and the change in ambience. The Council on Foreign Relations launched a multi-year program called “International Institutions and Global Governance World Order in the Twenty-First Century”; and its journal *Foreign Affairs* published an article at the outset of 2009 by two Beltway insiders on “Reshaping the World Order,” which argues that “the United States has the means and the motive to spearhead the foundation of a new institutional order.” In December 2008, the Carnegie Endowment for International Peace hosted “Present at the Creation 2.0: How Reinventing the International System Could Become One of the Central Legacies of the Obama Administration.”

These titles capture the reality that even in the foreign policy mainstream in Washington it is once again commonplace to state that many of the most intractable problems are transnational, ranging from climate change, migration, and pandemics to terrorism, financial stability, and proliferation of weapons of mass destruction (WMDs). Addressing them successfully requires actions that are not unilateral, bilateral, minilateral, or even multilateral, but rather global. At the same time, the policy authority and resources for tackling such problems remain vested in 192 UN member states individually, rather than collectively in a universal body.

The fundamental disconnect between the nature of many global problems and the current inadequate structures for international problem-solving and decision-making goes a long way toward explaining fitful, tactical, and short-term local responses to challenges that require sustained, strategic, and longer-term global thinking and action. For all of its warts, the United Nations is the closest approximation to a central institutional presence on the global stage. For that reason, the world organization urgently requires an overhaul to become, in Obama’s own description, a global institution that works.

Whatever the advantages of economic consultations among the upgraded G-20 that account for 90 percent of the world’s GDP, only the United Nations can formulate global norms, set global standards, make global law, and eventually enforce global treaties. The G-20 certainly is more representative and potentially effective than the Security Council for which there are endless proposals for reform that go nowhere. The new G-20 encompasses 4.2 billion people (instead of 900 million in the G-8), but another 2.6 billion mainly poor people are left out. And they and their governments are a prerequisite for solving most global problems. The G-192 has advantages that the upgraded G-20, ad hoc coalitions of the willing, and various proposals for a “league of democracies” do not. The policy preferences of the countries that count will need to be endorsed globally. The possible links between the G-20 and the European Union, on the one hand, and the universal United Nations, on the other hand, represents a potentially rich research vein to be tapped.

In spite of the early December announcement about sending additional troops into Afghanistan, the sobering experiences of occupation have highlighted the limits of American military and diplomatic power, a realization that is akin to the mammoth U.S. inability to address the ongoing economic and financial crisis alone. But what else is on the list for the new administration?

Most informed Americans would certainly acknowledge that when it comes to spotting, warning, and managing international health hazards – e.g., the severe acute respiratory syndrome (SARS) in 2003, avian and swine flu more recently, and AIDS perennially – the World Health Organization is indispensable and unrivalled. Monitoring international crime statistics and the narcotics trade, policing nuclear power and human trafficking, and numerous other important global functions are all based within the UN system. Washington’s short list for the UN should include not only these issues and post-conflict reconstruction in Afghanistan and Iraq but also fighting terrorism (e.g., sharing information, monitoring money laundering activities), pursuing environmental sustainability, monitoring human rights, providing humanitarian aid, addressing global poverty, rescheduling debt, and fostering trade. Rice was not the first one to mention these items in her initial testimony.

They also were in Bush’s opening address to the September 2005 World Summit on the occasion of the UN’s sixtieth anniversary. Obama virtually repeated the list at the last General Assembly.

Actions of course will speak far louder than words – which Obama uses as well as any politician on the planet – but the UN surely will be far more appealing to his administration and the American public than it was during the Bush years. The lack of rivals for UN organizations suggests that a common good can be found. Not everything is subject to the all-or-nothing politics and brinkmanship that characterized the Bush administration’s approach to global institutions.

And so if it is time for Washington to once again take charge, or at least not get in the way, is the imperfect United Nations up to the task?

## 2. IS THE IMPERFECT UN READY FOR THE UNITED STATES?

Why sugar-coat the answer? “Not really” because the UN is hobbled by geopolitics and its own warped management systems, which provide the outline for my recent book *What’s Wrong with the United Nations and How to Fix It* (London: Polity Press, 2009). There are four culprits that individually and collectively paralyze the United Nations on many occasions.

The first is the nature of the Westphalian system, which is very much alive if not very well. This chronic ailment, which is actually the basis for the UN Charter and membership in the world body, is 360 years old or young depending on how you look at it. It is either over the hill or in the prime of youth.

What is clear is that the international system functions amidst a growing number of anomalies between virtually all of the life-threatening global challenges facing the planet and existing international decision-making structures. Similarly, so does the UN, where states make decisions almost exclusively on narrowly-defined vital interests.

We customarily single out the interests of major powers, particularly the United States as the most powerful. Obviously they create an enormous obstacle to UN action; but smaller and poorer, or newer and less powerful, countries are as vehemently attached to their sovereignty. While globalization as well as trans-boundary problems proliferate so that national frontiers make less and less sense, Brian Urquhart reminds us that the UN is the last bastion of sacrosanct state sovereignty.

The second major problem is the diplomatic burlesque that passes for diplomacy in UN circles. It revolves around the artificial divide between the aging acting troupes from the industrialized North and from the developing countries in the global South. Originally begun in the 1950s and the 1960s as a way to create diplomatic space for international security by the Non-Aligned Movement and for economic negotiations by the Group of 77, these once creative voices are now prisoners of their own rhetoric.

These rigid and counterproductive groups and artificial divisions constitute almost insurmountable barriers within intergovernmental discussions to diplomatic initiatives and meaningful policy changes. Serious conversations are almost impossible, and meaningless jousting on the basis of lowest common denominators is prevalent. The reform discussions of 2005, for instance, foundered because of this posturing. Former Canadian politician and senior UN official Stephen Lewis's observation – "Men and women cannot live by rhetoric alone" – seemingly does not apply to UN ambassadors and officials.

The third problem reflects the structural pathologies arising from overlapping jurisdictions as well as lack of coordination and centralized financing among UN agencies and bodies. The structure has more in common with feudalism than modern organizational theory. Less-than-optimal outcomes result from the structure of decentralized institutional silos instead of more integrated, mutually reinforcing, and collaborative cogs among the various moving parts of the UN. This reality has become worse over time as all agencies now relentlessly pursue cutthroat fund-raising for soft money to reinforce their expanding mandates and mission creep.

The generic label in the caption for the UN's organizational chart is "system," but this term implies more coherence and cohesion than characterizes the world body's feudalism. Frequent use also is made of the term "family," a folksy but preferable image because, like many such units, the UN is dysfunctional and divided. In his customary picturesque fashion, the Australian logistics genius who moved goods to Malta and the Middle East in World War II and subsequently oversaw a number of UN humanitarian operations, Sir Robert Jackson, began his 1969 evaluation of the UN development system: "the (UN) machine as a whole has become unmanageable in the strictest sense of the word. As a result, it is becoming slower and more unwieldy like some prehistoric monster." The lumbering dinosaur is now 40 years older and certainly not better adapted to the climate of the twenty-first century.

The final disorder is related to the overwhelming weight of bureaucratic procedures and the low productivity and underwhelming leadership within the international secretariats. Although the stereotype of a bloated

and lumbering administration overlooks many talented and dedicated individuals, the nature of recruitment and promotion within the international administration is certainly part of what ails the world body. When success occurs, it usually reflects personalities and serendipity rather than recruitment of the best persons for the right reasons and institutional structures designed to foster collaboration. The current Secretary-General's lacklustre leadership will continue for at least another two years, perhaps even until the middle of the next decade.


Hence, the latter two problems suggest that Rube Goldberg could not have come up with a better design for futile complexity than the current array of agencies, each focusing on a substantive area, often located in a different city from other relevant UN partners and with separate budgets, governing boards, organizational cultures, and independent executive heads. Whatever contemporary issue is of greatest concern – be it climate change, pandemics, terrorism, or WMDs – we desperately require multidisciplinary perspectives, efforts across sectors with firm central direction, and inspired leadership. This is especially the case in the realm of policy research and ideas, which are the comparative advantage of the world organization as Richard Jolly, Louis Emmerij, and I have argued in *UN Ideas That Changed the World* (Bloomington: Indiana University Press, 2009) at the end of a decade of research by the United Nations Intellectual History Project. The UN too rarely supplies any of this, with or without the United States.

### 3. WILL THE UNITED STATES MAKE THE UN CENTRAL TO ITS STRATEGIC INTERESTS?

Again, you will think that I have lost my marbles, but I am going to venture a "yes." The change of tone has been dramatic, as everyone will agree, but is there some concrete evidence as well?

In the first hours of Obama's presidency, he directed an immediate halt to the Bush administration's military commission system at Guantánamo, followed immediately by his first three executive orders on January 21, 2009, that undid the previous administration's detention policies and ordered the closing of Guantánamo within a year. These sea changes were recently fortified by the decision to try five suspects in criminal court in New York. In April, Washington stepped back from its petulant boycott of the admittedly flawed Human Rights Council. These measures helped restore U.S. moral authority and marked a return to the rule of law – and to the "do as I do" rather than "do as I say" approach.

Moreover, the decision in April to restore funding for the UN Population Fund was a promising indicator of the president's determination to set aside ideology and to strengthen the U.S. contribution to reproductive rights. Other desirable steps would include making better use of the UN's comparative advantage in peace-building in Iraq, as determined by the Rand Corporation, to taking a leadership role in preparations for the mid-2010 review to prevent the collapse of the Non-Proliferation Treaty. This which would be speeded considerably by implementing before the May 2010 review a fast-track agreement with Moscow to cut nuclear missiles by a third already discussed by Obama and Russian President Dmitry Medvedev. It should be possible to move ahead and secure a real agreement after Copenhagen with a commitment to negotiating in good faith before the end of 2010 a



post-Kyoto agreement to cut greenhouse emissions. It would also be helpful to make good on financial commitments for the Millennium Development Goals (MDGs) as already announced. All of these as well as paying its dues and arrears were highlighted in Obama's address to the General Assembly. As I said, I remain guardedly sanguine even about a marriage of convenience between Washington and Beijing on climate change.

Patience, not unlimited but patience nonetheless, is a virtue here. Bush's tactics of destruction produced far quicker results than Washington's fledgling efforts to rebuild multilateralism in less than a year.

#### **4. ARE THE EUROPEANS AND THE EUROPEAN UNION READY?**

This is going to be the shortest part of my argument because it is the one that I know the least about; and I hope that you will disabuse me of my superficial notion that Mars and Venus still are the planets that Robert Kagan argues are inhabited by Americans and Europeans.

So, my initial reply is, "I'm not at all sure that Europeans are ready to respond to the Obama administration." In his General Assembly speech, Obama quite clearly articulated a view that I share, namely that a "reflexive anti-Americanism ... too often has served as an excuse for collective inaction."

I am reminded of Richard Nixon's quote after losing the race for governor of California in 1962, "you don't have Nixon to kick around anymore." Well, Europeans don't have Bush to kick around anymore. Without the ready-made excuse that Washington automatically will stand in the way of meaningful multilateral initiatives, will Europe respond to Obama overtures? More importantly, will Europe take initiatives on its own and finally act like a "superpower" instead of collective political pygmy? Now that it finances 33 % of the UN's regular budget and 40% of its peacekeeping budget and 50% of total aid worldwide, will it begin to play a commensurate role in Afghanistan with boots on the ground? Will populations be willing to spend more on their militaries? What about peace-building in Iraq? What about financing measures for climate change in developing countries? Will Europe speak with a uniform voice in UN circles?

I had my doubts as the tone of these rhetorical questions signals even before the symbolically important election of two underwhelming people – Herman Van Rompuy and Catherine Ashton – to Europe's top posts. In living down to expectations, the attractiveness of inoffensive, inexperienced, and invisible candidates seemed to confirm that the EU will remain an economic but not a political force to be reckoned with.

Obama is attempting a risky gamble to show that the United States is not weakened but rather strengthened by collaboration, that a politician can communicate with a mature American public that unilateral muscle does not get that far, that US security and prosperity depend on cooperation with partners, especially in Europe. Customarily, the best way to score cheap points for an American politician was to unilaterally flex muscles.

The prediction that major powers other than the United States would not respond with military force to a new humanitarian emergency after September 11 proved somewhat too pessimistic, as Europe's take-over from NATO of the Bosnia operation in December 2004 and other examples suggest. However, there is little doubt that U.S. air-lift capacity, military muscle, and technology are required for larger and longer-duration deployments to keep the peace. For better or worse, the United States in the Security Council is what former U.S. secretary of state Dean Rusk once called the fat boy in the canoe: "When we roll, everyone rolls with us."

Upgrading the European military contribution to the trans-Atlantic partnership is essential. While soft or smart power is often on the lips of political scientists, military power is still the hard currency of world politics. Hence, it would be better – for Europe and for the planet and for the United States – if there were a more autonomous European military capacity at least for humanitarian crises. My reading of *A Secure Europe in a Better World* is that it lacks the crispness of its American counterparts. Spending on hardware falls considerably short of targets, although the number of European troops deployed abroad has doubled over the last decade and approaches the so-called Headline Goals. The announced increase in European troops for NATO efforts in Afghanistan is encouraging.

Most importantly, eight years of squabbling about the implementation of the Treaty of Lisbon was supposed to give Europe on 1 December the stature to be on a par with the G-2 (the United States and China). The election of such low-key personalities signalled to the world Europe's problems rather than a readiness to play a more united and forceful role in world affairs. Neither German chancellors nor French presidents nor their foreign ministers want to be overshadowed. The search for candidates who are favoured because they are unlikely to make waves suggests that major countries act just as they do in selecting the UN Secretary-General, drowning that organization in mediocrity. The motivation is the same. Of course, there are surprises like the supposedly boring Swedish technocrat who was elected on this basis as the UN's second Secretary-General.

Will the European response be more adequate? I hope that you can persuade me that "yes you can."

#### **5. CAN WE THINK MORE ROBUSTLY ABOUT GLOBAL GOVERNANCE?**

The beginning of a new administration ultimately should not be judged on the basis of tinkering, but on the basis of a quantum shift in thinking and vision that is like the domestic one that led to Obama's election. While I have spent much of my analytical career championing practical changes on the margins, I now believe that much of what I and others write would even depress Dr. Pangloss, Voltaire's character who thought everything was for the best in the best of possible worlds. Policy-makers and scholars all agree that more and more threats are transnational but that states remain the only real sources of decision-making power. Ours cannot possibly be the best of all possible worlds.

Rather than pursuing an ambitious intellectual agenda with the construction of more robust intergovernmental organizations with elements of supra-nationality, virtually all contemporary analysts of international organizations, including many of us in this room, embrace the vague notion of “global governance.” And I write this as someone who edited a journal by that name and authored a forthcoming book with Ramesh Thakur in the UN Intellectual History Project series titled, *The UN and Global Governance: An Unfinished Journey* (Bloomington: Indiana University Press, 2010).

“Governance” is the sum of informal *and* formal values, norms, practices, and institutions that define and constitute relations among citizens, the market, and the state. “Global governance” refers to collective efforts to identify, understand, and address worldwide problems that go beyond the capacities of individual states to solve. In short, it reflects the capacity of the international system at any moment to provide government-like services in the absence of a world government.

Applying the notion of “governance” to the planet is fundamentally misleading. It captures the gamut of interdependent relations in the *absence* of any overarching political authority and with intergovernmental organizations that have virtually no power to compel behaviour or exert effective control. Quite a distinction exists, then, between the national and international species of governance. At the national level, there is governance *plus* government which, whatever its shortcomings in Bahrain or Belgium, in Uruguay or the United States, can usually exert authority and control as well as ensure fairly wide-spread compliance. At the international level, there is governance *minus* government, which means virtually no capacity to secure compliance with collective decisions. To borrow an image from Jim Rosenau, a “crazy quilt” of authority at the international level is constantly shifting, a patchwork of institutional elements that varies by sector and over time. Other images from non-scholars may be more apt, including Gertrude Stein’s characterization of Oakland – “there’s no there, there” – and the Cheshire cat in *Alice in Wonderland*, a grinning head floating without a body or substance.

We all know two of the reasons why the cottage industry of global governance arose to replace the study of international organizations. The first is that, beginning in the 1970s, interdependence and rapid technological advances fostered recognition that unanticipated problems like climate change and pandemics defy solutions by a single state.

The second reason is the sheer expansion in numbers and importance of non-state actors, both civil society and market. And so, intergovernmental organizations like the UN no longer occupy centre stage for students of international organization.

Yet there is a third and usually ignored reason for the popularity of the global governance concept, namely our collective embarrassment about even uttering the notion of supra-nationality, as I argued in my address to the International Studies Association earlier this year. While Europe proceeds apace, the planet is apparently different. A world federal government or even elements of one is not only old-fashioned, it is generally thought to be the preserve of lunatics.

Global governance is a useful analytical tool to understand what is happening in today’s world. At the same time, it lacks prescriptive power to point toward where we should be headed and suggest what we should be doing. Global governance is a hodgepodge of not just states but almost any stakeholder with an interest in whatever topic is at hand.


In the United States and Europe especially, the enthusiasm for non-state actors and their potential for problem-solving has now reached its limit. Not to put too fine a point on it, NGOs and transnational corporations and activists across borders will not halt climate change or genocide in Darfur. With no vision of where to go, the international community of states is condemned to remain where it is. Alice’s Cheshire cat is smiling.

## CONCLUSION: THE AUDACITY OF GLOBAL GOVERNANCE PLUS

In the aftermath of World War II, Washington led the effort to construct a second generation of international organizations on the ashes of the first, the League of Nations. Do we require a comparable calamity to demonstrate the abject poverty of current thinking? Is such a disaster necessary to catalyze a transformation of the current feeble system of what many of us now call “global governance” – the patchwork of formal and informal arrangements among states, international agencies, and public-private partnerships – into something with at least some supra-national attributes, a third generation if you will?

If the answer is not “yes,” we need a big international vision from the Obama team and partners in Europe. As Strobe Talbott, the president of Brookings and former deputy secretary of state, recently wrote, “mega-threats can be held at bay in the crucial years immediately ahead only through multilateralism on a scale far beyond anything the world has achieved to date.” The new president excels in political imagination. He might well emulate another great communicator, Ronald Reagan, and draw upon his skills to join forces with European allies to move beyond the current circumscribed vision of global governance. There of course remain many members of the contemporary flat-earth society, for example John Bolton and John Yoo in the United States. For those whose ears do not pick up the humming of black helicopters but rather a loud collective sigh of relief with the prospect for enhanced international cooperation under an Obama administration, we are obliged to ask ourselves whether we can approach anything that resembles effective global governance without something that looks much more like a federation at the global level. Of course it is necessary to respect subsidiarity, or the common-sense principle pioneered in the European Union that higher levels of society should not take on tasks and functions that can be accomplished better at lower levels.

But at a minimum, more creative thinking about more robust intergovernmental organizations is required to address many pressing threats. We also need more passionate (or less embarrassed) advocacy for steps leading toward elements of a European Union-like supra-nationality for the world rather than hoping somehow that the decentralized system of states and a pooling of corporate and civil society efforts will be sufficient to ensure human survival and dignity.



How soon will many of us, including the Obama administration and the European Union's members, have the audacity to revert to thinking about an old-fashioned concept, world government?

**Keynote address by Prof. Dr. Michael Smith, Jean Monnet Professor of European Politics, University of Loughborough**  
**Title: EU and US in the Global Governance Architecture: the Role of EU Diplomacy**

It is generally acknowledged that the EU and the US are central to efforts at global governance, and that their positions and policies resonate through the architecture of global governance institutions. Less often explored are the ways in which the EU and the US engage with each other within the global governance architecture, and the ways in which their different approaches impact on the activities that have come to be seen as expressing the essence of global governance itself. This short paper sets out to examine four aspects of these processes, and to assess some of the ways in which EU-US engagement might strengthen or weaken the overall evolution of global governance. First, the paper examines some of the key features of global governance and of the architecture that has evolved around it. Second, the paper explores the ways in which the EU and the US have engaged with the global governance architecture. Third, it assesses in particular the impact of different (and changing) EU and US approaches to the diplomacy of global governance. In conclusion, it provides a brief evaluation of EU-US engagement in a number of key areas of global governance, and argues that there is significant evidence of a convergence of EU and US activities in relation to global governance, but that at the same time the context for global governance has shifted in ways that raise questions about the continuing centrality of both the EU and the US.

## 1. FEATURES OF THE GLOBAL GOVERNANCE ARCHITECTURE

We are all very familiar with the ways in which globalisation processes have affected the capacity of individual national and regional authorities to regulate activity in a wide range of economic and social domains. The world is more interconnected, and there are increasing opportunities for both individual and group engagement with global processes. But at the same time, globalisation has brought increased risk and a pervading sense of insecurity as novel processes threaten to run out of control and to evade the efforts of regulatory authorities. Whilst globalisation of risk and insecurity has long been evident in areas such as trade and finance, there has been an increasing politicisation and securitisation of these and other areas, as well as a tendency for perceptions of global interconnectedness to spread to new areas: as a result, there has been new attention both in terms both of policy and of analysis to areas such as energy security, environmental security, food security, and human security in the broadest sense. At the same time, areas of security that had been thought to lie mostly or exclusively within the domain of national authorities have been subject to globalisation processes, and these have extended into areas such as military security.

The result of these processes, and of the perceived risks and uncertainties attached to them, has been a search for mechanisms of management and regulation. At one level, these have been seen as coping mechanisms, enabling those caught up in the vortex of globalisation to maintain their identities and a sense of purpose, and embodying an essentially defensive approach. At a second level, these mechanisms can be seen as manipulative, embodying an attempt to profit from globalisation at the expense of rivals within the global arena by taking an essentially offensive approach. At a third level, they can be seen as mechanisms of management, embodying the notion that an absence of regulation can lead to risk and potential damage for all. My argument is that global governance activities, and thus the global governance architecture, embody elements of all three of these tendencies. In areas as apparently diverse as global environmental governance, the pursuit of global human rights and the pursuit of global security governance, there are mixed motives and mixed strategies among those embroiled in the process.

What this means is that global governance displays a concentrated form of the dilemmas arising in the search for collective goods such as security, stability and order. In one sense, it is the highest form of a mission dedicated to the promotion of a global collective sense of responsibility and purpose. But in another sense, and inevitably, it embodies the search for partial benefits and the appropriation of essentially private advantage. It is not sufficient simply to assume that the quest for global governance is *ipso facto* the search for the global interest and the promotion of collective benefits (or the avoidance of collective damage). The processes and institutions of global governance are neither separable nor separate from the processes of world politics: they demonstrate in different and often novel forms the time-honoured search for advantage, the deployment of power in pursuit of this advantage, and the creation of winners and losers.

In this context, it is appropriate to ask a key question about the global governance architecture: who, or what, is the architect? For a long time, it might have been thought that the answer to this question was obvious: it was a combination of nascent efforts at global organisation for the common good, such as those embodied in the United Nations 'family', with the predominant influence of the 'west' and especially of the United States. As a result, the building of global governance was beset with clashes between the 'west' and its adversaries, but also between the search for global solutions and the demands of the Cold War. The end of the Cold War has, of course, brought about a much less predictable situation: initial assumptions that the United States and its allies could shape a new world order have been thrown into question not only by the quasi-anarchic atmosphere of the 'new world disorder', but also by the emergence more recently of new centres of actual or potential world power, such as the BRIC countries. And at the same time, the seemingly relentless march of globalisation – bringing with it interconnectedness yet risk and insecurity – has created a new drive towards global governance as a mechanism for coping, manipulation or management. As a result, we have a situation in which there is an architecture but no clear conception of who the architect is (or has been) and who the architecture is for. And this raises fundamental questions about the relevance of power, the effects of institutions and the provision of leadership. This is not to apportion blame: rather, it is simply to recognise the circumstances in which we find ourselves, and thus to begin the search for a way out of or beyond them.

## 2. THE EU AND THE US IN THE ARCHITECTURE

Having conjured up the image of a rather confused set of potential occupants wandering through a half-built mansion trying to decide whether it will really work for them when it is built, I now turn to the places in this context of the EU and the US. For a long time, as noted above, it might have been assumed that they were both the principal architects and the key potential occupants of the building, but that is at least in question and in many areas under major attack. This does not mean, though, that the EU and the US are not central to the process and to the emerging architecture. I argue that they are central in three ways.

The first of these ways is focused principally on the EU. The development of strong mechanisms of regional governance within the Union, and the creation of intense transnational and transgovernmental structures based on legal and institutional commitments, has created in the EU a major base for influence on mechanisms of global governance. This is not to argue that global governance must follow an EU model. Rather it is to note that the EU has major experience with the creation of transnational governance structures, and with the operation of multi-level governance systems. This means that when it comes to the erection of mechanisms of governance on a broader scale, the EU has much to contribute and much to support its pursuit of its own interests.

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But the impact of EU governance goes beyond this: it could be argued that the promotion of global governance has an existential quality for the EU, acting as an expression on the global stage of the EU's identity and also as a means of conferring legitimacy on the EU's activities by a process of reverse osmosis. This means that the EU can benefit from the pursuit of global governance in two ways: as an expression of the EU's international personality, and as a buttress to its legitimacy both in Europe and beyond. By comparison, I would argue that the US approach to global governance has been much more obviously influenced by strategic considerations, and by the pursuit of an instrumental approach embodying the US assumptions of national power, international leadership and the role of the US as the 'governor' in global governance. Both of these sets of assumptions – EU and US – have come under increasing pressure, and are now in question as never before.

Aside from the EU's creation of a strong regional governance structure and the pursuit of identity and legitimacy at the global level, the EU and the US have been engaged in a process of building governance at the transatlantic level. In part, this has been the result of a very long-standing process of intensification of processes of exchange – commercial, financial, cultural – that has arguably made the transatlantic area an integrated economic space. This is not the place to elaborate on this argument, but it is important to our main concern, the place of the EU and the US in the global governance architecture. The fact that the EU and the US have developed wide-ranging mechanisms for the governance of their mutual relations, and that these engage both public and private authorities, means that there could at least be the foundations for mutual engagement of the two entities in the broader process of global governance.

But there is no such simple linear model, it appears. Just because it has been necessary and appropriate to develop mechanisms of transatlantic governance, that does not mean that the EU and the US are bound to be close associates in the pursuit of global governance. Most of the mechanisms developed at the transatlantic level – regulatory, early-warning, dispute management – are peculiar to that level, and express the need for detailed management of a widening and deepening relationship. Another feature of this transatlantic governance structure, especially since the events of '9.11', has been the extension of transatlantic governance into areas of justice, home affairs and what has become known as homeland security. This has not been without its troubles, as the EU and the US have sometimes struggled to respond to different conceptions of security and demands for adjustment of 'domestic' processes. It has also not been readily extendable into areas of broader global cooperation.

At the same time as developing growing structures of transatlantic governance, the EU and the US have become increasingly enmeshed in the creation of global governance structures. As noted above, changes in the global arena mean that for some time, both the EU and the US have been taken well beyond their respective 'comfort zones' in this respect. The extension of global governance into new areas has generally been welcomed by the EU, and often resisted by the US; but the book seems to me to be open on whether enthusiastic engagement by the EU has brought the benefits the Union might have expected, and whether the frequent resistance by the US has opened it up to the costs that might have been anticipated. What is clear is first that the EU and the US have moved (or been moved) from the position in which they were essential to many forms of global governance agreement, to a position in which they are important but not always the determinants of whether agreement will take place. Second, in some respects both the EU and the US can be seen as the problem rather than the potential solution in the search for global governance agreements (and of course, it is clear that the politics of mutual blame and recrimination are not absent from EU-US relations in this respect). Third, and as a result, there could be a tendency to see the EU-US axis as the past rather than the future of global governance structures. Such a tendency would be ill-founded, since whether they are the problem or the solution, the EU and the US are still essential to the progress of global governance in key areas, but it is permissible to ask whether things will still look the same in thirty or fifty years' time.

Given that for the present and the foreseeable future the EU and the US will remain key to global governance agreements, one final feature of their mutual entanglement is important. The EU and the US embody the power of what can be termed 'bi-multilateral' relations and negotiations, in the sense that their bilateral relations can have major effects for multilateral processes through either positive or negative externalities, and that their bilateral relations in turn can be significantly affected by their entanglement in a wide range of multilateral bodies. This set of effects can be seen for example in the World Trade Organisation, in their relations with major emerging countries, and in their involvement with key global governance processes in international human rights. This means that in the short and the medium term, policy-makers in both the EU and the US will be faced with the problems of managing their relationships



in a series of intersecting arenas, and practising the politics of linkage and coalition building that inevitably arise from this situation. Which brings us to the role of EU (and US) diplomacy in the global governance architecture.

### 3. THE ROLE OF EU AND US DIPLOMACY

I would argue that we stand at a key moment in the development of a European Union 'diplomatic system', and that this will have important implications for the ways in which the EU manages its relations both with the US and with global governance processes. At the same time, there have been important changes (of emphasis at least) in US diplomacy, which are likely to have significant effects in their own right.

The changes in EU diplomacy can be discerned in three areas. First, there have been and will be important institutional changes, of which the outcome is still uncertain (and will remain uncertain for some time). The Lisbon Treaty establishes the base for a more integrated EU diplomacy, given definition primarily by the High Representative and the President of the European Council alongside the President of the Commission, and supported by the creation of the integrated External Action Service, bringing together personnel from the Council Secretariat, the Commission's services and national diplomatic services. Just to list these functions gives an indication of the nature of the administrative reform and the inter-institutional co-ordination that will have to be thought through and carried through by the EU's institutions (not forgetting significant adjustments to the ways in which national diplomatic services will relate to 'Europe'). It might be argued that many of these adjustments – in conception if not in practice – have been taking place for several years, but that does not dispose of the issue. If and when the issue is resolved, it might be expected that the additional 'institutional power' conferred by them would lead to greater credibility for EU diplomacy and thus to greater impact on global governance processes, partly through a continuing displacement of national efforts but also through the more effective focusing and efficient operation of EU activities.

The second and third impacts of the EU's 'diplomatic revolution' are likely to be felt in the areas of what I would term 'strategic diplomacy' and 'structural diplomacy'. The term 'strategic diplomacy' refers to the ways in which the EU develops and implements medium and long term diplomatic efforts designed to position it within the changing international structure, and in particular to develop relations with key strategic partners. In a sense, of course, the US is the longest standing and most significant of these strategic partners, and the most obvious current candidates are the BRIC countries. One of the tests of the effectiveness of EU strategic diplomacy will be the extent to which – both bilaterally and in the context of global governance – the EU can build profitable partnerships with Brazil, Russia, India and China, whilst maintaining a strong and mutually beneficial relationship with the US. The open question is whether the new institutional arrangements in the EU will enable it to develop the kind of 'grand strategy' for itself that will enable specific strategic initiatives to be effectively accommodated despite the conflicting demands of the European integration process itself and of Member State priorities.

The attempt to construct a strategic diplomacy for the EU will go alongside the further development of what Stephan Keukeleire has termed 'structural diplomacy': that is to say, diplomacy aimed at creating change within partner countries, especially those experiencing post-conflict reconstruction problems or where the attempt to promote democracy and stability is a key EU objective. The EU has gained significant experience of this type of diplomacy in recent years, especially in sub-Saharan Africa, the Balkans and elsewhere. But the record is mixed, and there are significant open questions about the ways in which these EU efforts run alongside commitment to broader processes of global governance, especially those relating to peace and security, human rights and democratisation.

Alongside these coming transformations in EU diplomacy, which are likely to have significant effects on the EU's engagement in global governance processes, there has also been important movement in at least the style of US diplomacy. Crudely put, we have seen a movement since the early 2000s from coercive diplomacy to what the Bush Administration termed 'transformational diplomacy' to what appears to be a new diplomacy of engagement and multilateralism under the Obama Administration. This has, though, not been a clean or clear-cut set of moves: elements of the coercive are still apparent, there is still an important element of 'transformational' diplomacy, and the impact of the new engagement and multilateralism is constrained both by the legacy of earlier episodes and by the clear and logical preference in some contexts for a 'G-2 diplomacy' with the Chinese.

This brings us back to a central point, which cannot be over-emphasised: that at the same time as both EU and US diplomacy have undergone significant if not revolutionary change, the landscape of global governance is changing. In addition to 'G-2 diplomacy', the new phenomenon of 'G-20 diplomacy' has to accommodate, and at the same time the established (if unfinished and contested) architecture of global governance has to be maintained and extended. How might we expect the EU and the US to contribute to these processes, given the arguments in this paper?

### 4. ARCHITECTURE, DIPLOMACY AND ISSUES: A CONCLUSION

One way of looking at the engagement of the EU and the US in the global governance architecture is to conceive of some kind of grand 'scorecard', summing up the ways in which the EU and the US have approached key global issues. If this were done, the following might (but only might) be the result:

#### **Peace and Security:**

Contrast between 'soft' and 'hard' power; 'hardening' of EU power? EU on the side of global governance, but with what impact? US on the side of national/ coalitional politics, but with what prospect of 'success'?

#### **Human Rights/Rule of Law:**

EU on the side of global governance; US sovereignist? EU structural diplomacy: contribution or detraction from global governance? US bilateral and 'transformational' diplomacy: a problem for global governance?

## Energy/Climate Change:

EU stress on collective action, but limitations and conditionality; US coalitional politics, including 'G-2' – what kind of contribution?

## Migration:

Both preoccupied with 'domestic' issues? What kind of diplomatic effort? Lack of credibility because of domestic restraints and resistance to global governance?

## Trade/Political Economy:

Intense bilateralism in transatlantic governance; externalities for global governance? Loss of power and status within WTO? Broader effects of financial crisis?

It must be stressed that this is a cockshy – designed to generate questions that might be followed up elsewhere – and not any kind of scientific evaluation of the issues. My overall conclusions to the paper can be summed up as follows:

- Global governance processes now resemble 'architecture without an architect'. It is not clear what the eventual design will be, and what it will mean for the present and potential occupants of the structure. This is a reflection of political and other realities in the global arena.

- The EU and the US have played a major – and at times 'architectural' – role in the evolution of global governance, but the context for global governance is changing and this places pressures on the roles both of the EU and of the US.
- The EU is undergoing a 'diplomatic revolution' of which the outcome is uncertain, but which is likely significantly to affect the EU's capacity to engage with global governance processes and to add strength to both its strategic and structural diplomatic efforts.
- At the same time, the US has experienced significant evolution in its diplomatic style but is constrained importantly by the legacy of earlier more coercive diplomatic episodes; this is likely significantly to affect its engagement with global governance processes.
- The 'scorecard' of EU and US engagement with the architecture of global governance is mixed, and will remain so. It might be argued that objectively there is much to support a 'convergence thesis' in which the EU and the US have much in common and can profit from further coordination of their efforts, but there remain significant differences of emphasis and of approach. These may reduce the impact both of EU and US diplomacy – will that be good or bad for global governance efforts?

Inevitably, this open question is where the paper finishes. The paper has attempted to provide some of the means whereby this question might be answered, and I hope it is a useful contribution to discussion.

## SESSION 2 – TRANSATLANTIC CHALLENGES AND THE RETURN TO MULTILATERALISM

Chair: H. E. Ambassador **Hugo Paemen**, Former Head of Delegation European Commission, Washington D.C.

**Keynote address by Mr. Christopher Murray, Chargé d'Affaires, a.i., US Mission to the EU**

**Title: Transatlantic Challenges: Broadening and Deepening the EU-US Partnership**

### SUMMARY

Mr. Murray starts his exposé by explaining that US-EU relations have evolved in different phases: the first phase ending with the fall of the Berlin Wall and a second phase of US dominance. Since 2005 we have entered a third phase of partnership. At the Prague EU-US Summit in the Spring of 2009, the financial crisis was treated as the first priority. The second priority was Afghanistan (and Pakistan), the third was energy security and climate change (in the sense that supplies of energy should free us, instead of limit us), the fourth was the Middle East (not only Israel-Palestine, but also Iran), the fifth priority was relations with Russia and the neighbourhood and the sixth priority was global trade (in follow-up to Doha). Also on the list of priorities were the Transatlantic Economic Council and cooperation on Justice and Home Affairs (data and privacy).

Further, Mr. Murray stresses that the relations between the US and EU face many challenges. First of all, the challenge to understand each other; while the EU is a difficult system, one that requires the Member States to have their best diplomats in Brussels, it is also very challenging for the EU to understand the US political system. Another area that challenges us is understanding what role the EU will be playing on the world scene. Will it be the role of bystander or active proponent? What is the perspective of the EU in the next 20 years and what is the political will of the EU Member States? Still another challenge is decision-making: EU procedures are very difficult and often hard to understand from a US perspective. Of most interest to the US is having effective policies. Furthermore, periods of mutual criticism between the EU and US constitutes yet another challenge. At the moment we are moving out of a period of criticism: the debates are better and high-level, and there are less accusations. A final challenge resides in NATO relations. However, there is complementarity and room for synergies, which should be better exploited (e.g. US military power versus EU soft power).

In his concluding remarks, Mr. Murray emphasises that the US and EU have to work together and set joint goals: e.g. how much development aid, how many conflict missions, etc. Since resources are not unlimited, this is something that needs to be discussed.



**Keynote address by Mr. Jan Egeland, Former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Director of the Norwegian Institute of International Affairs**

**Title: A Transatlantic Return to Multilateralism**

During my years in Secretary General Kofi Annan's senior management team I saw, first hand, how effective multilateral action with local and regional partners, helped build progress and peace. Wars ended and hope was provided in Liberia and Sierra Leone, Angola and Burundi, South Sudan and Northern Uganda, Kosovo and Nepal. We also co-ordinated through the United Nations massive, life saving international relief in the Indian Ocean tsunami, the South Asian earthquake, the Horn of Africa, Southern Africa, the Lebanon war and the Darfur crisis. In several of these overwhelming emergencies hundreds of thousands of lives were predicted to perish. The sombre predictions were averted because multilateral action, building on local capacities, is today infinitely more effective than what is recognized in much of world media and national parliaments.

After having travelled or worked in more than a hundred countries there is a question I am frequently asked by students: is the world getting better or worse? It is indeed the big question asked by each generation: are we making progress on our watch?

I have for 30 years travelled and worked in the worst wars and disaster zones of our time and age. I am convinced that the world is getting steadily better for the vast majority of us. There is more peace, more children get education and health care than when the Cold War ended. There is increased life expectancy for a very clear majority of us. There are more democracies, fewer military coups and less genocide than when the Cold War ended. Child mortality has decreased. The world suffered close to 20 million deaths due to preventable disease in the 1980s – now less than 10 million. There are also fewer refugees although the number of internally displaced remain on the same level of 25 million.

But there is also a darker side: the world is also more socially unjust. The affluent have become rich beyond the wildest imaginations - while the poor live in the same abject misery as before. Some 200 years ago the ratio between the richest and poorest nations was around one to three. My own Norway was then among the poorest in Europe. Now the ratio between the richest and poorest nations is a hundred to one and Norway one of the richest. The richest individuals are richer than several of the poorest nations combined – a few rich Westerners are richer than the poorest one billion in the South.

Another contrast: the distance between those of us who have populations generally going for 15 – 20 years to school and university and those who still struggle to get primary education is greater than before.

So there is reason for great optimism – and for great anger.

The new element is that we now live in a time where we may surf ourselves to any kind of information from anywhere on the internet. It is now generally known among the poorest how rich the richest are. There are around 1,5 billion youngsters between 12 and 24 who

should all be in school and should enter professional opportunities. This creates a volcanic sense of injustice, because the playing field is not fair – the opportunities are not equal.

We fail as a collective humanity when multilateral action lacks the unity of purpose among UN member states. We fail, tragically and repeatedly, when the United Nations and regional organisations are not provided with the political will and the minimum of economic and security resources needed from their member states. The endless ongoing suffering in Darfur, in Burma, among Palestinians, in the Congo and among climate change victims in the South is a product of a senseless neglect among those leading nations that could have unlocked the situation.

It is already more than five years since I brought Darfur to the Security Council for the first time. It was April 2, 2004 and the courageous German Council Presidency was two days old. For several months we had struggled to get anyone interested in this forgotten desert conflict that had already displaced hundreds of thousands defenceless civilians. As of that month Western nations took upon themselves to bring Darfur's cause forward. Since then the number of dead, displaced and abused women and children have more than quadrupled in Darfur.

I noticed during these first crucial months of trying to mobilise against the atrocities in Darfur, that there was little help or interest among Sudan's Asian trading partners or among Arab nations. That neglect became fateful, because they had greater influence in Khartoum than the Westerners. Later, in September 2006, President Bashir himself confirmed this in the meeting of non-aligned countries in Cuba. We "fear no sanctions" he said, because Sudan has "forged close trading links with China, India, Pakistan and Malaysia".

In my own encounters with government officials in Khartoum they more than once demonstrated that they were comfortable with their international position. Once, when I brought up our reports of massive rape of women in Darfur they counterattacked: "we see your criticism in Western media, but we also see who support you: the same nations that tear apart Iraq and betray the Palestinians - and you want us to take moral lessons from them?"

Similarly, the world cannot live with Burmese generals getting away with murder. When Burma's military rulers last year blocked life saving aid to their own cyclone struck people, it should immediately fall upon China, India and the ASEAN neighbours to take the lead in convincing the regime to provide access relief. The ball was in their court because in Myanmar these Asian economic powers have real leverage, as opposed to the West. The Burmese generals have become rich through trade with their ASEAN neighbours, China and India. They have lucrative lumber deals with regional partners and bank accounts in Singapore.

If anyone should have learnt the importance of immediate availability of life-saving relief it should be the ASEAN countries that were devastated in the tsunami. We then pushed for and got immediate access to war torn Aceh and Sri Lanka's strife-ridden Tamil areas. Hundreds of thousands got relief within days from a united world coordinated by the United Nations.

As weeks were lost in cyclone stricken Burma in May, lives were lost. But international attention again focused on Western powers, which had little influence, which threatened with an intervention that would not happen. Those who could have made the generals an offer they couldn't refuse did not do their job.

In spite of and because of all this, there is reason for optimism. I believe the coming years, with a new American administration, can and will see a revival of multilateral action. There should be a multilateral renaissance because the experience of recent years has proven the costly futility of unilateral force.

Since 2003 the United States alone has spent between close to 940 billion dollars on the wars in Afghanistan and Iraq. Next year the bill will be way beyond the 1 trillion dollar mark. That is several times more than the combined bill of all United Nations humanitarian, developmental, environmental, peacekeeping, peacemaking and democracy building efforts in a hundred countries during the same years. The UN operation that built peace, democracy and human rights in chaotic and war-torn Liberia cost about one billion dollars a year. The US pushed for this successful UN operation. It cost the Americans a quarter of a billion dollars a year – or the equivalent of 14 hours of expenses this year in Iraq.

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Clearly, the age of investment in joint, collective and coherent action through the United Nations has come for the rich and the powerful member states of the organisation. As we move from a uni-polar world of US dominance to a multi-polar world, it will be as important to recognize the political importance of Beijing and New Delhi as to demand that they assume their part of political and economic burden sharing.

Just as the US cannot shrink from its obligation to push for a peaceful settlement of the Israeli-Palestinian conflict or the EU for reconciliation in the Caucasus and the Balkans, China cannot pretend to be a developing nation when it is the dominant investor in Africa and, as such, must play a leading role in enforcing an end to the carnage

in Darfur. In the new world the Security Council and the G-8 should reflect economic and political reality in this century and not the world as it was in 1945.


The recent history of international solidarity has been paved by examples of wrong countries pushing right causes, while the right countries become passive bystanders, at best. In December 2005 I met the victims of President Mugabe's large eviction campaign in Zimbabwe and had a two hour meeting with the President in his Harare offices. Two days later, at a press conference in Johannesburg, I warned about a "meltdown" in the country unless the international community, lead by Zimbabwe's neighbours, engaged more forcefully. For this Mr Mugabe labelled me a "hypocrite", "liar" and a "pawn for the United Kingdom".

Knowing that our UN leverage, and that of Western nations, was minimal I also visited Pretoria to urge South Africa to take a forceful lead in fostering real change in their neighbour to the North. Inside Zimbabwe it was generally recognized that it would be counter-productive if the West, who for so long supported Rhodesia and apartheid, took this lead. Since then Europe has often continued to spearhead change in the mismanaged country, Zimbabwe's neighbours have not done their job, and the meltdown has taken place. Life expectancy of the population is half of what it was 15 years ago.

But if the new multi-polar world is to settle the remaining 32 armed conflict and prevent new ones, the international diplomatic orchestra must function better. The new regional and world powers must not only be recognized as powers that rightly belong at the table in the Security Council – they must also be charged with taking responsibility for positive change in places like Burma, Sudan, the DRC and Zimbabwe. The West may be well advised to defer to those may actually succeed so the media and the NGOs more often will ask: what are you in Beijing, New Delhi or Pretoria planning to do multilaterally as well as bilaterally?



*Prof. Dr. Douglas Cassel, Mr. Jan Egeland, Amb. Hugo Paemen and Mr. Christopher Murray*



It is not in the interest of humanitarian or human rights action that it is identified with one Western corner of the world only. The right country must push the right cause, not the most eager actor with the most engaged domestic audience.

It may seem a paradox that in the midst of our advancements in terms of new technology and communications that make us do unbelievably sophisticated things, we see medieval racism, hatred, xenophobia, anti-Semitism, Islam phobia and anti-western and anti-American sentiments which are beyond reason and control in many countries and age groups.

We know for a fact that all world religions promote ideals of compassion, justice and respect for the dignity of life. No religion condones or approves the killing of innocents. But all major religions have been exploited to justify violence and intolerance by extremist groups. In this generation there have been many violent extremists on the fringes of some Islamic groups and sects. This has led to a wave of accusations that Islam is an inherently violent religion – which is as manifestly wrong as the generalisation that all Christians are killers because the Crusaders did what they once did. All of this deepens divides and reinforces dangerous mutual animosity among societies.

Recent public opinion polls show a majority with unfavourable views on westerners in many Muslim societies as there are equally big majorities with unfavourable views of Muslims in many western societies. It is a dangerous course. Clear majorities of Westerners, according to the Pew Global Attitudes Project see Muslims as Violent, Fanatical and Arrogant – whereas Muslims associate Westerners with being Selfish, Arrogant and Violent. These are figures from 2006 when the controversies surrounding the terror of September 11, the Iraq war, and waves of suicide bombings were at their heights.

As much as Iraq is a symbol of unilateral impotence in our time and age, I still believe the worst war zone of our generation, the Democratic Republic of Congo (DRC), can become a signal of multilateral potency. From 1998 to the end of last year, 5,4 million Congolese died of malnutrition, preventable disease and violence according to mortality surveys undertaken by the International Rescue Service. That is a loss of human life greater than the population of Norway, or six Rwandan genocides, or more than 20 times the human toll in the Bosnia wars of the 1990s.

When I visited the Congo in 2003, a dozen or more armies were fighting in Eastern Congo. Armed groups and militias consisted of hundreds of thousands of ruthless, undisciplined men from neighbouring states, from the main ethnic groups, and from organised crime fuelled by the illegal exploitation of Congo's vast natural resources. Among them there were some 30,000 child soldiers. In the crossfire was the defenceless civilian population. The sexual abuse of women was, and still is, worse than anywhere else on the planet.

We went throughout the war zones by helicopter and jeep to see how peacekeepers and humanitarian workers negotiated or enforced the access for relief and reconciliation efforts. Seeing the drunk, drugged and heavily armed militias, meeting some of tens of thousands

of sexually abused and mutilated women and children, I felt, like most, that the Congo was the closest one could get to a hopeless case of chaos and societal collapse.

But, when I visited the DRC again in the autumn of 2006, positive change was taking place. More than two million of the 3.5 million displaced had returned home. A series of militias had been disarmed. In conflict prone Katanga, the Kivu and in Ituri we met soldiers who were impatiently waiting for the small sums of money and support that is given by the World Bank and the UN for the demobilisation and reintegration of the men who specialised in living by the gun. They told us they wanted to join in a peaceful society as working men. My humanitarian colleagues had for the first time access to nearly all major communities.

How did things turn around in the Congo? After years of indecisiveness, neglect and penny-pinching, the EU in 2003 finally conducted the military rescue operation "Artemis" in Bunia, Eastern DRC that helped stop the ongoing genocide there. This was followed-up by a concerted effort from a united Security Council to provide a more robust peacekeeping force, a generous and long-term push by the European Union to fund the UN-lead electoral process and more money for relief in all parts of the country.

But then at the end of 2006 the Security Council powers and the EU seemed to go on vacation. All EU forces which had been there for the elections and human rights protection were withdrawn. A peacekeeping force that has one fourth of the size and equipment of the Western forces in much smaller Afghanistan was not strengthened.

The Asian, Latin American and African forces that today bear the brunt of global UN peacekeeping was unrealistically expected to help build coherent Congolese armed forces and disarm countless militias. Today, neither the EU nor other Europeans are living up to what was successfully done in 2003-2006 nor to our solemnly sworn responsibility to protect in areas where we have our blackest colonial history.

In spite of, but also because of all these experiences, I believe that in the coming generation much greater global progress can be achieved. We now have means to end so much of the suffering that was seen as inevitable during previous generations. We have, in spite of temporary financial meltdowns, greater resources at hand than at any time before. We have superior technology and information. We have advanced early warnings for hunger, epidemics and conflict which make it impossible to claim we did not know what was brewing.

We also have the biggest and best network of like-minded inter-governmental, governmental and non-governmental organisations as channels of future investments in peace and development. They represent great hope as we embark on a generation that has in its hands to end massive misery and prevent conflict and disasters.

# Report Workshop Peace and Security

## INTRODUCTION BY THE WORKSHOP CHAIRS

*Discussion note by Prof. Dr. Jan Wouters, Director of the Leuven Centre for Global Governance Studies at the University of Leuven (in cooperation with Dr. Steven Sterkx, Research Coordinator of the Leuven Centre for Global Governance Studies)*

This discussion paper highlights three issues which are of crucial importance for the transatlantic relationship in the field of peace and security. First, the paper discusses the future of transatlantic relations in the face of increasing multi-polarity. We will briefly touch upon US foreign policy and prospects for multilateralism, US and EU security strategies, and reform of the international institutional architecture. Secondly, attention goes out to NATO, playing the central role in the transatlantic security and defence relationship. We will discuss two aspects of NATO's future: its geographic and functional expansion and how it relates to the EU and ESDP. Finally, this paper questions the prospects for EU leadership and assertiveness in the field of peace and security.

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### 1. TRANSATLANTIC RELATIONS IN A MULTI-POLAR WORLD: EU AND US ON THE SAME PAGE?

#### 1.1. Multilateralism in a multi-polar world?

President Barack Obama was very straightforward in his inauguration speech: “[...] the world has changed and we must change with it.” Already during his election campaign it became obvious that Obama acknowledges the structural changes that have taken place: the emergence of new global challenges (in the field of security: ‘new’ challenges such as climate change and energy in addition to ‘old’ challenges such as nuclear proliferation) in a world which has become highly interdependent (Wright 2009: 165). These changes lead to the awareness that there is a pressing need for greater cooperation, and that leadership by (only) one country (i.e. the United States) would be counter-productive. Bottom-line is that global challenges require global solutions (Niblett 2009: 7-8; Fullilove 2008: 7).

However, one might question whether this ‘new’ awareness fits the US “political culture and system that are hostile to making the compromises on national interests and sovereignty which collective responses to global problems tend to demand” (Niblett 2009: 8), and how this awareness will relate to President Obama's primary objective: representing and defending US national interests.

In this respect, US foreign policy should be regarded as a continuum with constant tensions between unilateralism and multilateralism. Within this continuum, the first years of the Bush administration can be seen as representing the unilateralist extreme, while Obama's rhetoric and speeches are touching the multilateralist end (Jurado and Shankar 2009: 4).


These tensions between unilateralism and multilateralism flow from the US position of ‘exceptionalism’, i.e. of being an ‘exceptional power’. In the past decades the world has witnessed a US that actively engages in multilateralism, that wants to take the lead in multilateralism, but always based on the premise that the US interest represents a common good, a presumed common interest which does not need to be negotiated. In case of opposition, the US would be inclined to exempt (Jurado and Shankar 2009: 5). This position has been undermining the credibility of US foreign policy as the US is setting standards for other nations, often in international negotiations and institutions, from which it then seeks to exempt itself (Niblett 2009: 40).

In contrast with this history of exceptionalism, President Obama now realizes – or at least seems to realize – that multilateralism requires negotiation and compromise. He recognizes that multilateralism cannot be based on a system in which each power maintains its own sense of exceptionalism. If so, it will fail (Jurado and Shankar 2009: 5). The idea and practice of multilateralism is something that the EU is very familiar with and has understood as long as it has existed. Even more, in external relations, ‘multilateralism’ is the EU's *leitmotiv*. Here, the US and EU seem to be growing closer.

#### 1.2. Security strategies

How do the US and EU security strategies reflect the need for multilateralism, negotiation and compromise?

The most recent version of the US National Security Strategy (NSS) dates from 2006 (The White House, 2006). Although the 2006 NSS no longer emphasizes the pre-emptive use of force, as did the 2002 NSS (cf. the ‘Bush doctrine’), the focus still lies on the military strength of the US. In this respect, the 2003 European Security Strategy and the 2008 report on its implementation (European Council 2003; European Council 2008) are different. Although the NSS and ESS have the same perception of the challenges and threats we are facing in today's world, they emphasize the use of different instruments (Larrabee 2009: 60). Whereas the US underlines the use of military action, the EU almost exclusively pays attention to civil and political



action as well as the advantages of effective multilateralism. Also, the language differs. The first sentence of the letter from President Bush introducing the 2006 NSS reads: “America is at war. This is a wartime national security strategy [...]” *The EU, on the other hand, is not at war, and stresses the need for diplomacy and preventive measures. Military instruments are clearly of secondary significance (Heise 2007: 6-9).*

Obviously, we will have to wait for an update or revision, to evaluate whether the main features of Obama’s foreign policy so far (i.e. limiting the spread of nuclear weapons; the acknowledgement of multi-polarity; the need for multilateralism and the strengthening multilateral institutions; and an emphasis on combating climate change and on energy security) will find their way in the new NSS. If so, the congruence with the ESS might become striking.<sup>1</sup>

### 1.3. Need for reform

As a result of the structural changes we are facing, in particular the distribution of power which has shifted, world politics is experiencing a crisis of legitimacy: large parts of the world and emerging powers are not adequately represented at the negotiation table (Wright 2009: 165-167). Particular solutions include: enlarging the UN Security Council and replacing the G7/8 by the G20. Also in the area of nuclear non-proliferation, more legitimacy is needed. The future revision of the NPT-regime will need to accommodate the frustrations of the nuclear have-nots in order to gain legitimacy (Jurado and Shankar 2009: 13; Niblett 2009: 39).

Obama’s acknowledgement of a changing world and growing multi-polarity might stimulate the reform of the institutional architecture of world politics. It will be interesting to keep track of the development in this area of foreign policy. One thing is sure: institutional reform will have to take into account the likely trade-off between legitimacy and effectiveness. It will be vital – both for the US and EU – to find a solution which allows for flexible and effective cooperation and avoids paralysis and deadlock. In the case of the Security Council, enlargement will have to go hand in hand with a reform of the current veto system (Wright 2009: 177).

## 2. THE FUTURE OF NATO AND ITS RELATION WITH ESDP

### 2.1. Global NATO?

NATO’s answer to the end of the Cold War has been ‘to go increasingly global’: it has expanded its geographic reach and altered the nature of its operations. These operations are no longer strictly related to security and territorial integrity, but now range from peacekeeping in Afghanistan, training of security forces in Iraq, logistical support for the mission of the African Union in Darfur, to the assistance in the tsunami relief effort in Indonesia, in the aftermath of hurricane Katrina and the massive earthquake in Kashmir. The idea is to foster international stability and tackle security challenges at the source. In order to fulfil this ambitious task, NATO cannot solely rely on the United States, whose forces are already stretched, and on a Europe that is failing to participate significantly. As such, a solution might be to forge partnerships with like-minded countries, or even to open up membership to other democracies (Daalder and Goldgeier 2006: 105-109).

However, for several reasons, this solution tends to be problematic. Some US allies, in particular the European Union, do not see the advantage of creating a ‘global NATO’, under de facto US leadership, which would exist in parallel to the United Nations. They would prefer to work within existing institutions that have an inclusive character, instead of creating clubs of the like-minded (Niblett 2009: 36-37). Secondly, how would a ‘global NATO’ fulfil its core competence, i.e. the collective defence principle of article 5? The recent crisis in Georgia has already demonstrated the possible limits of collective defence. In case this principle would be amended, how will NATO be able to maintain its credibility? Finally, and related to the latter comment, how to reconcile NATO enlargement with maintaining a healthy relationship with Russia (Cornish 2008: 5-6)?

### 2.2. Relation with EU and ESDP: rivalry versus complementarity

Since the origin of ESDP, the US has had a difficult time deciding whether it should be regarded as NATO’s rival or as its companion. Traditionally, this ambivalence has led the US to be very cautious of the development of autonomous European defence capabilities which are not closely linked to NATO (Larrabee 2009: 51). The last years, however, we have witnessed a change in US attitude. Since NATO is not well equipped in the area of civilian skills and capabilities, it can rely on the EU to fulfil non-military tasks ranging from police missions to election monitoring and civil affairs. The EU lacks military capacity, is focused on post-conflict reconstruction and policing, and as such should be seen as complementing NATO (Daalder and Goldgeier 2006: 113; Larrabee 2009: 52).

The reality today is that the US needs allies to cope with new security challenges. President Obama realizes this, and calls for Europe to be a strong ally, a partner who can contribute in countering security threats.<sup>2</sup> The question, however, is whether a division of tasks – US military versus EU civilian capabilities – results in a healthy relationship between the US and EU. On the one hand, one can argue that the division of tasks – US military versus EU civilian capabilities – leads to complementarity, and consequently not to rivalry, in the transatlantic defence relations. On the other hand, one could also foresee that an eternal labour division is not sustainable: it is not good for the US image (regarded as a military aggressor in other parts of the world) and at the same time it is hurting the EU’s credibility (as a region that aspires to be a global player) (Heise 2007: 21).

## 3. EU LEADERSHIP AND ASSERTIVENESS IN THE FIELD OF PEACE AND SECURITY?

In a critical report on transatlantic power relations, Shapiro and Witney argue that the EU – like in the area of trade and economic policy – should become more assertive in the field of peace and security. They criticize the EU for behaving as if the Cold War relationships – based on US hegemony – still persist, and contend that the EU should answer Obama’s call for a strong Europe and show the practical utility the US is looking for (Shapiro and Witney 2009: 11). Instead of responsibility shirking, the EU should step up, even when this might imply a confrontation with the US on particular issues.

<sup>2</sup> In fact, also George W. Bush realized this. During his second term, in February 2005, he visited the EU in Brussels and pleaded in favour of a strong Europe (Heise 2007: 17; Shapiro and Witney 2009: 12).

Concrete examples might be the following: in Afghanistan, instead of following the US-lead, the EU should pronounce its own strategy toward the country and conflict; towards Russia, the EU should have its own policy, in the direction of how it handled the January 2009 gas crisis; and in the Middle East, the EU should assume leadership, instead of 'just writing the cheques' (Shapiro and Witney 2009: 14).

If the EU does not step up, it might risk ending up in a scenario as portrayed by the US National Intelligence Council in 2008: "We believe Europe by 2025 will have made slow progress toward achieving the vision of current leaders and elites: a cohesive, integrated, and influential global actor able to employ independently a full spectrum of political, economic, and military tools in support of European and Western interests and universal ideals" (US National Intelligence Council, 'Global trends 2025 – A transformed world', 2008).

The Lisbon Treaty, which entered into force on 1 December 2009, is said to offer the institutional tools that are necessary to achieve more coherence and better leadership in the EU's external relations.<sup>3</sup> As academics, it is our task to closely follow-up on the implementation of the changes brought by the Lisbon Treaty: whether the double-hatted function of the High Representative will lead to better coordination between external policies, whether the function of the President of the European Council will lead to better external representation, whether the creation of the European External Action Service will improve the responsiveness of the EU in foreign and security affairs, and finally, whether the provisions on permanent structured cooperation will allow those member states who wish to move forward with defence cooperation, to integrate further (Heise 2007: 21-22).

## BIBLIOGRAPHY

European Council (2003), 'A Secure Europe in a Better World – The European Security Strategy', Brussels, 12 December 2003, 14 p.

Daalder, I. and Goldgeier, J. (2006), 'Global NATO', in *Foreign Affairs*, September/October 2006, pp. 105-114.

The White House (2006), 'The National Security Strategy of the United States of America', 49 p.

Heise, V. (2007), 'The ESDP and the Transatlantic Relationship', *SWP Research Paper*, 23 p.

Cornish, P. (2008), 'NATO: Back to the Future?', *Transcript of a speech given by Dr Paul Cornish at the annual dinner for contributors to The Annual Register, Chatham House*, 10 p.

European Council (2008), 'Report on the Implementation of the European Security Strategy – Providing Security in a Changing World', Brussels, 11-12 December 2008, 12 p.

Fullilove, M. (2008), 'Hope or Glory? The Presidential Election and US Foreign Policy', *Foreign Policy at Brookings, Policy Paper 9/2008*, 26 p.

Jurado, E. and Shankar, P. (2009), 'Beyond Exceptionalism? The United States in a Multi-Polar World', *Foresight*, 16 p.

Larrabee, S. (2009), 'The United States and the Evolution of ESDP', in A. de Vasconcelos (ed.), 'What Ambitions for European Defence in 2020', *European Union Institute for Security Studies*, pp. 51-60.

Niblett, R. (2009), 'Ready to Lead? Rethinking America's Role in a Changed World', *Chatham House Report*, 47 p.

Shapiro, W. and Witney, N. (2009), 'Towards a Post-American Europe: a Power Audit of EU-US Relations', *European Council on Foreign Relations*, 71 p.

Wright, T. (2009), 'Toward Effective Multilateralism: Why Bigger May Not Be Better', in *The Washington Quarterly*, 32: 3, pp. 163-180.

**Discussion note by Prof. Dr. Thomas Weiss, Presidential Professor of Political Science at the CUNY Graduate Center and Director of the Ralph Bunche Institute for International Studies**

See Keynote Address (Plenary Session)

## PRESENTATIONS AND DISCUSSIONS

**'Future Security Threats: Perceptions and Theory', Paper by Dr. Jaïr van der Lijn, Senior Research Fellow at Clingendael Security and Conflict Programme**

### ABSTRACT

The future is inherently unknown. National governments, international organizations and think tanks direct a lot of attention to overcome this problem through security foresight exercises. This article intends

to give an overview of the current 'state of the art' perceptions and theories on the most important future security threats. It identifies the different future security threats from foresight exercises and discusses their potential development and importance on the basis of the literature on these threats.

For the purpose of this study the security threats given in the above mentioned foresight studies were collected and clustered. These clusters were divided into two groups: 'actors' and 'drivers'. The different

<sup>3</sup> The 2008 Report on the Implementation of the European Security Strategy states the following: "Our capacity to address the challenges has evolved over the past five years, and must continue to do so. We must strengthen our own coherence, through better institutional co-ordination and more strategic decision-making. The provisions of the Lisbon Treaty provide a framework to achieve this" (emphasis added).

'actors' are: power blocks; major powers; middle-sized powers (rogue states); failed states, natural actors (such as disasters), networks (such as terrorists). 'Drivers' are issues such as: demographic pressure and migration, global income polarisation, climate change, and extremism (nationalist, religious, etc). Subsequently the main literature and relevant theories on the clusters were used to map the direction these issues may develop, to what extent they may in the future remain or become a security threat, and to what extent those findings are comparable to the results of the future foresights.

The findings are that the different clusters of actors as found in future foresights also according to literature will be important in the future. The importance and direction of the effects of the different 'drivers' are in literature subject to a lot more discussion and uncertainty.

### SUMMARY OF THE PRESENTATION

In his presentation, Dr. van der Lijn clusters security threats according to actors and drivers. Actors are: international power blocks; old and new great powers; medium-sized 'rogue states'; the absence of a state or a 'failing' state; (informal) networks; and natural 'phenomena'. Drivers are: polarity; globalization; demographic pressure; radicalisation; development polarisation and increasing income inequality; technological progress; climate change and environmental degradation; lack of energy and scarce resources; economic recession; international institutions; non-proliferation; democracy and democratisation.

Van der Lijn concludes that little is known about future actors and drivers. For that reason, as we cannot foresee the unexpected, we should prepare for what we know (the major threats), instead of focusing on the black spots.

### DISCUSSION POINTS

- The question for this paper was: what threats should the Netherlands prepare for? In the Netherlands, the environment constitutes a new major threat (cf. flooding of dikes). Question is whether the Dutch dike problems should be labelled as a 'security threat'. This adds to the security agenda, which is already very broad. Comparing with the US, we see that environmental threats are seen as security threats, although they are not at the top of the agenda.
- The approach to combine sectors (kind of threats) and levels (international, regional, national) is useful: for a specific sector/country specific threats are important (see example of Dutch dikes).
- What is the basis for the categorisation of a state as a failed state? The UN Failed State Projects lists twelve indicators (above a certain threshold, states are failing).
- Although we cannot predict the future, most foresight studies start from certain possible scenarios. Any political actor will do some kind of planning, with the aim of preventing what is undesirable and reacting to threats. In this sense, the conclusions of the presentation can be made more explicit. Indeed, foresight should take into account the possible range of threats and prepare for them. Finally, we have to take into account that foresight and analysis can be manipulated.

### INTERVENTION BY MR. DON STEINBERG (DEPUTY PRESIDENT INTERNATIONAL CRISIS GROUP)

Mr. Steinberg discusses EU-US cooperation on sexual violence in the context of armed conflict, as a security question (contrary to the traditional approach of sexual violence as a humanitarian question). Relevant issues are, among other: disempowerment of women in the context of armed conflict, failure to protect, rape as war crime, non-involvement of women and lack of attention for girls education.

Institutionally, as a result of EU-US cooperation, action on these issues has improved. So these are exciting times. UN Security Council (UNSC) Resolution 1820 (on halting acts of sexual violence in armed conflict) constitutes a good example, the UK and US being vital in the preparation of this resolution, which was made possible as they followed each other up as presidents of the UNSC. UNSC Resolution 1888 (on mandating peacekeeping missions to protect women and children from sexual violence during armed conflict) is a very solid resolution, which was established by the Under-Secretary-General in the UN on women issues. These Resolutions reflect the approach to sexual violence as a 'hard security issue'.

In the EU and US following developments have taken place:

The EU aims to adopt a comprehensive approach in protecting women in armed conflicts. Spain (EU Presidency first half of 2010) has labelled it a major issue where a lot of attention will be given to. A formal action plan is developing.

In the US there is a lot of agency on women issues, funding is being attained, there is support from Hillary Clinton, and an international violence against women act is moving up in Congress.

However, it cannot be proven that these developments have led to 'one single woman being saved'. The institutional changes need a push from the EU and US in order to make a difference on the ground. Now, with Clinton and Ashton in office, there are opportunities.

Seven areas for cooperation can be distinguished:

- Making a 'real' UN Office of Women's Affairs (whereas now it is only a team of 8 people within the office of the Secretary-General).
- Anniversary of 1325 UNSC in October 2010: action needs to be taken on this resolution (since very little has been achieved).
- Resolution 1820 needs to be actually implemented: rape and violence against women have to be addressed as a security threat (since this has not happened yet).
- Millennium Development Goal (MDG) on maternal mortality has not been implemented and should be given priority.
- Women in displacement are systematically raped and urgently need to be protected (we know how to protect them, but do not fund it).
- Involving women in these situations: reinforcing and empowering women's organisations in these situations;
- Recognising that stable societies are characterised by (i) percentage of girls attending school and (ii) reproductive health care systems. These elements have to secure that after a peace agreement the situation does not return into a crisis situation.

***'Regional Special and Shared Interests Transatlantically: The Mediterranean as Turnstile between North and South and East and West', paper by Dr. Astrid Boening, Associate Director, European Union Center at the University of Miami***

## ABSTRACT

The Mediterranean region has historically been the stage and avenue for war as well as peace and trade throughout millennia. Emanating from meetings and negotiations started on October 30, 1991 at the Peace Conference in Madrid, following the suggestions of then U.S. President G.W.H. Bush and Soviet President M. Gorbachev following the Iraq-Kuwaiti war, the structure of the Madrid Framework for a bilateral and a multilateral negotiating track was developed. It enabled the first-ever direct talks between Israel and her immediate Arab neighbours on November 3, 1991. These negotiations focused on key issues of concern to the entire Middle East: water, environment, arms control, refugees and economic development. These negotiations led to the first Euro-Mediterranean Conference of Foreign Ministers of the future EuroMed Partnership member states in Barcelona in November 1995 and marked the official starting point of the EuroMed Partnership (EMP), its main objectives focusing on the political, economic and social-cultural rapprochement among its member states.

To add saliency to these goals, the EMP was relaunched, following French President Sarkozy's initiative, in July 2008 as the Union for the Mediterranean (UfM). While the U.S. was neither involved in the EMP per se nor in the UfM, but followed its own Mediterranean/(greater) Middle East foreign policies, European, Southern Mediterranean, Middle East and U.S. strategies continue to intersect in the greater Mediterranean region, especially in light of the EU's evolving Common Security and Defence Policy, and the broad security sectors and levels (Buzan, Waever and de Wilde 1998), which come into play in this region and its inter-regional dynamics.

This paper seeks to analyze specifically the strengths, weaknesses, opportunities and threats which this newly evolving Union for the Mediterranean faces in light of these dynamics as well as global norms pertaining to security, be they human security (e.g. in terms of (illegal) migration pressures, economic security or based on gender equality pertaining to economic access), or energy security to name just a few.

This is essential not only to make the UfM operationally successful, but also to reduce historic animosities in the greater Mediterranean region, prevent new ones from forming, and increase the prosperity and stability there from the perspective of all interested actors there, be they the UN (aiming inter alia to achieve its Millennium goals pertaining to this region), the NATO fleet (which is utilized to guard inter alia oil shipments), or the harmonization of the predominantly bilateral U.S.-(southern Mediterranean) country agreements with the multilateral approach of the EU within the UfM.

## SUMMARY OF THE PRESENTATION

A lot of multilateral actors are active in the Mediterranean: UN, EU (in the framework of ESDP), NATO (Mediterranean Dialogue as a project). The criticism that the 'EU is a payer rather than a player'

is often heard, and pertains to the so-called 'capability-expectations gape. This will hopefully be remedied by the establishment of the European External Action Service (EEAS).

The EU has only soft power to persuade actors. The leverage and conditionality of the EU is limited. There is a need for a global approach vis-à-vis the Mediterranean. Proactive structural action is needed. In this respect, it is important to note that US leadership is showing increasing solidarity with the EU.

***'European Union and the Middle East: It Is Time to Move from Crisis Management to Crisis Solution', paper by Dr. Hasan Turunc, University of London***

## ABSTRACT

The former French Foreign Minister Dominique de Villepin called the Middle East conflict 'the mother of all the conflicts in the world. As demonstrated by the recent crisis in Gaza, the situation in the Middle East is not only unstable, but within the region there is a potential for the violent escalation of conflict. It would be in the interests of both the European Union and the Middle East if the EU played a more active and strategic role in conflict management and resolution in the region. However, practically the intervention of the European Union has been seen as limiting itself to paying for the damage aftermath of each conflict as financially, EU is the most important supporter of the peace process. It seems that Europe may have reduced itself to financing the rebuilding of infrastructures, indefinitely and with no strings attached, which are then immediately demolished by new military confrontations.

The necessity to reach consensus on every issue and the multiplicity of European actors make it difficult to clearly define common interests. When the EU member states are able to define common interests, they have difficulties in defending them. In recent years, Europeans have become more active with regards to conflict management as it is highlighted in the European Security and Defence Policy missions in the Palestinian territories, border control in Northern Lebanon. This paper argues that these efforts, however, have largely been crisis driven and reactive rather than strategic and comprehensive. Europeans have also made attempts at conflict resolution, particularly in the multilateral context of the Middle East Quartet (EU, UN, Russian Federation, and the U.S.). EU engagement in the Middle East should be to put forward a concrete plan for sustaining peace talks and then moving from crisis management to crisis solution

## SUMMARY OF THE PRESENTATION

The Middle East is a very strategic region for the EU (cf. energy, immigration, terrorism, security, trafficking). Although the EU is one of the biggest loaners to the region, we do not see the EU in any solution process.

### 1. Overview of EU policies

*The EU's policy towards the Middle East* is highlighted in the following series of high-level public statements:

- Venice Declaration 1980 (the right to security and existence for all states in the region)



- The Berlin Declaration 1999 (commitment to the creation of a Palestinian state)
- The Seville Declaration 2002 (specific details of the final status solution)
- EU co-sponsored the Roadmap for Peace 2002 (emphasis on the need for Palestinian institution-building and economic recovery; immediate freezing of settlement activities and the proactive dismantling of outposts)
- 2007 and onwards EU actively supported the “Annapolis process” (encouraging all parties to implement Roadmap obligations and to reach a peace agreement by the end of 2008; November 2007: “EU Action Strategy for the Middle East Peace Process” organised by Commissioner Ferrero-Waldner and High Representative Solana)
- December 2008: EU Heads of State and Government statement (a comprehensive peace in the Middle East remains a top priority for 2009; praising the Arab Peace Initiative as a basis for regional peace; calling on the new US administration to engage from day one)

*EU position on key matters:*

- Settlement building anywhere in the occupied Palestinian Territory, including East Jerusalem, is illegal under international law
- Future Palestinian state will require secure and recognised borders that based on a withdrawal from the territory occupied in 1967 with minor modifications
- The peace negotiations should include the resolution of all issues surrounding the status of Jerusalem
- Condemning all acts of violence
- The Palestinian refugees issue shall be solved via mutual consent and agreement (it would be a great development to get Israel to agree on this issue)

## 2. EU financial aid and implications

*EU financial aid:*

- Euro-Mediterranean partnership: launched in 1996 (MEDA I); amended in 2000 (MEDA II)
- Enables the EU to provide financial and technical assistance to the countries in the southern Mediterranean: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestinian Territory, Syria, Tunisia and Turkey
- Funds available period 2000-2006: €5.3 billion for MEDA; €2 billion in European Investment Bank lending for MEDA beneficiary countries

*The European Neighbourhood and Partnership Instrument:*

- From 1 January 2007 onwards: the MEDA and various other programmes have been replaced by a single instrument
- A total of €827 million is available
- Cross-border cooperation (involving cooperation between local and regional authorities)
- €277 million (from the European Regional Development Fund) is also be available
- €400 million will be used during the 2007-2010 period to support governance and to promote investment (through the Governance Facility and the Neighbourhood Investment Fund)

*EU-Palestine:* resources pledged at the International Conference in support of the Palestinian economy for the reconstruction of Gaza

## 3. Political developments

- The EU’s decision after the elections of January 2006 to boycott the Hamas government has had a number of negative effects.
- EU puts pressure on Hamas: three conditions (renunciation of violence, recognition of Israel, recognition of past agreements).
- Nothing that relates to standards of democratic governance or issues of civil rights.
- Ironically the EU aid has actually increased since Hamas’ election.
- Aid increased from around 100 million Euros in 2005 to nearly 200 million Euros in 2006.
- The total EU spending in the Occupied Territories for 2006 was around \$800 million.

## 4. Policy recommendations

The EU must adopt a comprehensive and integrated strategy:

- Policies equate ‘supporting democracy’ with Abbas with an aim of ousting Hamas.
- For a decade EU aid had gone to a small Fatah clique that had wasted these resources and created an increasingly corrupt and opaque set of political institutions.
- Fatah needs to be pressed to democratise, not given unconditional and preferential support by external actors (the more one-sided the EU is in this respect the more it will drive Hamas into the arms of Iran).
- EU should use the formation of a National Unity Government to look for ways of re-engaging.
- Put forward a concrete plan for a peace treaty between Israel and Palestine together with U.S. administration.
- Push the Quartet (EU, US, UN and Russia) to publish its roadmap for establishing a Palestinian state.
- Utilise trade and aid policies in support of its political strategy.
- Engagement with governing and organisational forces must be bolstered: the UN, World Bank, the Arab League, the G8, and the Gulf Cooperation Council.

*‘New Transnational Security Challenges and Responses. European regionalism towards the Middle East: missing features in the elaboration of a comprehensive critical geopolitical approach’, paper by Dr. Ruth Hanau Santini, Johns Hopkins Associate Fellow*

## ABSTRACT

Despite historically acknowledged as a pivotal foreign policy priority both in the US and Europe, the Middle East has been addressed, both from a policy as well as theoretical vantage point, in very different ways and in a highly fragmented way. The policy-oriented literature on European foreign policy towards this region has tended to concentrate on those countries with whom the Union has stronger political and economic ties, i.e. Neighbourhood countries, while geostrategically important countries with whom the Union has no institutionalised ties have been dealt with on an individual basis focusing on ad hoc issues (terrorism, WMD proliferation, water conflicts, ethnic cleavages, state failure). In the US, on the other side, the discourse has been more comprehensive, with attempts at drawing new maps of the region within a more complex and context-based vision.

There, however, specific issues, such as non-proliferation, have tended to dominate the Middle Eastern foreign policy discourse. A transatlantic dialogue on future foreign policy developments towards the Middle East, in practice, has been hijacked by diverging ideological and diplomatic approaches, leaving room for dialogue only in the think tank world.

The assumption of the paper is that an insufficient regional understanding of regional dynamics and trends has implications for the lack of a comprehensive and efficient transatlantic security approach towards the region.

The thesis put forward here is that the elaboration of a widely shared US-European strategic-geopolitical perspective, derived but not limited to, Regional Security Complex theory and Regional Orders' theory, could provide fruitful avenues for setting out an analytical framework filling this vacuum. In addition to the analytical elements provided by Barry Buzan, Ole Waever, David Lake and Patrick Morgan, from materialist elements such as bounded territoriality and distribution of power, to constructivist ones such as securitisation theory, it will be argued that these actors' external perceptions should also be taken into account as an essential aspect of their self-perception and identity representation. A new conceptual framework will be set out including reflective social constructivist elements facilitating and favouring a broader understanding of regional actors' different security concerns, demands and collaboration potential.

## SUMMARY OF THE PRESENTATION

Assumption: one of the many reasons why it is difficult to formulate a broad understanding of the Middle East is due to a lack of sufficient theorisation on both sides of the Atlantic.

European Union:

- European Neighbourhood Policy (ENP) is an attempt by the EU to forge a multilateral framework for dealing with the Middle East and Mediterranean. ENP has a very comprehensive structure, involving three baskets. The deadlock on the political basket is the main reason for failure of this approach. ENP came to be seen as an empty basket.
- Union for the Mediterranean was established 1.5 years ago. The approach is very pragmatic and functionalist. It doesn't stand out as a multilateral framework. The strong 'issue approach' makes it difficult to come up with a broad vision for the region as a whole.
- The EuroMed Partnership (EMP) is the third Commission approach. The approach is bilateral, for the reason that interactions with the EMP-countries vary from one to another. In comparison with the ENP, both the multilateral and normative aspects are lost.
- In sum, the EU has failed to adopt a comprehensive multilateral approach despite huge efforts in many sectors. Actions are pragmatic (e.g. ESDP missions, mainly for conflict management and state failure). There is no recognition of interlinkages between issues and countries.

The United States:

- US discourse and policy: two national security strategies (2002 and 2006), and recently President Obama's Cairo speech. The 2002 national security strategy was a threat assessment that focused on terrorism and failed states, and which was very similar to the EU's security strategy (although the means to react to these threats were very different). In comparison with the 2002 strategy, the 2006 national security strategy was more constructive (changes in tone), although it remained a multinational and not a multilateral approach. In his Cairo speech Obama focused on the Moslem perceptions of Americans. The speech raised a lot of expectations. However, the administration is not delivering, and there is only limited contribution to stopping the settlement policy of the Israeli government. The US has pledged to respect all democratically elected political forces (however, there is no mention of Hamas).
- In sum, the US administration's attention for the Middle East is focused on certain aspects. The approach is bilateral, and not comprehensive.

A transatlantic approach to the Middle East is lacking. Why?

Dr. Santini uses a regionalist approach and focuses on two theories:

- Regional security complex theory: members of a security complex have interrelated security issues and actions of which one affects the other. This is a very important approach in the context of the Middle East.
- Regional orders theory: a more hegemonic theory, which takes into account the international order. For example: when discussing the Middle East region, you have to include the US.

These two theories are complementary. However, one aspect needs to be added: security perception (both of the regional actors themselves and their external perceptions of the EU and US). Countries in the Middle East consider themselves as peaceful actors, and want to become more of a cultural reference point for their neighbours. This should be taken into account by external actors.

## DISCUSSION POINTS

- With regard to the Middle East: changing the tone is the only thing the Obama Administration has done. There is a great ineptitude of the Obama administration with regard to the Middle East.
- How can a positive synergy of actors in the Middle East be established? How can Iraq be positively linked to the Israel-Palestine conflict? What about Turkey? Are these countries sufficiently involved?
- On the position of Turkey, there is disagreement among the workshop participants. On the one hand, the fact that Turkey is currently in the EU waiting room, is not helping: as a result, Turkey has acquired an independent position. On the other hand, Turkey coordinates with France (e.g. on Lebanon), and with the US and NATO (e.g. on Iraq): as a result, Turkey is not that independent or isolated.
- Most Arab countries are committed to ameliorating their relations with Israel. But whenever taken into a broader multilateral context, they change their approach. There is room to work on a bilateral basis. Also, different problems require different approaches. There is no need for new institutions, but for a better framework.

***'Nuclear Non-Proliferation and Nuclear Disarmament: Key Challenges and EU-US Cooperation', paper by Prof. Dr. Tom Sauer, Department of Politics at the University of Antwerp***

## ABSTRACT

This paper aims first of all to describe and compare US and EU nuclear non-proliferation and nuclear disarmament policies. From a historical and strategic perspective, the US is the leading actor in this field. Since the beginning of the 1980's the EU has gradually established its own nuclear non-proliferation policy. The EU follows US policy at a distance. As US non-proliferation and disarmament policy during the last decade has changed considerably depending on the President, one can argue that EU policy has been more stable over the last decade. It has also become more ambitious, especially in the field of non-proliferation. The best indication is the EU initiative vis-à-vis Iran in 2003. But even with respect to Iran, the US can (again) be regarded as the elephant in the room, even more under the Obama than under the Bush administration, as the former is prepared to talk directly to Iran. Because President Obama has been so outspoken in the field of nuclear disarmament, the contrast between the US and the EU has not diminished (although the UK follows the US in this regard). Based on the patterns mentioned above, one can expect that the EU will also speak out more in favour of nuclear disarmament in the future. An interesting indication will be the EU common position on the upcoming 2010 NPT Review Conference.

The second part of the paper will point to the need for US-EU cooperation in both nuclear non-proliferation and nuclear disarmament policy. Ideally, these issues are tackled by all major powers (including Russia, China, Japan, India) on a global scale. In case this approach does not work, at the very least the US and EU should form a tight alliance. The overall goal should be more a stable and safe international environment. Nuclear disarmament (read nuclear elimination) will be a necessary means to halt the further spread of nuclear weapons to more and more countries, which is rightly perceived as a major threat to international peace and security.

## SUMMARY OF THE PRESENTATION

Starting point: both the US and EU agree that nuclear proliferation constitutes a major threat to international (including US and EU) peace and security. Cf. UN High Level Panel report (2004); US National Security Strategy (2002; 2006; Obama); EU Security Strategy (2003).

Key proposition of the presentation: (i) the US is the driver behind the nuclear non-proliferation and disarmament regime; (ii) the EU and its member states always follow, but lag (sometimes years) behind. Nuclear non-proliferation in general: McMahon Act (1946), IAEA (1957), NPT (1968), Nuclear Suppliers Group (NSG), Full-scope safeguards, US Nuclear Non-Proliferation Act (1978), Counter-proliferation (including preventive attacks and missile defence) (1990s).

Nuclear disarmament:

- First wave of abolitionists after the Cold War were Americans: Henry Stimson Center; Paul Nitze; Gen. Lee Butler; Gen. Charles Horner

- Last wave was initiated by US 'gang of four' (H. Kissinger; G. Schultz; W. Perry; S. Nunn)
- President Obama has also been very active (cf. Prague speech on 5th of April 2009)
- EU is divided on nuclear disarmament: UK is a proponent but merely follows the US; Germany, Sweden, Ireland, Austria follow as well; France is opposed; there is complete silence of EU institutions (Council, Solana, Commission).

Policy recommendations:

- Nuclear proliferation (including nuclear terrorism) represents a threat
- Nuclear disarmament and non-proliferation go hand in hand (cf. NPT)
- Nuclear elimination is a condition for sustainable non-proliferation
- EU lags behind the US, both on nuclear non-proliferation and nuclear disarmament
- Start multilateral negotiations for a Nuclear Weapons Convention (NWC) (cf. CWC, BWC)
- Change NATO's nuclear weapons policy (including the presence of US Nuclear Weapons in Europe)

## DISCUSSION POINTS

- No-one can disagree that nuclear weapons represent a security threat. The real issue for the future of Europe is what Paris and London will say when Russia and US come together in April 2010. Russia and US have 90 percent of the world's nuclear weapons, so it is logical that they take the lead. The UK and France will most likely follow. Multilateral negotiations with these four states and China (and possibly other states) are needed, the sooner the better.
- A global solution for nuclear weapons is needed, but mostly nation states and not international organisations are present at the negotiation table. Shouldn't the issue be multilateralised?
- Every 5 years the NPT is reviewed. Last time, the parties could not even agree on an agenda. The review was a complete failure. In May 2010, we have another review conference. There is a great concern that the review will fail again, because Nuclear Weapon States (NWS) do not take their obligations seriously. Non-NWS are getting nervous. The idea is to make an institution out of the NPT.
- Another important issue is nuclear defence. For starters, missile defence systems don't work. The US has encouraged Europe to buy these systems. Political debate on the issue is however missing.

***'Only Connect: EU and US in the Global Institutional Architecture', paper by Dr. Stephen Burman, Directorate for Strategy, Policy Planning and Analysis, Foreign & Commonwealth Office, UK***

## ABSTRACT

While even as solidly grounded a relationship as that between the EU and US is bound to have its ups and downs, periodically circumstances conjoin to pose more fundamental questions about the relationship. The global economic crisis has exposed some transatlantic fissures, summarised in the distinction between stimulation vs. regulation as the main driver of policy.

In other areas, such as the UN Security Council or IMF reform, a commendable desire by the USA to accommodate the needs of emerging powers has led to accusations that US multilateralism is at Europe's expense. The suggestion of this paper is that we may be at a juncture when short term pressures and longer term, global shifts require a re-evaluation of the basis of the transatlantic alliance.

The prospectus for this conference lists a range of policy fields and topics within them. All pose difficult questions, but if the premise of this paper is correct we will not understand discrete policy fields unless we set them in a broader context because policy areas are not in fact discrete but are interconnected in a fashion that a synthetic analysis is needed to capture. The broadening of the concept of security to encompass areas far beyond traditional military concerns best exemplifies the point. This is particularly the case when so many of the factors affecting the relationship are global in scale and require a new global institutional architecture to manage them comparable to the American-led post war economic and political institutional order. The paper will therefore consider the role of the EU-US in the emerging reformed global institutional architecture, focusing on the concept of security, and will argue that only a holistic approach that understands fully the connections between apparently discrete policy areas will allow the alliance to maintain its leading role in shaping a new world order.

## SUMMARY OF THE PRESENTATION

The EU-US relationship has solid grounding, especially in economic issues. Globalisation, however, is producing a threat to the relationship.

In the field of security, the key is to broaden the concept of security, using it as a unifying idea to express fundamental common interests between the EU and US. For the EU, the danger is marginalization (i.e. losing to other powers that have unity and discipline as a whole). The US is still the centre, the focal point. So the US position is less constrained: although the agenda is a similar one, the US has more choices to pursue.

There is a need for more cooperation, but on what basis?  
First: multilateralism adopted by the Obama administration.  
Second: G20 is an opportunity as well (there is good leadership and cooperation between the EU and the US in G20).  
Third: division of labour between the EU and the US, where the EU assumes a more regional role. The EU and US are increasingly being excluded from growing networks of regional organisations. There is not enough cognisance of partnerships in other parts of the world where the US and EU are excluded.

A possible danger for transatlantic relations is the asymmetry of threat perception.

In economic relations, the EU and US are on the same level. On security issues, however, this is not the case. The US sees the EU only as a partner. Unless the EU also engages in hard security, the partnership with the US might not become a proper one. This is obviously hard to achieve. The alternative is only economic cooperation, but the security gap will lead to a deterioration of the partnership. In conclusion, for the EU-US partnership, the key is to reduce asymmetry between concepts of security: it should be looked at as

a spectrum of threats. The first step is for Europe to step up on the security side by interpreting security very broadly.

## DISCUSSION POINTS

- The notion of balance in the EU-US security partnership is pivotal. The EU indeed needs to step up in this regard.
- Important in EU-US security relations, is that the US sees NATO as a very successful model. In comparison with alternatives, NATO is the mechanism that works for the US.

*'East-West Relations and the Future of the G8 Political Agenda', paper by Mr. Giulio Venneri, School of International Studies at the University of Trento*

## ABSTRACT

In recent years, the G8 political agenda has often been marginalized from policy analysis, with the main focus falling on issues such as development, climate change and the economic crisis. However, political items represent an important factor in considering the future evolution of the G8. Political dossiers assume particular relevance today, particularly after the announcement made by world leaders at the G20 Pittsburgh Summit that financial and economic issues will no longer be dealt with at the G8 level. With the need to revitalize issues and themes related to global security challenges, this paper takes a critical look at the current status of East/West relations. Specific attention is devoted to the accomplishments thus far achieved by Western countries in their delicate relationship with Moscow. While Russia has often adopted some questionable attitudes, responsibility for a smoother cooperation still lies heavily with its Western partners. In addition, G8 countries should strive for improvement on two important principles: accountability and feasibility of their political commitments.

## SUMMARY OF THE PRESENTATION

The political and security agenda of the G8 is mostly marginalised by scholars. There is, however, some ground for the G8 to serve as a forum for relations/confrontation with Russia. Russia has to show that it has a certain degree of like-mindedness, while the US and EU need to interact more with Russian diplomats within the G8 framework to keep them on board.

The Russian approach in the G8 is very peculiar. Russia systematically tries to dilute the degree of condemnation even in very clear situations such as Zimbabwe, Myanmar and Iran. Russia is very cautious in its approach to condemnation. Moreover, due to the rise of China in Asia and in Africa, Russia seems 'discombobulated' in its diplomatic relations. In this respect, the G8 can serve as a platform which can pave the way for Russia to become a real diplomatic actor.

Policy proposal: returning to flexibility in the G8, and even more to an informal structure and meetings (e.g. Trieste G8 meeting), without excessive preparations by foreign ministries. This is a very instructive approach. For the G8 (as compared to the G20), informality is the best approach: coordination between partners is sufficient, as such avoiding the energy and money spent on building a structure.

*'Engaging Russia: How to React to Medvedev's Proposals for a New Pan-European Security Architecture?'*, paper by Dr. Ria Laenen, Research Fellow Institute for International and European Policy

## ABSTRACT

The symbolic hitting of the reset button was an emblematic moment in US-Russia relations, which had become increasingly strained in recent years culminating in a revival of the Cold War discourse as a result of the Georgian-Russia War in August 2008. Although declared strategic partners, also the EU and Russia, are in dire need of a new format for dialogue to overcome fundamental obstacles in their bilateral relationship. This paper will focus on one of the most important aspects of the US/EU relationship with Russia, being the security dimension.

Twenty years after the fall of the Berlin Wall, we have to conclude that the European continent is still divided in its views on security. Russian President Medvedev's proposals for a new pan-European security architecture launched in Berlin in June 2008 received only some lukewarm responses in the West.

Engaging with Russia is one of the major challenges both the US and the EU will continue to be faced with. To answer this challenge new approaches and conceptual frameworks need to be explored. In this light, this paper argues that Medvedev's proposals could provide a worthy point of departure for rethinking European and Transatlantic security. Based on official document analysis, in the paper the Kremlin's views on security are clarified and put in the broader context of the development of post-Soviet Russia's relations with the West. What does Medvedev exactly mean when he speaks about the concept of 'indivisible security'? Is time ripe to put the perestroika idea of a Euro-Atlantic space stretching from Vancouver to Vladivostok back on the table? How could/should the West react to Russia's proposals? These are some of the questions that will be addressed in the paper.

## SUMMARY OF THE PRESENTATION

How should the West respond to the Russian proposal for a new European security treaty? Engaging with Russia is one of the main challenges for both US and EU. Therefore, a better understanding of Russia's view on security is needed.

President Medvedev launched the idea in June 2008, and in November 2008 a draft text was published. Only two months after Medvedev's proposal, the August 2008 Russia-Georgia conflict took place. As such, there is a gap between rhetoric and practice. At least, the West perceived it as contradictory, while Russia did not. It fits in Russia's grand strategy to reform its role on the international stage. The proposal is the culminating point of a growing consensus in Russia that has been forming for a long time, in reaction to two developments on the European continent: the recognition of Kosovo's independence and the prospects of new EU member states in the Russian sphere of influence.

The concept of 'indivisible security' is pivotal in the proposal. Further, the UN Security Council has the primary responsibility for the maintenance of international peace and security, which is not surprising given the Russian veto in the Security Council. NATO is seen as a threat. Russia used to have high hopes of the OSCE becoming the leading institution in European security, but now the OSCE has become obsolete in Russian thinking. In geographical terms, the proposal covers a wide range of States, from Vancouver to Vladivostok (Euro-Atlantic plus Eurasian States). States like Tajikistan

Geographical coverage proposal: wide range of States, whole Euro-Atlantic and Eurasian States. From Vancouver to Vladivostok. Open to MS of many international organisations. States like Tajikistan were the first to positively respond to the proposal, since they also felt left out by the narrow definition of the EU.

The question is how wide the treaty will go? Does Russia have a hidden objective to bring China to the negotiation table? Where is the demarcation line of Vancouver to Vladivostok? Finally, how should the West respond? The EU has a major role for three reasons: (i) Russia is not part of the EU and thus cannot undermine the institution from within (as it is doing with the Council of Europe and the UN); (ii) the EU is Russia's primary economic partner (leverage for the EU); and (iii) the EU is considered by Russia as far less antagonistic (and rather weak) as compared to the US and NATO. This could possibly be part of the division of labour: the EU focusing on Russia, and the US on other countries/issues.

*'The US, the EU and Russia: a 'Strategic Partnership' or a New Détente?'*, paper by Dr. Derek Averre, Director, Centre for Russian and East European Studies at the University of Birmingham

## ABSTRACT

Russia's relations with the US and the EU have reached a crossroads. Moscow's bid to revisit, and in some cases revise, post-Cold War security arrangements presents the West with a dilemma. One view is that henceforth efforts should be directed towards a 'transactional' relationship, defining interests and seeking compromises, in the interests of the stability and security of Europe; this détente-like 'minimalist' goal of reducing mutual antagonism undermines many of the underlying assumptions of the West's policy towards Russia over the last two decades. Others argue that, since the US (including through its leading position in NATO) and the EU constitute a 'community of values', they can not engage in a genuine 'strategic partnership' with Russia if a common value base is missing. The dilemma is exacerbated by divisions between the US and Europe, and within Europe itself, over how best to advance relations with Russia. Despite the controversy over Russia's invasion of Georgia and recognition of the separatist territories of South Ossetia and Abkhazia, one year on there appears to have been a return to 'business as usual'; yet few if any of the differences over key aspects of security governance in the wider Europe have been properly addressed.

This paper examines the issues at stake, in particular analysing President Dimitri Medvedev's ambitious proposals for a new Euroatlantic security pact, which aims to reposition Moscow firmly at the centre of European security affairs; assesses the respective roles of the US, NATO and the EU as security 'providers' in the wider Europe, and what form any response to Medvedev's proposals might take; and considers the impact of Russia's internal governance and domestic vulnerabilities on its external policy and on its own future role in European security governance.

## SUMMARY OF THE PRESENTATION

Russia has built up serious concerns over the last fifty years: NATO intervention in the Former Republic of Yugoslavia, the independence of Kosovo, failure/stagnation of arms control (CFE – Treaty on Conventional Armed Forces in Europe), energy disputes, marginalisation of Russia. All of this culminated in the dispute in South Ossetia/Abkhazia. Russia now feels strong enough to reassert relations.

The US and EU have their respective approaches to dealing with security in the broader Europe. In US-Russia relations, there is the new approach of the Obama administration, which is characterised by: more modest goals, a 'pluralistic' approach, 'blend of principle and pragmatism', and 'multipolar' collective security. The result is a reassessment of the relationship with Russia. Question is whether Obama will be consistent in his foreign policy approach. Russia is not on top of the US agenda. Does the US really regard Russia as a global actor? Also, the partnership might suffer from US criticism of internal politics in Russia. In the end there might be a lack of political will, and still too much hostility/antipathy in the relations. On the other hand, there are also positive signs: strategic arms control (new agreement), non-proliferation (Iran and North Korea), Russian support for the US in Afghanistan, and the high-level bilateral US-Russia commission. In EU-Russia relations, positive elements are: continuing engagement with EU, warm relations with 'old' Europe, and an agreement on energy cooperation. However, problems with Central and Eastern Europe remain (shared neighbourhood). This is key to good EU-Russia relations. Also, Russia-NATO relations might not survive another crisis.

Is there a political will to move forward? Not from the Russian point of view. Russia's security situation is very fragile. Moscow has the choice to go at it alone, or to mitigate security issues by engaging with the West. Best option would be the latter. Russia wants to work on this, rather than extend its influence spheres (for which it does not have the capability anyway).

Medvedev's proposal (cf. presentation Dr. Laenen) can be considered as a Helsinki-light. Moscow intends to revisit the 1990s when it sought the European Security Charter. There are doubts as to whether there are prospects for a Helsinki plus.

Possible response by Europe and the US: a juridical agreement is unlikely, but a common political strategy should focus on the positive aspects of the proposal to broaden the now rather minimalist view. Russia should be taken seriously as a force for the good, and be engaged in international problem-solving. The principle of joint ownership should underpin the engagement.

Russia's domestic vulnerabilities are high. There is an opposition between a geopolitical narrative (of a strong sovereign state with its own development model) versus a narrative of modernisation, innovation and renewal in Russia. There is a new concept of 'partnership for modernisation'. Both security and economy should be looked at, and this is firmly linked to the idea of a strong state. This is not necessarily bad, but the issue is: what is a strong state? This is an issue which other major nations are facing as well: how to cope with globalisation?

What will the next 20 years bring us? Détente? Inertia and paralysis? Or a concerted and coherent response: security and modernisation?

*'Lessons Un-Learned: The Missing Transatlantic Security Steering Group', paper by Prof. Dr. Wolfram Hiltz, Department of Political Science and Sociology at the University of Bonn*

## ABSTRACT

During the last twenty years the enlarged and newly structured NATO changed from a mere European defence organization to a worldwide acting security community. Formally this is an amazing success story paralleled by the embedded development of a European Security and Defence capability that is integrated in the transatlantic security dialogue. Despite this success the partners in the transatlantic community have lost the ability to look for common positions before (!) they separately determine their national (or continental) policies. This kind of unilateral policy also intensified the confrontation instead of the cooperation with Russia. Especially for EU member states this constellation is the worst case as we have seen during the Iraq war 2003 and the Georgian war 2008. Not even the new US administration has changed the course of unilaterally defining goals and means: The change of NMD strategy and its implications for Poland and the Czech Republic had been decided by the Obama team without any consultation of the European partners. The new US strategy for Afghanistan will also be prepared in Washington unilaterally. The partners in the ISAF coalition have to accept the outcome. It is time to change this course of unilateral decisions without discussions. We have to find a new form – and new attitude – of transatlantic security cooperation. One option is the founding of a transatlantic security steering committee that combines the advantages of informal groups committed to results known from the G8, Contact Group and Six-Party talks. Even if it is hard to stand for smaller European NATO members, such an informal group composed of the US, Russia, the UK, France and Germany is currently perhaps the only way of putting dialogue before decision. In the Paper the chances for such a new frame will be discussed.

## SUMMARY OF THE PRESENTATION

In this presentation, the author did not focus on the paper, but instead chose to discuss the following issues in EU/US-Russia relations:

- Russia is a growing factor for Europe, for both energy and security issues. As such, it is important to keep a close relationship.
- Russia is very keen on its status. The search for a new status in international relations should be dealt with by an informal group/steering committee.

- Also the US is in need of a steady and reliable relationship with Russia.
- The steering committee combines informality with responsibility of the great powers in charge. Potential members are: UK, France, Germany, US, Russia.

## DISCUSSION POINTS

- It is not entirely obvious why Russia is a crucial factor to take into account. Were it not for the high price of oil we might not have this discussion.
- Russia has become a sort of 'normal country'. Apart from serious governance issues, Russia is a quite responsible actor on the international scene. There is a window of opportunity to rethink global governance, but the question is whether there is political will and capacity to really engage Russia.
- On WTO: Putin claims the US blocked Russia's WTO accession. What impact could WTO accession of Russia have on global governance? To what extent could this be used 'to bring Russia back' (as compared to China)?
- On WTO: Putin has a conservative corporatist agenda, and is under the influence of major corporations, which are not in favour of WTO. As such, Putin himself is not in favour of WTO accession.
- On OSCE: Russia referred to the OSCE as a key player in the EU security domain. However, by now, Russia is in a next phase where it does not want to act anymore through the OSCE.
- Russian proposals are counter reactions, as it feels threatened by NATO. Russia feels 'left-out', and feels that it loses power.

***'WWW: The Worldwide West. The Obama Administration's Global NATO Perspective', paper by Dr. Josef Braml, Program Officer USA/Transatlantic Relations at the German Council on Foreign Relations (DGAP)***

## ABSTRACT

Predictions of NATO's funeral after the demise of the Soviet Union have been proven wrong. The transatlantic alliance survived the end of the Cold War. Nonetheless, 'the greatest alliance ever formed to defend our common security' – as U.S. presidential candidate Barack Obama praised NATO at the Victory Column in Berlin – needs to adapt to the new geopolitical order and cope with the strategic challenges of the 21st century.

Even though U.S. Vice President Joseph Biden – as the representative of 'a new administration' – announced in his speech at the Security Conference in Munich 'a new day', he proposed an agenda to 'renew NATO', which is more or less similar to the previous government's pronouncements: From an American perspective, it remains a challenge for the transatlantic alliance to see the new threats, and to confront them effectively and efficiently – when necessary with the cooperation of like-minded and interested partners within and outside Europe.

Rather than indicating 'change', the Obama administration's agenda and personnel choices point toward continuity in American foreign policy vis-à-vis NATO. With the instrument of a 'global NATO', the United States continues to assert its values and interests worldwide. In addition to the transatlantic allies, democracies in Asia will also be invited to contribute their financial and military share to establish a liberal world order.

The domestic and fiscal pressure, severed by the financial and economic crisis, will force a transatlantic debate about 'burden sharing'. European allies will soon have plenty of opportunities to put the money where their mouth is in terms of 'effective multilateralism', be it with sending more combat troops in Afghanistan with less caveats, or by contributing more financial contributions for the stabilization and reconstruction of Iraq, Afghanistan and the development of Pakistan. The U.S. government led by its President Obama will make sure his predecessor's 'coalition of the willing' will evolve into a coalition of the competent and capable.

## SUMMARY OF THE PRESENTATION

Rather than change, Obama's agenda points towards continuity regarding foreign policy and NATO, the US will still implement an instrumental view of multilateralism. As such, there is a huge difference with the EU's multilateralism.

In addition to transatlantic ties, the US asserts its values and interests worldwide. Burden-sharing is still the name of the game. As the US sees it, there is a need for global responsibility (responsibility of global citizenship and burden-sharing). The EU and the US should not turn inwards.

Liberal internationalist thinking has always pervaded US foreign policy: instrumental multilateralism. This is a tool that could compete with the UN: either you get the UN going, or you look for an alternative. In this context, NATO could possibly be used to 'get the UN sharper'.

In the new threat perception, not Russia but failing and fragile states constitute major threats. As such, NATO has to be adapted to the idea of 'global NATO'.

According to the US, the UN has failed (e.g. Rwanda). How will interventions be legitimised? Not by the UN anymore, but perhaps by Global NATO actions (confronting threats where they emerge)? Obviously, Russia is bothered by the idea of Global NATO.

The US no longer takes the EU seriously on security-related issues (weapons, military, ...). The US asks what the EU can do for NATO and not vice versa.

Russia is needed, not as an enemy but as a partner.

In sum, there is nothing new in the West. Obama still supports instrumental multilateralism. The only change might be Russia.

# Report Workshop Human Rights and Rule of Law

## INTRODUCTION BY THE WORKSHOP CHAIRS

*Discussion note by Prof. Dr. Douglas Cassel, Director of the Center for Civil and Human Rights at the University of Notre Dame*

The nations of the European Union and the United States of America have more in common in support of human rights than do any other two regions in the world. Both are committed to majority rule through pluralistic, multi-party democracies and genuinely free elections. Both govern within a framework of tolerance for difference, relative respect for the rights of minority groups and individuals, expansive freedom of the press, growing gender equality, and protection of basic freedoms of all persons (within limits defined by law to meet pressing social needs by proportionate means). Both espouse the rule of law, assured by independent courts enforcing constitutional guarantees through due process of law.

These similarities should not be surprising. Most Americans are of European descent. Their common language is English. Their legal system (except in one state) was inherited from English law and retains much of that heritage.

Within their broadly similar traditions, however, lie important differences. Some are of relatively recent vintage, such as different mixes of law enforcement and military force in counter-terrorism operations. Others are more longstanding, including sharply different approaches to international law and international criminal accountability, fundamentally different roles for religion and religious values, markedly varying ideologies of political economy, differing emphases on freedom of expression, contrasting attitudes toward state-sanctioned violence, and dramatically different approaches to the Israeli-Palestinian conflict.

These differences reflect larger, underlying causes. Geopolitical power disparities loom large among them: the United States is so powerful that it too often believes it does not need international law or organizations and can go it alone, whereas Europe understands that unless it unites under common rules and a common organization, it cannot hope to compete with the U.S. or East Asia, economically, diplomatically or otherwise.

Whatever the root causes, these larger differences lead Europe and America to differing outcomes on sensitive questions of human rights. In one context or another all may at times pose challenges to trans-Atlantic understanding and cooperation. The following is a non-exhaustive list of important differences:

### A. COUNTER-TERRORISM OPERATIONS

#### Military Force vs. Law Enforcement

Apart from military cooperation through NATO in Afghanistan, Europe appears committed to a mainly law enforcement approach in counter-terrorism operations. This is illustrated by the judgment of the Grand Chamber of the European Court of Human Rights in the case of *Ocalan v. Turkey*,<sup>4</sup> involving a criminal trial of an alleged terrorist. The Court ruled that the presence of even a single military judge on a three-judge tribunal, during only a portion of the proceedings, was sufficient to violate the right of the accused to a trial before an impartial court.

In the United States, the Obama Administration has abandoned the “war on terrorism” rhetoric of the previous Administration. It has banned torture and other mistreatment of prisoners, ended CIA detentions and interrogations of detainees, committed itself to closing the Guantanamo detention centre, and recently announced that leading Al Qaeda suspects will be tried in civilian courts in New York.

Yet the Obama Administration has not foresworn military approaches. It claims a continuing (albeit more narrowly justified) right to detain terrorism suspects indefinitely without trial at Guantanamo and elsewhere, it opposes judicial review of U.S. detentions at Bagram Air Base in Afghanistan (even of prisoners brought there from other countries), it still plans to prosecute some terrorism suspects before military commissions, it declines to renounce “extraordinary renditions” altogether (so long as receiving countries give “assurances” that they will not mistreat detainees), and it deploys unmanned drone aircraft to kill terrorism suspects in Pakistan.

Apart from specifics, there clearly remain general differences between Europe and the U.S. on the extent to which terrorism should be countered by military rather than by law enforcement means. These, in turn, affect the human rights of terrorism detainees and suspects – and the signals sent to the public – with regard to liberty, integrity of the person and due process of law.

<sup>4</sup> App. No. 46221/99, Judgment of 12 May 2005



### Applicability of Human Rights Law

A related difference has to do with the scope of application of international human rights law. The Obama Administration has not yet, so far as I am aware, jettisoned the Bush Administration contention that human rights law does not apply in armed conflicts. Even if anti-terrorism is no longer by definition an armed conflict, there remain anti-terrorist conflicts in Iraq, Afghanistan and Pakistan. According to the U.S. position, only international humanitarian law ("IHL") applies in these conflicts. This view is contrary to the opinions of the International Court of Justice and of most authorities. The majority view is that, while IHL is the *lex specialis* applicable in armed conflict, international human rights law applies to the extent it is not inconsistent with IHL.

In contrast, Europe appears to accept that both bodies of law apply. Indeed, the European Court of Human Rights may go too far in the opposite direction: it applies the European Convention on Human Rights to cases of executions, detentions and torture arising in the Chechen armed conflict, with no mention of IHL, even as a body of law relevant to interpretation of human rights.<sup>5</sup>

## B. INTERNATIONAL LAW

Even under the Obama Administration, the U.S. will continue to place less emphasis on international law and international organizations and submit less to international adjudication than Europe. The result is to render international mechanisms less potent in protecting human rights.

### International Law and Human Rights

With international human rights law expert Harold Koh as the new State Department Legal Advisor, this Administration will not repeat the argument of former U.S. Ambassador to the United Nations, John Bolton, that international law is not law. But no one can entirely overcome domestic U.S. political scepticism toward international law. For example, scores of members of Congress, who in recent years co-sponsored bills that would generally bar federal judges from citing international law, still haunt Washington.

American unwillingness to conform to international law is especially rigid in the case of international human rights treaties. Domestic political opposition has to date blocked U.S. ratification of treaties protecting, for example, the rights of women and children. Even when the U.S. does ratify human rights treaties such as the International Covenant on Civil and Political Rights, Washington attaches reservations and understandings designed to make the treaties, as applied to the U.S., conform to U.S. law, rather than make U.S. law meet international norms. This parochial approach will largely continue in the current Administration, in part because treaty ratification under the Constitution requires the consent of two thirds of the Senate, and hence of a significant number of Republican Senators.

In contrast, Europe is the region most respectful of international law, and most prone to join international human rights treaties and to accept in fact, with relatively few formal reservations, the standards they set.

### International Organizations and Human Rights

The Obama Administration is far more inclined than its predecessor to favour multilateral approaches in international affairs, including human rights. Witness its decision to join the UN Human Rights Council. Yet as illustrated by Washington's recent undercutting of the Organization of American States in the Honduran crisis, the Administration's appetite for multilateralism is by no means unlimited. By contrast, despite its recent election of relative unknowns to top EU positions, the European Union remains the world's most multilaterally committed bloc of states.

### International Human Rights Adjudication

EU member states regularly submit to judgments of the European Court of Human Rights and to judgments on human rights (among other topics) of the European Court of Justice. In contrast, the U.S. has not joined the Inter-American Court of Human Rights or any other human rights court. It does not accept even the non-binding individual complaint competence of UN human rights treaty committees.

There is one quasi-judicial human rights complaint procedure from which the U.S. cannot escape: Short of withdrawing from the OAS, the U.S. has no choice but to be subject to proceedings before the Inter-American Commission on Human Rights. However, the U.S. consistently refuses to comply with Commission resolutions in cases against the U.S.

Even when President Bush attempted to comply with the judgment of the International Court of Justice in the *Avena* case (*Mexico v. U.S.*),<sup>6</sup> the U.S. Supreme Court in 2008 ruled in *Medellín v. Texas*<sup>7</sup> that the President had no power to order the State of Texas to comply with an ICJ Order not to execute Mr. Medellín. Only Congress could require Texas to comply, said a majority of the Court, but Congress showed no interest in doing so. Medellín was subsequently executed.

## C. INTERNATIONAL HUMAN RIGHTS CRIMES

### International Criminal Court

While EU states compose part of the backbone of the ICC membership, the U.S. signed but did not ratify the Rome Statute under President Clinton, and withdrew its signature under President Bush. The initial Bush campaign against the ICC later mellowed. In 2005 the U.S. abstained on the UN Security Council referral of Darfur to the ICC, and by 2008 the U.S. provided intelligence and other support to the ICC.

Most recently the Obama Administration has announced that the U.S. will resume attending meetings of the ICC Assembly of States Parties, as an observer. This is a hopeful sign. But in view of the longstanding U.S. objections to the ICC, and the constitutional requirement of the consent of two thirds of the Senate to ratify a treaty, U.S. participation as a state party is nowhere on the horizon.

5 E.g., *Khashiyev v. Russia*, Apps. Nos. 57942/00 and 57945/00, Judgment of 24 February 2005, Final 6 July 2005.

6 I.C.J. Reports 2004, p. 12.  
7 552 U.S. 491 (2008).

## Universal Jurisdiction

Europe, and especially Belgium and Spain, have pioneered the ambitious use of universal jurisdiction to prosecute foreign citizens who commit serious human rights crimes in other countries where they enjoy impunity. But both nations amended their legislation after their criminal investigations of American, Israeli and (in the case of Spain) Chinese officials brought pressure from Washington, Tel Aviv and Beijing. Belgian and Spanish universal jurisdiction is now generally limited to cases where the offender is found on their territories.

Their new posture may yet bring further confrontation, in the event a former U.S. official accused of war crimes were to visit Belgium or Spain. On the other hand, even Washington has recently exercised universal criminal jurisdiction under the torture convention, where an alleged violator – Chuckie Taylor, son of the former Liberian dictator – was caught on U.S. territory.

In addition, thanks to the anomaly of a two centuries-old statute (the Alien Tort Claims Act), American courts exercise universal jurisdiction in civil tort cases against serious foreign human rights violators. This is an area where Europeans might learn from the American experience, which on balance has been positive.

## D. ROLE OF RELIGION

### Freedom of Religion

Unlike many European States with their State-established churches, the United States was founded in large part by diverse religious groups fleeing persecution in Europe. Hence the U.S. Constitution goes much further than European human rights law in restricting state support for particular religions (or even religion in general), and in protecting the right to the free exercise of religion, including proselytization. For example, one would not expect the U.S. Supreme Court to uphold a ban on women or girls wearing Muslim head dress in schools or public buildings.

### Rights Affected by Religious Social Values

In the United States, a far less secular society than Europe, religious groups are more politically potent. Largely as a result of their political pressure, the law in the U.S. is less protective of a woman's right to a publicly funded abortion, or of stem cell research, or of gay rights to equality.

In regard to gay rights, the gap may be narrowing. In ruling that private, consensual, adult gay sex may not be criminalized, a majority of the Supreme Court in *Lawrence v. Texas*<sup>8</sup> cited European human rights law in support of its interpretation of the implicit right to privacy in the U.S. Constitution.

## E. FREE MARKET IDEOLOGY

The ideology of the "free market" and hostility to socialism are more deeply entrenched in the U.S. than in Europe. This means, for example, that Americans are less prone to view economic, social and cultural rights as rights (as shown by the current U.S. debate on whether to extend health insurance coverage to nearly all Americans). It also means

that the U.S. Supreme Court appears to be on the verge of expanding the free speech rights of corporations, so they can spend large sums to influence the outcome of elections to public office.<sup>9</sup> It similarly means that while American restrictions on the privacy of personal information in government files are as strict (or more so) than in Europe, U.S. restrictions on the privacy of personal information in the files of private corporations are more permissive than in Europe.

## F. FREEDOM OF EXPRESSION

American jurisprudence since the second half of the 20th century has been more protective of freedom of expression than in Europe. Reflecting their different historical experiences in the 20th century, the difference is especially notable with respect to racial hate speech. As the Holocaust recedes into history, however, the gap appears to be narrowing.

## G. ATTITUDES TOWARD STATE-SANCTIONED VIOLENCE

The United States is far more tolerant than Europe of state-sanctioned violence in the form of the death penalty (abolished in Europe but not in the U.S.), the right to bear arms (a right in the U.S. but not in Europe), and punitive prison terms and conditions (the U.S. incarcerates the highest percentage of its population in the world).

In regard to the death penalty, the U.S. appears to be trending closer to the European position. The U.S. Supreme Court recently abolished the death penalty for juveniles and the mentally retarded and raised the procedural standards for assistance of counsel in capital cases. Judges and juries have reduced the overall number of death penalties. But elimination of the death penalty in the U.S. does not seem likely in the foreseeable future.

## H. ISRAEL AND PALESTINE

The U.S. is far more protective of Israel, and less so of the rights of the Palestinians, than is Europe. While this trans-Atlantic difference has broader ramifications, it also affects human rights, most recently in the U.S.-led attack on the Goldstone report on war crimes in Gaza. If the Palestinians are to have any chance in the international diplomatic arena, they need Europe as a partial counter-balance to the generally pro-Israeli stance of the U.S. And if long-term prospects for peace are to improve, ways must be found to ensure respect for the human rights of all parties in this intractable conflict.

### *Discussion note by Prof. Dr. Paul Lemmens, Director of the Institute for Human Rights at the University of Leuven*

Prof. Doug Cassel presented an excellent overview of similarities and differences between the European Union and the United States of America, in the field of human rights. Rather than to approach the issue from an entirely different angle, I will limit myself to commenting on the various points discussed by him. I will take the European point of view.

<sup>9</sup> A. Liptak, *Day at Supreme Court Augurs a Victory on Political Speech, But How Broad?*, *N.Y. Times*, Sept. 10, 2009, p. A28.

<sup>8</sup> 539 U.S. 558 (2003).

## A. COUNTER-TERRORISM OPERATIONS

### Military Force vs. Law Enforcement

I entirely agree with what Doug writes about the law enforcement approach adopted by the European authorities in the combat against terrorism. This means that counter-terrorism operations and the treatment of persons suspected of being involved in terrorist activities are subject to the “ordinary” regime applicable to law enforcement:

- The right to life should be respected. Even when soldiers are involved in an anti-terrorist operation, the force used may not be more than “absolutely necessary”, in the sense of Article 2 of the European Convention on Human Rights (ECHR). If the incident is later brought before the European Court of Human Rights (ECtHR), that Court will “carefully scrutinise, ..., not only whether the force used by the soldiers was strictly proportionate to the aim of protecting persons against unlawful violence but also whether the anti-terrorist operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force”.<sup>10</sup>
- The guarantee against torture and other inhuman or degrading treatment or punishment (Art. 3 ECHR) is fully applicable. The ECtHR recently confirmed the absolute nature of the prohibition of such ill-treatment, irrespective of the victim's conduct. The nature of the offence allegedly committed by the suspect, e.g. a person arrested on suspicion of involvement in international terrorism, is therefore irrelevant for the purposes of the said guarantee.<sup>11</sup> The prohibition implies that a State has an obligation not to extradite or expel any person who, in the receiving country, would run the real risk of being subjected to such treatment. In this respect, the Court reaffirmed that “it is not possible to weigh the risk of ill-treatment against the reasons put forward for the expulsion in order to determine whether the responsibility of a State is engaged under Article 3 (ECHR), even where such treatment is inflicted by another State. In that connection, the conduct of the person concerned, however undesirable or dangerous, cannot be taken into account”.<sup>12</sup> Where a real risk of ill-treatment in the receiving country is established, diplomatic assurances given by that State do not necessarily constitute a sufficient guarantee that the suspect will be protected against such risk: “the weight to be given to assurances from the receiving State depends, in each case, on the circumstances prevailing at the material time”.<sup>13</sup>
- The system of secret detentions and secret renditions of so-called “high-value terrorist detainees”, set up by the CIA and involving certain European states, has been denounced both by the European Parliament<sup>14</sup> and the Parliamentary Assembly of the Council of Europe<sup>15</sup>.

- The detention of foreign nationals, because they are suspected of being international terrorists and because it is believed that their presence at liberty in the country gives rise to a threat to national security, can only be justified if it falls within one of the permissible grounds of Article 5, § 1, ECHR. Detaining such persons without charging them, or without taking action with a view to deportation, therefore constitutes a violation of the right to personal liberty.<sup>16</sup>
- The trial of persons charged of involvement in terrorist activities must comply with the standards of a fair trial (Art. 6 ECHR). As Doug points out, this implies, among other things, that the court has to be independent and impartial; military tribunals, or even mixed tribunals composed of civilian and military judges, are problematic from this point of view.<sup>17</sup> Problems may also arise with respect to the adversarial character of the proceedings, given that the evidence may be partly of an intelligence type. The ECtHR accepts that, while the right to a fair criminal trial includes a right to disclosure of all material evidence in the possession of the prosecution, both for and against the accused, it might sometimes be necessary to withhold certain evidence from the defence on public interest grounds.<sup>18</sup> There will not be a fair trial, however, unless any difficulties caused to the defendant by a limitation on his rights are sufficiently counterbalanced by the procedures followed by the judicial authorities.<sup>19</sup> The restrictions may not lead to a situation where the accused cannot effectively challenge the allegations against him.<sup>20</sup>
- The conditions of detention of convicted terrorists, even of the most dangerous ones, must show respect for their human dignity. Solitary confinement raises an issue here. In a case involving “Carlos”, the most dangerous terrorist of his time, the ECtHR warned that a long solitary confinement can constitute inhuman or degrading treatment. It nevertheless concluded that, having regard to the physical conditions of Carlos' detention, the fact that his isolation was not complete, but only “relative”, the authorities' willingness to hold him under the ordinary regime, his character and the danger he posed, the conditions in which Carlos was being held did not reach the minimum level of severity necessary to constitute “inhuman treatment” within the meaning of Article 3 ECHR.<sup>21</sup>
- Finally, it should be noted that other fundamental rights may be at stake too, such as the right of property and the right to an effective remedy. It is in the light of these rights that the Court of Justice of the European Union ensured the review of the lawfulness of a Community regulation, designed to give effect to resolutions adopted by the Security Council against certain persons and entities associated with Osama bin Laden, the Al-Qaeda network and the Taliban. It found that the rights of defence, especially the right to be heard, the principle of effective judicial protection and the right of property had been violated, and partly annulled the regulation.<sup>22</sup>

10 ECtHR, 27 September 1995, *McCann v. United Kingdom*, Publ. Court, Series A, vol. 324, § 194.

11 ECtHR [GC], 28 February 2008, *Saadi v. Italy*, no. 37.201/06, § 127.

12 Same judgment, § 138.

13 Same judgment, § 148.

14 See resolution of 6 July 2006 on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, adopted midway through the work of the Temporary Committee; resolution of 14 February 2007 on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners.

15 See resolution 1507 (2006) of 27 June 2006 on alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states; resolution 1562 (2007) of 27 June 2007 on secret detentions and illegal transfers of detainees involving Council of Europe member states: second report.

16 ECtHR [GC], 19 February 2009, *A. and others v. United Kingdom*, no. 3455/05, §§ 162-172.

17 ECtHR [GC], 12 May 2005, *Öcalan v. Turkey*, no. 46221/99, §§ 112-118.

18 ECtHR [GC], 19 February 2009, *A. and others v. United Kingdom*, no. 3455/05, § 206.

19 Same judgment, § 205.

20 Same judgment, § 218.

21 ECtHR [GC], 4 July 2006, *Ramirez Sanchez v. France*, no. 59450/00, § 150.

22 ECJ, 3 September 2008, *Kadi and Al Barakat v. Council and Commission*, cases C-402/05 P and C-415/05 P.

All the relevant human rights principles have been codified by the Committee of Ministers in a single document, the Guidelines of 11 July 2002 on human rights and the fight against terrorism, supplemented on 2 March 2005 by the Guidelines on the Protection of Victims of Terrorist Acts. In a recent report the European Council on Foreign Relations calls upon the European Union and the Union States to adopt a declaration of common principles in combating terrorism, which would “draw a line under the divisions and controversies of recent years and provide an important asset in the ideological battle against al-Qaeda”.<sup>23</sup>

## Applicability of Human Rights Law

Where there is no “war on terror”, international human rights law applies, and there is no place for international humanitarian law.

Doug refers to the case law of the ECtHR with respect to the Chechen armed conflict, asking whether the Court has not gone too far in applying human rights law only, and not taking into account international humanitarian law. This criticism does not seem to be fully justified. There is room for application of principles of international humanitarian law, constituting a *lex specialis* compared to human rights law as a *lex generalis*, but only to the extent that there has been a valid, explicit derogation under Article 15 ECHR.<sup>24</sup> Where a State does not make use of that possibility, as in the case of Russia and its conflict in Chechnya, the provisions of the ECHR will be fully applicable.<sup>25</sup> In a recent case, the ECtHR has underlined the significance of international humanitarian law, where it held that “Article 2 (ECHR) must be interpreted in so far as possible in light of the general principles of international law, including the rules of international humanitarian law which play an indispensable and universally-accepted role in mitigating the savagery and inhumanity of armed conflict”.<sup>26</sup>

## B. INTERNATIONAL LAW

### International Law and Human Rights

Generally speaking, Doug is probably right where he describes Europe as a region respectful of international law, and willing to accept international human rights standards. Within the European Union this favourable attitude towards human rights has been reflected in, among others, the Charter of Fundamental Rights of the European Union<sup>27</sup>, which has acquired binding force on 1 December 2009, when the Treaty of Lisbon entered into force.<sup>28</sup> It is expected that the Charter, which contains an updated version of both civil and political and economic, social and cultural rights, will play an important role as a reference instrument, well beyond the confines of EU law.

The foregoing does not mean that human rights are always respected in Europe. There seem to be areas where it is really difficult for Europe to comply with human rights standards. The treatment of aliens is such an area.

### International Organizations and Human Rights

It is true that Europe is generally in favour of a multilateral approach. In the sphere of human rights, this is demonstrated by the existence itself of the European Union and the Council of Europe, both organizations based on the principles of human rights, the rule of law and democracy.

Europe is also a traditionally driving force within the UN Human Rights Council. However, as a recent report of the European Council on Foreign Relations indicates, there are some “troubling developments”, such as public division within the EU over human rights (Durban Review Conference, ...), and the intensifying power politics in the Human Rights Council, with the EU increasingly being unable to obtain the results it hopes for. The return of the United States to the Human Rights Council is seen as a most welcome development, provided that a strong transatlantic alliance can be formed and efforts can be coordinated.<sup>29</sup>

### International Human Rights Adjudication

The right of access to the ECtHR is a very important element of the human rights protection system in Europe. However, the complaint mechanism is collapsing, as the Court is unable to deal with the tens of thousands of applications, coming mostly from States outside the European Union. Protocol No. 14 to the ECHR is intended to provide certain answers to the problem, but it cannot enter into force as long as the last of the 47 Member States, Russia, has not ratified it. Even if the Protocol enters into force, it will not be sufficient to solve the backlog problem. An inter-ministerial conference, to be held in Interlaken in February 2010, will discuss long-term solutions. The question is whether the European States will be prepared to *really* support the Court. There are signs that there is some unwillingness to abide without reservation to the judgments of the ECtHR. A recent report of the Parliamentary Assembly identifies “the grave and widespread problem of failure by State(s) Parties to fully and expeditiously execute judgements of the Court”, and contains a long list of judgments which have not been fully implemented more than five years after their delivery.<sup>30</sup>

On the positive side, one can mention that the European Union is now ready to join the ECHR: Article 6 (2) of the Treaty on European Union provides that the EU “shall accede” to the ECHR. A similar provision can be found in Protocol No. 14 to the ECHR, inserting a § 2 in Article 59 ECHR, which states that the EU “may accede” to the ECHR. As soon as Protocol No. 14 will have entered into force, the accession can be formalised. Accession will in any event require a separate treaty.

23 A. DWORIN, *Beyond the “War on Terror”: Towards a New Transatlantic Framework for Counterterrorism*, May 2009, p. 10.

24 *The validity is subject to scrutiny by the ECtHR. See, with respect to the validity of a derogation by the United Kingdom based on the threat from international terrorism after 11 September 2001*, ECtHR [GC], 19 February 2009, *A. and others v. United Kingdom*, no. 3455/05, §§ 173 -190 (the ECtHR found that “the derogating measures were disproportionate in that they discriminated unjustifiably between nationals and non-nationals”).

25 See ECtHR, 24 February 2005, *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, quoted by Doug Cassel. See also the judgments of the same day in *Isayeva and others v. Russia*, no. 57947/00 and others, and *Isayeva v. Russia*, no. 57950/00.

26 ECtHR [GC], 18 September 2009, *Varnava v. Turkey*, no. 16064/90 and others, § 185.

27 Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted on 12 December 2007, OJ no. C 303 of 14 December 2007.

28 Article 6(1) of the Treaty on European Union.

29 R. GOWAN and F. BRANTNER, *The EU and Human Rights at the UN – 2009 Review*, September 2009.

30 Report by Mr Christos Pourgourides, *Implementation of judgments of the European Court of Human Rights. Addendum to the progress report, doc. AS/Jur (2009) 36 Addendum*.

Finally, it should be noted that the complaint mechanism of the ECtHR does not extend to the economic, social and cultural rights of the European Social Charter. The States are not prepared to go further than the existing collective complaint mechanism before the European Committee of Social Rights, which is of a quasi-judicial nature.

## C. INTERNATIONAL HUMAN RIGHTS CRIMES

### International Criminal Court

I have nothing to add to what Doug has said about Europe.

### Universal Jurisdiction

A small clarification as far as the Belgian Act of 5 August 2003 on extra-territorial jurisdiction is concerned. Jurisdiction to prosecute foreign citizens for serious violations of international humanitarian law committed outside the country is now limited to cases where the victim is a Belgian citizen or a refugee recognized and residing in Belgium. This is no longer an extraordinary jurisdiction, compared to that of courts in other countries. Still, under this law it has been possible to conduct a criminal investigation against the former president of Chad, Hissène Habré. The latter is now under house arrest in Senegal. Extradition to Belgium does not seem probable, but it is not excluded that a trial will be opened in Senegal.

## D. ROLE OF RELIGION

### Freedom of Religion

Freedom of religion was not a real problem in Europe, as long as the Christians religions were the only or by far the main religions. Things have changed with the immigration of Muslims and the rapid development of Islam. For various reasons, all kinds of restrictions have been placed on the practice of that religion.<sup>31</sup> Headscarves in schools or public buildings are often not prohibited, but when school authorities or public authorities have opted for a ban, in order to protect the rights of those who refuse to wear the headscarf, the ban has been considered not to be unreasonable.<sup>32</sup>

Christian symbols, such as the crucifix, can of course also be the object of a ban, in order to protect the religious and philosophical convictions of those who belong to another religion or who do not believe. When the ECtHR recently held that the exposition of the crucifix in an Italian school constituted a violation of the freedom of religion of the non-Catholic parents of two young children, thus rejecting the argument of the government that the crucifix had become a neutral symbol, referring to the Italian history and its traditions<sup>33</sup>, it was received with strong protest in a number of European countries.

Religion is definitely becoming more complicated.

### Rights Affected by Religious Social Values

Ethical issues are often very sensitive issues. The case law of the ECtHR shows that the Court in general leaves a wide margin of appreciation to the national authorities, except where there is a "consensus" among the Member States of the Council of Europe on how to deal with a given issue.

Some examples may illustrate this:

- On abortion, the ECtHR has until now managed to avoid an answer to the question whether the unborn life is protected by the right to life provision of Art. 2 ECHR.<sup>34</sup>
- On euthanasia (or, in fact, assisted suicide), the ECtHR has held that it is not unlawful for a State to maintain a prohibition, but explicitly left open the question whether a law authorizing euthanasia would be incompatible with the right to life.<sup>35</sup>
- On in vitro fertilization, the ECtHR observed that "it cannot be said that there is any consensus as to the stage in IVF treatment when the gamete providers' consent becomes irrevocable", and concluded that a law which provided both gamete providers, in particular the male partner, with the power freely and effectively to withdraw consent up until the moment of implantation, did not violate the female partner's right to respect for her private life.<sup>36</sup>
- On homosexuality, the ECtHR has been more proactive. Where sexual orientation is in issue, there is a need for particularly convincing and weighty reasons to justify a difference in treatment. The Court thus has held that the rejection of a lesbian woman's application for authorization to adopt, based on considerations regarding her sexual orientation, constituted a discrimination.<sup>37</sup>

## E. FREE MARKET IDEOLOGY

- According to Article 3(3) of the Treaty on European Union, the Union "shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment". The market ideology is that of a "competitive social market". Economic and social rights are well protected by national laws. However, this does not mean that their justiciability as fundamental rights is easily accepted. In fact, quite to the contrary.
- With respect to protection of individuals against the processing of personal data, it seems difficult to justify why restrictions on such processing by public authorities should be stricter than restrictions on such processing by private corporations. Since public authorities are generally under more control than private companies, one could perhaps even make an argument to the contrary. It belongs in any event to the positive obligations of the State to protect individuals against processing of personal data both by public authorities and by private individuals or entities.

31 As most recent example: the prohibition of construction of minarets in Switzerland, the result of the adoption of an amendment to the Constitution in a referendum held on 29 November 2009, with 57,5 % of the voters in favor.

32 ECtHR, 4 December 2008, *Dogru v. France*, no. 27058/05.

33 ECtHR, 3 November 2009, *Lautsi v. Italy*, no. 30814/06.

34 ECtHR [GC], 8 July 2004, *Vo v. France*, no. 53924/00; ECtHR, 20 March 2007, *Tysi c v. Poland*, no. 5410/03.

35 ECtHR, 29 April 2002, *Pretty v. United Kingdom*, no. 2346/02.

36 ECtHR [GC], 10 April 2007, *Evans v. United Kingdom*, no. 6339/05.

37 ECtHR [GC], 22 January 2008, *E.B. v. France*, no. 43546/02.

## F. FREEDOM OF EXPRESSION

Freedom of expression is in Europe, like all other freedoms, subject to restrictions. It may well be that certain types of restrictions are in Europe more easily accepted than in the United States. Doug is right in referring to racial hate speech as a specific example. Recently the ECtHR rejected an application of a politician who complained of his criminal conviction for having distributed leaflets in which, according to the criminal court, he presented the immigrants as criminally-minded and keen to exploit the benefits they derived from living in the country. The ECtHR referred to the inevitable risk of arousing, particularly among less knowledgeable members of the public, feelings of distrust, rejection or even hatred towards foreigners.<sup>38</sup>

## G. ATTITUDES TOWARD STATE-SANCTIONED VIOLENCE

- Europe proclaims itself as a “death penalty free” zone. Problems should arise only with respect to deportations or extraditions to States where the subject runs a real risk of being sentenced to death and executed.
- Punitive prison terms and conditions may conflict with the prohibition of inhuman and degrading treatment or punishment (Art. 3 ECHR). As regards life sentences, the ECtHR has held that the imposition of a sentence of life imprisonment on an adult offender is not in

itself prohibited by or incompatible with Article 3 ECHR or any other Article of the ECHR, but that the imposition of an *irreducible* life sentence on an adult may raise an issue under Article 3.

The determining question is whether or not a life prisoner can be said to have any prospect of release. Where the law affords the possibility of parole, there is no violation of Article 3, even if in practice the sentence may be served in full.<sup>39</sup>

## H. ISRAEL AND PALESTINE

Where Doug Cassel indicates that Europe seems to be less protective of Israel and more protective of the Palestinians than the United States, he probably is right, but only in a general way. The Palestinian issue is one over which the European States do not always share the same ideas. In the Human Rights Council, for instance, there was this year a split among EU Member States with respect to a resolution on human rights violations emanating from the Israeli military attacks and operations in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip: while some EU Member States voted against the resolution, considering that it was too much against Israel, other Member States only abstained.<sup>40</sup> A similar split could be noted with respect to the resolution endorsing the recommendations contained in the Goldstone report on war crimes in Gaza.<sup>41</sup>

# PRESENTATIONS AND DISCUSSIONS

*'Unexpected Bedfellows: The GATT, the WTO and Some Democratic Rights', paper by Prof. Dr. Rod Abouharb (in cooperation with Susan Aaronson, George Washington University), School of Public Policy at University College London*

## SUMMARY OF THE PRESENTATION

Professor Abouharb presented a paper, which he wrote in collaboration with Professor Aaronson, entitled “Unexpected Bedfellows: The GATT, the WTO and *Some* Democratic Rights”. Using both quantitative and qualitative analyses the presentation assessed whether there is a correlation between WTO membership and improvement of democratic rights. The following provides an overview of the paper and his presentation:

The world's most misunderstood international institution, the World Trade Organization (WTO) sits in a grand palace on the shores of Lake Geneva. This organization, once a club called the General Agreement on Tariffs and Trade (GATT), was designed to stimulate trade. The GATT/WTO regulates protectionism, serves as a forum for trade negotiations and settles trade disputes. It is also an international agreement that establishes the rule of law in international trade for citizens of 153 nations.

Trade grew dramatically under the aegis of the GATT/WTO, and thus the organization has played an important role in global economic growth.

Yet many people do not see the WTO as acting in their interest (WTO Consultative Board 2005). Critics argue that the trade agreement indirectly undermines democratically determined policy priorities. According to citizen activist Ralph Nader, “decisions affecting people's daily lives are ... shifted away from our ... governments and instead, are being made by ... unelected trade bureaucrats ... behind closed doors.” (Here Nader refers to the fact that if social or environmental regulations are found by a dispute settlement panel to distort trade, national policymakers must either change the regulation to make it less distorting, pay compensation, or accept potential retaliation). Although such dispute panel decisions are rare, concerns about the WTO's potential impact on democracy became so widespread that the Director General of the WTO had to directly address these allegations.


While it is understood that public concerns about the WTO, it was argued that the WTO system and democratic rights are unexpected bedfellows. Without deliberate intent, the GATT/WTO system has induced governments to advance several democratic rights: specifically political participation, due process, and some indication of improved public access to government information. This process is indirect, because the GATT/WTO does not *directly regulate* the behaviour of people or firms involved in trade.

<sup>38</sup> ECtHR, 16 July 2009, *Féret v. Belgium*, no. 15615/07.

<sup>39</sup> ECtHR [GC], 12 February 2008, *Kafkaris v. Cyprus*, no. 21906/04, §§ 97-98.

<sup>40</sup> Resolution 10/19 of 26 March 2009 on “Human rights violations emanating from the Israeli military attacks and operations in the Occupied Palestinian Territory”, adopted by 35 votes (no EU Member States) against 4 (including 3 EU Member States), with 8 abstentions (including 4 EU Member States).

<sup>41</sup> Resolution S-12/1 of 16 October 2009 on “The human rights situation in the Occupied Palestinian Territory, including East Jerusalem”, adopted by 25 votes (no EU Member States) against 6 (including 4 EU Member States and the United States), with 11 abstentions (including 2 EU Member States).



The GATT/WTO provides no rights directly to producers, consumers, corporations, exporters or importers (economic actors), but it does mandate that member states provide these rights. The GATT/WTO's influence on these rights is also implicit, little discussed, and obscure. As legal scholar Steve Charnovitz notes, member states give economic actors "an entitlement to substantive rights in domestic law including the right to seek relief; the right to submit comments to a national agency or the right to appeal adjudicatory rulings." Member states must also ensure that "members and other persons affected, or likely to be affected, by governmental measures imposing restraints, requirements and other burdens, should have a reasonable opportunity to acquire authentic information about such measures and accordingly to protect and adjust their activities or alternatively to seek modification of such measures." These rights can be described as political participation, administrative due process and informational rights. For ease of discussion, Professor Abouharb and Professor Aaronson label these rights "democratic rights."

In their paper, the authors use both qualitative and quantitative analysis to examine whether membership in the WTO over time leads to improvements in these democratic rights. The paper's structure is as follows: Section I comprises an overview of our analysis and arguments. In Section II, it is explained why both democracies and authoritarian states might provide the same due process, political participation, and access to information rights to their citizens as they do to foreign market actors. They do not have to do so under WTO rules, but we argue that they do so to attract and maintain investment (Elkins, Guzman and Simmons 2006; Dobbins, Simmons and Garrett 2007; and Barton, Goldstein, Josling and Steinberg 2006). In Section III, the WTO's role in improving governance and that scholarship is placed within the IPE theoretical literature is discussed. Section IV uses qualitative evidence to illuminate how and when democratic rights are discussed at the WTO. An examination of accessions (when countries apply to join the GATT/WTO), differentiating between GATT and WTO accessions is first conducted. Under GATT (1948-1995), new acceding states simply committed to reduce border measures that could distort trade. But after 1995, the accession process became much more complex. As the WTO grew to govern a wide range of domestic policies that could distort trade such as health and safety regulations or procurement policies, acceding states had to ensure that such policies reflected WTO rules. If these countries do not change these policies, other WTO member states could challenge them as trade distorting (WTO 2001). As noted above, this led to the perception that the WTO undermines democracy (Aaronson 2001; Destler 2005). Subsequently, trade policy reviews, where members examine the trade performance of their fellow WTO members is observed. Policymakers frequently bring to the fore issues of political participation, due process and transparency. Finally, how citizens around the world are using WTO rules to influence a wide range of public policies is discussed.

In Section V, quantitative analysis is used to examine how members of the GATT/WTO perform on these democratic rights over time. A cross national time series design of all countries in the international system for the period 1950-2008 (Correlates of War 2008) is applied. The impact of GATT/WTO on political participation (1950-2007), due process (1981-2007) and access to information over time (2004-2008) is examined. Selection issues of why countries become members of the GATT/WTO regime is also accounted for.

Professor Abouharb in his presentation asserted that duration of membership in the GATT/ WTO positively affects performance on several democratic rights. Countries that have been GATT/WTO members for longer periods tend to have stronger performance on measures of political participation for the period 1950-2007 and on due process rights over the period 1981-2007. We also examine how new members of the WTO perform on these democratic rights for the 1995-2008 period. He explained that duration of WTO membership leads to stronger performance on our metrics for political participation, free and fair elections and measures of access to information. However, these results are sensitive to different model specifications. He claimed that their weak findings on access to information may reflect the limitations of their dataset which only covers some countries for a shorter time period. To conclude he drew conclusions about their analysis, and made suggestions for future research.

***Intervention by Ms. Claudia Gintersdorfer (General Secretariat of the Council of the European Union)***

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**SUMMARY**

Ms. Gintersdorfer's presentation focused on EU-US consultations and dialogues, from an EU perspective. She provided an introduction as to how the consultations proceed and concluded with identifying areas of common concern such as the rights of women and US ratification of CEDAW and those issues creating divergence such as the death penalty.

Two regular consultations are held per year between the EU Troika and the US. The agenda for such meetings usually consists of a general exchange of priorities and the coordination of positions for multilateral fora such as the UN Human Rights Council and the 3rd Committee of the UNGA. The agenda furthermore includes a briefing session on a number of human rights dialogues with third countries. A wide range of issue areas are discussed including those of a sensitive nature such as human rights and counter-terrorism and the death penalty. More recently, human rights and crisis management has been put on the agenda.

There is a large consensus between the EU and US on general values of human rights, fundamental rights and democracy. However many disagreements do arise, notably in the areas of counter-terrorism, the general mind-set of the "war against terror", the ICC, death penalty and Guantanamo. The new Obama administration however has shifted in its position of the latter by which the US has declared that it will close Guantanamo. Moreover, there has been a change of tone and willingness to listen to the EU in this regard. The EU and US at present are trying to agree upon a common set of principles on human rights and the fight against terrorism.

The issue of the death penalty continues to be an issue with diverging approaches between the EU and US. Abolishing the death penalty is the cornerstone of the EU's human rights policy. The EU has been very active in trying to achieve its objective to persuade third countries to abolish it. A feat for the EU was the adoption of the UN Moratorium on the Death Penalty in the UN General Assembly, in which the EU managed to get cross-regional support and succeeded in external coalition building.

There has been a demonstrated shift in EU-US engagement at the multilateral level, primarily in light of the US's recent membership to the Human Rights Council. It was automatically assumed that the EU and US would be allies in the Council, however, practice shows otherwise. A prime example of this is the US's initiative on the freedom of expression. The US's main goal was to bridge the north-south divide; it however did so with the help of Egypt and without involving of the EU. The US visibly reaching out to other regional actors and taking independent initiatives showed a clear sign in how the US plans to proceed in the Council.

In sum, the EU and US share similar human rights values, however, the issue area is the decisive factor whether the EU and US will work together or not.

## DISCUSSION POINTS

- In the discussion, following the three abovementioned presentations, it was noted that the rhetorical framework on the "war on terror" has been abandoned by Obama's administration. While the US is committed to close Guantanamo many human rights advocates have been disappointed on the pace of change on the terrorism issue. Moreover, military commissions continue to be an area of concern as it has been consolidated into federal law again. With regards to detentions, the US has taken the position that they have the right to do so under the congressional authorizations on the use of military force. Renditions have also not been abandoned altogether. On the issue of torture, the US has moved away from the Bush administrations' rhetoric and policy however forms of torture are still taking place.
- The second point raised in the discussion was on the link between economy and politics and if it indeed can be changed with human rights. It was claimed that the WTO and GATT have separate effects and that the underlying issues have to be considered. Having done that, there is a positive effect of WTO on issues of democracy.

***'The U.S. and the International Criminal Court: (Re-)Engagement in the Twilight of the Bush Administration and by the Obama Administration', paper by Prof. Dr. Cedric Ryngaert, Institute for International Law and Leuven Centre for Global Governance Studies at the University of Leuven and Faculty of Law at the University of Utrecht***

## SUMMARY OF THE PRESENTATION

Professor Ryngaert's presented a paper entitled "The United States and Supporters of the International Criminal Court: Warming up to Each Other". His presentation explored US engagement with the International Criminal Court highlighting the different approaches of the Bush (in both early and later years) and Obama Administrations.

The presentation also emphasized the three main concerns of the US with regards to the ratification of the Rome Statute. The following is an overview of his paper and presentation:

It was noted at the outset that his presentation will not engage in a comparative analysis of the European and the U.S. positions with respect to the ICC. It is well-known that the European Union has been a staunch supporter of the ICC; its supporting actions have aptly been described elsewhere.<sup>42</sup> This considered the European position on the ICC to the extent that it is related to U.S. actions and concerns with respect to the ICC. In this context, the term 'ICC supporters', which is typically used by the U.S., may be considered as encompassing mainly EU Member States.

In the waning days of the Bush Administration, in late 2008, John Bellinger, the Legal Adviser to the U.S. Secretary of State pointed out that, fundamentally, the U.S. position *vis-à-vis* the International Criminal Court (ICC) would not shift with the incoming Obama Administration, as likewise it had not fundamentally shifted when the Bush Administration succeeded to the Clinton Administration in 2001.<sup>43</sup> He argued that especially the first Bush Administration was remarkably hostile towards the Court, and engaged in all sorts of actions that tended to undermine the legitimacy and effectiveness of the Court. He further argued that this approach was radically different from the cautiously constructive approach taken by Clinton, who, after all, *signed* the Rome Statute on 31 December 2000 (which the Bush Administration subsequently 'un-signed'<sup>44</sup>). Yet at the same time, an internal shift within the Bush Administration was noticeable, when from 2005 onwards it softened its tone towards the Court after the UN Security Council referral of the situation in Darfur, Sudan, to the ICC.<sup>45</sup> This referral was accompanied by the soothing of sanctions to be imposed on States cooperating with the ICC, and even by statements that the U.S. may assist the ICC in relation to specific investigations.

Critics claim that it is too early to say the exact Obama position on the ICC. Currently, a case by case support approach is taken by the US for the ICC. Whether this will lead to the ratification of statutes is still not for certain. The US is in favour of international justice but has a number of concerns, notably the definition of crimes of aggression and whether a primary determination by the UN Security Council is necessary or not as the US strongly believes that safeguards are needed. Another concern has to do with arrests; the US is not in favour of arrests by troops (an argument shared by the UN Secretary General).

Professor Ryngaert concluded optimistically and expressed that there are signs that the US is willing to engage. If it was up to Mrs Clinton, the US would join the ICC. The US is at least however cooperating in relation to evidence.

42 Cf. J. Wouters & S. Basu, 'The Creation of a Global Criminal Justice System: the European Union and the International Criminal Court', in C. Ryngaert (ed.), *The Effectiveness of International Criminal Justice*, Antwerp, Intersentia, 2009, 117-144.

43 J.B. Bellinger, III, 'U.S. Perspectives on International Criminal Justice', Remarks at the Fletcher School of Law and Diplomacy, Medford, MA, November 14, 2008, in fine, available at <http://www.state.gov/s/l/r/s/111859.htm> (stating that 'concerns about the ICC did not begin, and likely will not end, with the present Administration').

44 Letter by J.R. Bolton to the Secretary-General of the UN, 6 May 2002, available at <http://www.usembassy.org.uk/forpo496.html>.

45 Security Council Resolution 1593 (2005).



### *Intervention by Ms. Luisa Mascia (Coalition for the ICC)*

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#### **SUMMARY**

Ms. Mascia presented three main points in reference to US engagement with the ICC:

- The ICC Assembly of State Parties (ASP) that took place in 2009 was the first time in eight years that the US attended as an observer. They came with a large delegation and were very constructive in the session, which was well received by both states and NGOs. The US showed interest in engaging more formally through setting the tone of “listening and learning”. There have been many interesting declarations by the US following the last ASP.
- In her second point she stressed that one of the main questions to address is “what kind of (re)engagement are we talking about?” While one can debate over the nature of engagement or reengagement, it is clear that this is an area that will require a lot of work. The policy of the previous administration was a failure and the current Obama Administration continues to be an easy target for ICC opponents. The US policy review process is still ongoing, but will hopefully be done by the end of May for the ICC review conference. There is still no official confirmation on whether the US will participate and if so, what their position will be. There are limits and challenges to this type of reengagement. In US statements of engagement, they always make sure to clarify that it is not ratification which they speak of. Further, there are concerns with regards the US and the concept of aggression, the US would like a larger role of the UN Security Council. Another challenge persists in US bilateral impunity agreements.
- Her last point addressed the “wants” of NGOs. NGOs actively seek US ratification of the Rome Statute. Accordingly US participation in any form is essential. NGOs would like to see a constructive relationship established by the US with the ICC and feels that it would be important for the Obama administration to affirm a US attitude of zero impunity for mass atrocities. Second, she suggests that the US should share evidence with the courts, facilitate its work and support resolutions on the ICC. She also recommended that the US continue its participation in the ASP in a genuine and respectful manner. Her last 3 recommendations were: 1. the current administration should reject the “un-signing” of the Statute; 2. the US should contribute to funds for victims and; 3. oppose any future bilateral immunity agreements.

### *Intervention by Mr. Geoffrey Harris (Head of Human Rights Unit, European Parliament)*

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#### **SUMMARY**

Mr Harris’s presentation primarily focused on EU and US approaches to human rights to which he claims that the main difference between EU countries and the US is the very essence of its approaches and varying degrees. EU member states have accepted the idea that the pooling of sovereignty is a good idea, and the UN developed simultaneously.

The European Parliament from the outset supported the ICC through resolutions, financial support and joint activities with the coalition. It tried to learn from NGOs and interact with them. In relation to the different approaches between the EU and US, it appears that there are elements of change in the US’s position. In reality however, the US is not going to ratify the statute for quite some time.

One of the main problems identified was the issue of “double standards”. For example, there are resolutions denouncing human rights violations without being too defensive, however the fact is that one needs to answer to the questions of double standards: are they going to be convicted in the same way as others? It was suggested that the EU and US derive a common approach to this.

To conclude Mr Harris raised the question “has there been progress or not”. His response, historically speaking, “yes there has been big progress”. Reference in this regard was made to the Genocide Convention which took the US almost 40 years to ratify following its signature. He noted however that in order for the ICC to succeed it will have to avoid being a fora used for ideological battles, as seen in the Human Rights Council.

### *Intervention by Ms. Susi Dennison (Amnesty EU Office)*

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#### **SUMMARY**

Ms. Dennison’s presentation focused mainly on EU-US relations with specific reference to Guantanamo. When the Obama Administration announced it would close Guantanamo it was a great cause for celebration within the EU, for NGOs and governments alike. Both the European Parliament and the European Council have carried out investigations on complicity of EU Member States. At the EU level, the issue is not on the Council’s agenda. Thus the question that may be posed is to what extent can there be transatlantic cooperation in the context of Guantanamo?

Ms Dennison first looked at positive cooperation in specific reference to Guantanamo detainees. Some EU member states have agreed to take in these detainees, and based on principles, this was seen as the “right thing to do”. For Amnesty International, this was seen as a positive move forward as it showed that the EU is able to take an approach to support the US to close Guantanamo. There is established cooperation between EU Member States in addition to a EU framework to facilitate the process. In December 4 more detainees were transferred to EU Member States. Amnesty International estimates that 26 detainees have been transferred in total, 10 of which have been to European countries. For those who have been released, there is however a big resistance towards accountability. The criminal review announced only a limited number of aspects concerning some detainees. Promise of immunity for those who acted in good faith is criticized by Amnesty International because it is contrary to the convention against torture.

In the context of EU-US relations regarding secret prisons, there are very few investigations in the US and elsewhere and there is evidence of complicity of EU member states. Poland, Romania and Lithuania have all been identified.

Amnesty International understands that the EU encourages investigations; in Romania for example, there has been a parliamentary inquiry. It concluded that no such prison existed. In Poland, the national prosecutor investigation has been completed. In Lithuania the President asked for a parliamentary investigation but the foreign ministry said it was a fantasy and fiction. However, there is evidence on this.

Ms Dennison concluded by posing the question “how can the EU gain some credibility in the US relationship”? In response, she stated that paper commitments to human rights protection is not credible anymore. When it comes to security decisions, the EU does not follow a human rights based approach. She recommends that accountability be tackled within EU member states and emphasized the importance of addressing the issues at all levels, not only the national level.

## DISCUSSION POINTS

- The discussion following the four presentations revolved around EU coherence and coordination. It was recognized that a lot of work remains to be done, notably in human rights dialogues with third countries. Effectiveness will very much depend on stronger coordination between internal and external policies. The Lisbon Treaty seeks to achieve this very balance which as a result will yield better coherence. It was claimed that the issue of coherence was a much bigger issue before and that now the focus should be more on substantive issues.
- The role of the EU Fundamental Rights Agency was also raised in conjunction with coherence, on whether it can facilitate coherence between EU member states. Many are sceptical and critical due to no clear mandate given to the Agency. Furthermore, it has no power to look into domestic situations as the competences lies within the Treaties.
- The final point raised was about mobilizing public opinion on issues surrounding the ICC. Some claimed that the ICC is too technical to mobilize public opinion but that individual cases could have the potential to do so. The case of President Bashir was brought in as an example. There are many challenges in bringing him to justice as there are some states supporting him in addition to various geopolitical obstacles hindering his arrest. Moreover, the issue of immunities of heads of states create additional challenges. The question that then remains is how can this be solved legally?

*‘The European Union: A ‘Model’ Human Rights Enhancer?’*, paper by Ms. Sue Basu, Institute for International Law and Leuven Centre for Global Governance Studies at the University of Leuven

## SUMMARY OF THE PRESENTATION

Ms. Basu presented her paper entitled “The European Union: A Model Human Rights Enhancer?”. The paper examined the EU in the Human Rights Council and assessed the extent to which the Union can be heralded as a “model” human rights enhancer. The following is an overview of her paper and presentation:

Her presentation first highlighted the advancements brought forth by the Lisbon Treaty in the area of human rights in addition to the institutional developments. Subsequently, she elaborated upon the five main new features of the Human Rights Council, making the claim that the Council is a suitable stage to enhance human rights. The remainder of her presentation highlighted the outputs of the Council since its inception and the contributions the EU has made therein. Some of the contributions analysed were: EU sponsored resolutions, looking at both the EU and composite EU; the renewal of Special Procedure Mandates with an emphasis on DRC, Cuba, Belarus and Sudan; the EU’s four Special Session initiatives; and lastly the EU’s approach to the UPR process.

She concludes that while on the one hand the EU has been a strong enhancer of human rights in a number of areas like through its Special Session initiatives and statements and interventions in interactive debates and dialogues, on the other hand it has fallen short on other areas like the renewal of very important mandates such as the DRC. Its passive consensus based approach to addressing human rights issues, consequently conceding to initiatives because of its unsuccessful lobbying efforts was highlighted as an additional concern. In her final conclusion she stated that the EU, in its current form, cannot be heralded as a ‘model’ human rights enhancer, however, can be proclaimed as an enhancer of human rights as such. Lastly, she stressed that the enhancement of human rights comes in various forms and means and that it is also crucial to look at what is being done ‘on the ground’.

*‘What have the Romans ever done for us? The imminent review of the Human Rights Council, 2009-2011’*, paper by Mr. René Rouwette, Netherlands Institute of Human Rights (SIM) at the University of Utrecht

## SUMMARY OF THE PRESENTATION

Mr. Rouwette’s presented his paper entitled ‘What have the Romans ever done for us? The imminent review of the Human Rights Council, 2009-2011’. His presentation stressed the following four main points:

- The review of the Human Rights Council (2011): The Russians would have liked to have had the review in 2010. Mr. Rouwette claimed that the diplomats are lacking time and that the governments show no interest. In this regard, one should think about how to get the review done but not in a formal session.
- The use of the term ‘politicization’: Mr. Rouwette believes it’s a “strange” description. The importance of the Council is its political nature. The term is used in a negative way, in case decisions go in a wrong direction. Politicization should also be seen as meaning something ‘new’ and therefore officials should not forget that it is because of politicization that the Council was reformed.

- Politicization and problems of the Council: The gap between the West and South has increased. Mr. Rouwette feels that 'new' proposals (including the issue of universal membership) are dangerous for both the functioning and the institutional framework. He emphasized that already in 2006 the balance was delicate. The Council has been criticized for not having been effective enough. He feels it is not smart to say that the Council is not functioning. Concerning universal membership, one can doubt whether the UN General Assembly is less politicized as sometimes claimed. Transforming the Council could polarize the Third Committee. The division of tasks is nowadays inefficient. They are dealing with the same issues. But if a resolution does not work within the Human Rights Council it may perhaps within the Committee.
- Improving the Council: Mr. Rouwette concluded with stating that if the West wants to improve the Council, diplomats should take a conservative stance towards reform, focusing on change within the periphery of the so-called Institution Building Package. One should reconsider its own role within the Council rather than opening the whole box.

## DISCUSSION POINTS

- The discussions following the two presentations revolved around the utility of the Council and whether it is a good platform for the EU and US to cooperate and/or criticize one another.
- Some felt that the Council is indeed useful while others highlighted that it's not the utility which should be looked at but the actual instrumentalization of the body. It was also noted that the Human Rights Council keeps the topic of human rights on the agenda of UN diplomats, accordingly this has an operational and cultural impact, allowing for discussions on human rights on a regular basis and also forcing diplomats to think about human rights with a cultural perspective.
- In reference to the EU and US in the Human Rights Council, it was stressed that it illustrates a good example of where there is a need for cooperation. It is evident that there is a gap between the values and human rights priorities of the EU-US compared to that of many other regions of the world. Thus, strategies need to be developed collectively to bridge this divide and not unilaterally. With regards to if the EU and US should criticize one another in the Council, it is believed that while each should not keep silent, the Council should not turn into a battlefield for the EU and the US.



*Prof. Dr. Paul Lemmens and Prof. Dr. Douglass Cassel*

# Report Workshop Energy and Climate Change

## INTRODUCTION BY THE WORKSHOP CHAIRS

**'Energy and Climate Change Policy: Overview of Major Trends and Challenges in California', Discussion note by Dr. Pamela Doughman, former Professor of Environmental Studies at the University of Illinois**

To complement discussion of federal US climate policy presented in other papers of this forum, this paper describes opportunities for cooperation at other levels of governance in North America, emphasizing opportunities for cooperation with the state of California.

### U.S. States Look to Other States and Countries for Best Practices

The type of energy and the alternatives that are locally available vary widely across the US, contributing to some of the difficulties the country is facing in passing federal climate change legislation.

In the meantime, action to reduce greenhouse gas emissions is moving ahead at the state and sub-national level.<sup>46</sup> For example, the north-eastern states have a cap-and-trade system in place for greenhouse gas emissions (the Regional Greenhouse Gas Initiative),<sup>47</sup> and the Western states, tribes, a number of Canadian provinces, and a number of northern Mexican states are working to set one up as well (the Western Climate Initiative).<sup>48</sup> A number of Midwestern States and the Canadian province of Manitoba are also working collaboratively to reduce greenhouse gas emissions.<sup>49</sup> Twenty-nine US states and the District of Columbia have adopted renewable portfolio standards.<sup>50</sup>

Information, best practices, and lessons learned from the EU, and individual European States, and electricity system operators is sought by state policymakers and staff charged with design and implementation of climate change policy. Specific topics of interest include:

- Feed-in tariffs (long-term, fixed-price, power purchase agreements) for renewable energy;
- The interaction of 'complementary measures' and cap-and-trade for greenhouse gas emission reduction;
- Coordination of protocols for greenhouse gas offset generation and tracking.

46 Pew Center for Climate Change, U.S. Climate Policy Maps, [http://www.pewclimate.org/what\\_s\\_being\\_done/in\\_the\\_states/state\\_action\\_maps.cfm](http://www.pewclimate.org/what_s_being_done/in_the_states/state_action_maps.cfm).

47 Regional Greenhouse Gas Initiative, About RGGI, <http://www.rggi.org/about>.

48 Western Climate Initiative, Organization, <http://www.westernclimateinitiative.org/organization>.

49 The Canadian province of Ontario is an observer. For more information, see Mid-western Greenhouse Gas Reduction Accord, <http://www.midwesternaccord.org/>.

50 Database of State Incentives for Renewables and Efficiency, November 2009, Summary Map of Renewable Portfolio Standards, [http://www.dsireusa.org/documents/summarymaps/RPS\\_map.ppt](http://www.dsireusa.org/documents/summarymaps/RPS_map.ppt).

There are a number of regional institutions in North America that could help disseminate information and provide a venue for discussion of best practices and lessons learned on energy and climate change.<sup>51</sup> For example, the Commission for Environmental Cooperation, created by an environmental side agreement to the North American Free Trade Agreement plans to expand its work on this topic.<sup>52</sup> Also, CEDAN brings academics and practitioners together to discuss trends and challenges related to climate change in the U.S., Canada, and Mexico.<sup>53</sup>

In California, the Governor has signed a number of agreements to cooperate on climate change policy and has sponsored two international climate change summits.<sup>54</sup> Also, California state law on climate change (AB 32, Statutes of 2006) requires state agencies to seek information, suggestions, and lessons learned from other states and other countries on how to best reduce greenhouse gas emissions:

*[T]he state board shall consider all relevant information pertaining to greenhouse gas emissions reduction programs in other states, localities, and nations, including the north-eastern states of the US, Canada, and the European Union.*<sup>55</sup>

### Electricity Sector Climate Change Policies in California

California state law (AB 32) requires achieving 1990 levels by 2020 and the Governor has set a goal of 80 percent below 1990 levels by 2050.<sup>56</sup> A number of other states have similar long-term goals in place.<sup>57</sup>

51 See Craik and DiMento (2009), *Climate Law and Policy in North America: Prospects for Regionalism*, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1348580](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1348580).

52 Climate change is one of three priority topics for the Commission for Environmental Cooperation's 2010-2015 Strategic Plan. See Commission for Environmental Cooperation Ministerial Statement, June 24, 2009, <http://www.cec.org/news/details/index.cfm?varlan=english&ID=2828>.

53 Center for Dialogue and Analysis on North America (CEDAN), *Tecnologico de Monterrey, Mexico City Campus, Research Network: Regional Climate Change Governance in North America*, <http://dte.ccm.itesm.mx/blog/regionalclimate/?lang=en>.

54 For example: California, Office of the Governor, October 2, 2009, Press Release: Governor Schwarzenegger Announces Partnership with Jiangsu Province of China to Advance Climate Policies, <http://gov.ca.gov/press-release/13456/>. See also, California, Office of the Governor, November 19, 2008, Press Release: 26 Global Leaders Sign Agreement to Partner on Climate Action, <http://gov.ca.gov/index.php?press-release/11112/>.

55 California Health and Safety Code, Section 38561, subparagraph (c), added by Assembly Bill 32 (Nunez, Statutes of 2006), [http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf).

56 California, Office of the Governor, Executive Order S-3-05, <http://gov.ca.gov/executive-order/1861/>.

57 Pew Center on Global Climate Change, *What's Being Done: A Look at Emissions Targets, United States, State and Regional*, [http://www.pewclimate.org/what\\_s\\_being\\_done/targets](http://www.pewclimate.org/what_s_being_done/targets).

The lead state agency for climate change policy in California, the Air Resources Board, has adopted a scoping plan that includes development of a cap-and-trade system and 'complementary measures'.<sup>58</sup> The cap-and-trade system is being designed to begin with the electricity sector and expand to include the transportation sector.<sup>59</sup> A recent study by an economic consultant firm suggests that personal use of cars is not expected to change very much, but the use of hybrid electric vehicles and all-electric vehicles is expected to greatly increase after 2020, causing a significant increase in electricity demand.<sup>60</sup>

The state intends to use a suite of policy tools to reduce greenhouse gas emissions from electricity, including energy efficiency, demand response, distributed generation, renewable energy, and an emissions performance standard for new long-term contracts with fossil-based electricity generation.<sup>61</sup> For renewable energy, the Governor has set a goal of 33 percent renewable electricity by 2020, excluding large hydropower.<sup>62</sup> The ARB included the 33 percent goal as a complementary measure in the scoping plan for AB32 and is in the process of developing a regulation for this measure.<sup>63</sup> The concept outline for the 33 percent renewable electricity standard is attached.<sup>64</sup>

#### Challenges Facing Renewable Energy Policies in California

Challenges facing renewable energy policies in California include the following:

- Political consensus on 'delivery.' The Governor vetoed a bill that would have put 33 percent renewable by 2020 into state law. One of the reasons for the veto was the electricity delivery requirements: by requiring delivery to California within 24-hours of generation, the Governor stated that the bill would limit the ability of facilities outside of California to help the state meet the 33 percent by 2020 goal.<sup>65</sup>

58 California Air Resources Board, AB32 Scoping Plan Document, <http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm>.

59 California Air Resources Board, *Climate Change: Cap and Trade*, <http://www.arb.ca.gov/cc/capandtrade/capandtrade.htm>.

60 Energy and Environmental Economics, Inc., November 2009, Meeting California's Long-Term Greenhouse Gas Reduction Goals, [http://www.ethree.com/California\\_2050.html](http://www.ethree.com/California_2050.html).

61 California Energy Commission, 2009, Draft Committee Report: 2009 Integrated Energy Policy Report, [http://www.energy.ca.gov/2009\\_energy/policy/documents/index.html#101409](http://www.energy.ca.gov/2009_energy/policy/documents/index.html#101409).

62 California, Office of the Governor, Executive Order S-14-08, <http://gov.ca.gov/executive-order/11072/>. See also, California, Office of the Governor, Executive Order S-21-09, <http://gov.ca.gov/executive-order/13269/>.

63 California Air Resources Board, *Renewable Electricity Standard*, <http://www.arb.ca.gov/energy/res/res.htm>.

64 California Air Resources Board, October 2009, Proposed Concept Outline for the California Renewable Electricity Standard, <http://www.arb.ca.gov/energy/res/meetings/103009/resconceptoutline.pdf>.

65 "As a world leader in climate change and renewable energy development, California needs a regional approach that provides streamlined regulatory processes and compliance flexibility that facilitate the timely construction of in-state resources. This legislative package does the opposite – adds new regulatory hurdles to permitting renewable resources in the state, at the same time limiting the importation of cost-effective renewable energy from other states in the West." California, Office of the Governor, 2009, SB 14 Veto Message, [http://gov.ca.gov/pdf/press/2009bills/SB14\\_Simitian\\_Veto\\_Message.pdf](http://gov.ca.gov/pdf/press/2009bills/SB14_Simitian_Veto_Message.pdf).

- Local environmental co-benefits. AB 32 requires the ARB to consider local environmental impacts in measures developed to reduce GHG emissions.<sup>66</sup> Ideas and suggested best practices are needed on how to best achieve local environmental co-benefits in regional electricity and regional cap-and-trade systems. For example, some of the lower cost renewable resources are located outside of California. It is not clear whether out-of-state or in-state renewable energy has a greater impact on the use of in-state gas-fired power plants.<sup>67</sup> One possibility is to deliver the renewable energy to a 'storage' facility to be used at a later time. This approach could help integrate high levels of renewable energy into the electricity system with less use of the more polluting types of gas-fired power plants. What policy designs have best encouraged development of storage in other contexts?
- Quantification of greenhouse gas emissions attributable to renewable energy. The ARB is considering using GHG emission reductions as the basis for compliance and enforcement of the Renewable Electricity Standard. However, it is unclear whether this attribution is technically feasible at a level of accuracy needed to determine compliance (and penalties) for each obligated entity (electric utility) in California.<sup>68</sup>

*Discussion note by Prof. Dr. Marc O. Bettzüge, Director of the Institute of Energy Economics at the University of Cologne*

#### SUMMARY

Within the EU, the electricity generation mix<sup>69</sup> varies significantly from one Member State to the other. Geography, geology and national energy policies are considered to be the primary forces behind the current setting. It must be added that the current mix is a result of 50 years of energy policy-making shaped by geographic and geologic constraints. As a result, in order to meet the 2050 targets, it is important to start today, rather than tomorrow.

In terms of CO<sub>2</sub> intensity, the generation mix is currently not too problematic. The level of efficiency is quite high, especially in Germany. Also, the large share of nuclear energy generation in France and to some extent Germany has helped in cutting down CO<sub>2</sub> emissions, whereas some 50% of the energy mix flows from non-fossil sources.

66 AB 32 requires the ARB to consider the following: "(1) Consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution. (2) Design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants. (3) Maximize additional environmental and economic benefits for California, as appropriate." [http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf), Section 38570, subparagraph (b).

67 California Energy Commission, 2009, Draft Committee Report: 2009 Integrated Energy Policy Report, [http://www.energy.ca.gov/2009\\_energy/policy/documents/index.html#101409](http://www.energy.ca.gov/2009_energy/policy/documents/index.html#101409), pp. 81-83.

68 California Air Resources Board, October 2009, Proposed Concept Outline for the California Renewable Electricity Standard, <http://www.arb.ca.gov/energy/res/meetings/103009/resconceptoutline.pdf>.

69 The composition of different energy sources that account for the total energy generation in a specific area. For example, France derives close to 80 percent of its electricity from nuclear sources.

Within the EU, renewables do not play a significant role yet, apart from hydro to some extent. However, hydroelectricity is increasingly losing its role in the future of energy production and therefore should be replaced by other renewables.

Renewables are easier implemented in the electricity sector and should therefore take the largest share. However, we need to double the share right now. Historically, however we have not been able to achieve this. The share of biomass and wind has increased (notably in Germany, Denmark, Spain), but, overall the share has not increased much. The share has floated between 10% and 15%. This slow creeping up has continued, yet we are still far away from the 35% target. 10 years time is basically tomorrow – so it is time to hurry up. The question is why this has not been achieved? The demand for power has gone up at the same time, especially in the south of Europe, but in order for the overall share to grow you must grow faster in absolute terms than the demand does. So, why didn't Europe succeed? It is because the potential for hydro energy has decreased.

The overall potential for renewables in Europe is significant however – even in light of certain limits related to public acceptance and planning. However, the potential for renewables in Europe is very different in terms of geography. As costs differ greatly per location, the geographical factor should not be overlooked. The optimal locations for renewable energy were effectively not selected when it comes to wind energy for example. Currently there is a lot of wind energy generation in Germany, Denmark and Spain. Yet, these are not the places which have the most wind. It is in this regard that the common energy market does not work and is in fact inefficient.

With regard to photovoltaic energy, the picture isn't much different in the sense that there are large differences in costs. Moreover, the EU has chosen Germany as a suitable territory for large photovoltaic power plants, which is not the optimal location for such industry.

How does one make sure that the EU is in fact optimizing as a whole and not the individual Member States alone? In policy terms this means that the EU has 27 different energy promotion schemes. The systems themselves are not harmonized and this in turn creates imbalances. So far, there is no clear and harmonised view and this does not help achieve an optimal harmonised scheme for customers. In conclusion, we can say that the chance for true harmonization of the generation mix in the EU has largely been missed. The EU however can take the following measures in order to somewhat alleviate the problem:

- Coordination of system development grid: an EU perspective on this issue is highly desirable. One simply cannot assume that national coordinators will come up with optimal location selection mechanisms on their own;

- Coordination of investment and financing: renewable energy is currently still more expensive (especially including the grid cost) and renewable energy is not as competitive yet, apart from locations in Scotland and Ireland depending on the relative price of coal. There is a lot of extra money needed combined with a good idea on how best to finance this. Another important point for consideration is that the extra costs must be financed, but should not be left to hamper competition. Financing it through the electricity price is not the optimal approach.

## DISCUSSION POINTS

- An Emission Trading System (ETS), a cap-and-trade system and renewable policies have in fact existed in the EU for a while already. It covers all electrification and electricity generation. Those same sectors are targeted by efficiency policies, whereas ETS caps the amount of emissions of electricity generation. Would this constitute as a double policy?
- In response it was put forward that it is not an economic choice that the consumer makes. He or she will not base his choice on costs for the environment. The *Renewable directive* as part of the 20 20 20 package ensures meeting 20% renewable energy consumption in the EU as a whole, but please mind that this is a target. Member States have individual targets and insisted on keeping support of renewable policy a national issue. The question of harmonization is known, yet the issue is of a national competence. Also, Member States do not feel comfortable on spending public money on projects outside their own borders as the benefits accrue elsewhere. In this sense, one currently cannot yet speak of a truly European endeavour. However, this does not imply that Member States cannot decide what the 'smart' thing to do is. So, stimulus here is needed. It is necessary to stimulate Member States to do what is most beneficial and where.
- In essence, demand can change location. From a policy perspective this is very interesting way to think. To take German grid extension as an example, there is a single price for electricity in Germany. There is cheap wind energy in the North, therefore more cables to the South are needed. Now, if that is the case, why doesn't BMW build its factories in the North? That way there is no need for the extension to the South. Over time a shift of industrial locations can take place when regional pricing is used effectively. Potentially, such a shift could even include North Africa.

# PRESENTATIONS AND DISCUSSIONS

*'Is International Law Still Relevant for A Copenhagen Climate Agreement? Contrasting EU and US Approaches to Multilateralism', Presentation by Prof. Dr. Marc Pallemmaerts, Senior Fellow Institute for European Environmental Policy*

## SUMMARY OF THE PRESENTATION

### Transatlantic approaches to climate change negotiations

The Copenhagen discussion hinges on one primary issue, namely the divergent approaches to international law taken by the US on the one hand and the European Member States on the other. During the cold war, the US viewed 'Treaty' as the defining paradigm of international law. This seems to have changed in the past two decades. In this light, the European policy makers seem to be rather stuck in the Cold War by putting forward another Treaty. This gives credence to the criticism levelled against the European approach to climate change, *i.e.* European fascination with procedures, rather than actual results, preference for binding deals, rather than conditional commitments which could bring about harmony between the Contracting Parties.

### 2007: Bali Action plan: agenda for multilateral negotiations

All parties recognize that deep cuts in global emission are necessary to achieve the ultimate objective of the UNFCCC. But, the action plan does not say who needs to cut what and to what extent. The goal of the Bali Action Plan, what is referred to as an 'agreed outcome', yet the form is undefined.

The *Bali Action plan* puts emphasis on the following issues:

- Measurable, reportable and verifiable nationally appropriate mitigation commitments or actions by *all developed country Parties and nationally appropriate mitigations actions (NAMAS) by developing country Parties*;
- Reducing emissions from deforestation and forest degradation (REDD) in developing countries; enhanced action on adaptation to climate change to enable climate resilient technology development.

All agenda points are based on the principle of 'common but differentiated responsibilities'. Accordingly, developed State Parties are urged to take the lead in combating climate change and its adverse effects.

Another issue is that under Art. 4(2)a of the United Nations Framework Convention on Climate Change (UNFCCC) there has been some disagreement as to whether industrialized countries are under an obligation to return their emission levels to earlier levels. The EU likes to state that this is the case. The US however denies that such a legally binding obligation to that effect exists and argues in favour of the need for *equitable* and *appropriate* contributions by each and every state party mentioned in Annex I of UNFCCC towards the global effort in attaining that objective.

### Where are we now?

The following sets out the available options concerning climate change mitigation and the corresponding commitments:

- Kyoto track: negotiations are extensively concerned with introducing amendments to the protocol that will lay down emission restrictions beyond 2012. The setting is rather limiting however, as the actual subject is only to agree on a new set of figures to fit in the existing agreement as it currently stands. There are additional problems:
  - The US is not a party to the Kyoto Protocol and will not accede and accept Kyoto type reductions *i.e.* Quantified Emission Limitation Commitments (QELRO).
  - It is unclear whether all current Kyoto Protocol state parties – Canada, Japan and Russia in particular – are prepared to accept new QELRO.
  - Finally, the positions of Non-Annex I State parties in this regard are also unclear.
- With regard to nationally appropriate mitigation actions taken up by Annex 1 parties there is substantial divergence amongst the leading players:
  - The EU, Australia, Japan, and Russia favour different actions/commitments for different categories.
  - The US favours the same legal character of actions for all parties.
  - Canada favours a full range of contributions from major emitters.
  - Japan is in favour of binding targets for emissions based on GDP.
  - Brazil and China maintain that actions should be voluntary and non binding-legal obligations of Annex I and Non Annex I should remain distinct.
  - South Africa and Korea support voluntary and non binding actions.

The fundamental difficulties in this setting are (i) how to differentiate between major emitters and developing countries? (ii) what sort of emissions should be expected from developing countries? and (iii) how to identify a possible 'contract zone' despite diametrically opposed positions?

The 'building blocks' for Copenhagen revolve around commitments by developed countries, nationally appropriate mitigations actions (NAMAS) by developing country Parties, reducing emissions from deforestation and forest degradation (REDD) in developing countries, adaptation, and technology transfer.

With regard to a Copenhagen agreement, there are several possible forms of an 'agreed outcome'. For example, there is the possibility of amending the Kyoto Protocol (which is a COP/MOP decision). Alternatively, it could be decided to amend the UNFCCC, which is an attractive option to achieve an inclusive result despite ratification or not, but interestingly this is not being put on the table. Lastly, one could adopt new protocols under the UNFCCC.

## EU view of the 'Copenhagen Outcome'

The starting position for the EU is to bring about amendments to Kyoto Protocol for a 2nd commitment period from 2012-2020. The idea is to make more amendments to ensure the Kyoto Protocol is more streamlined and more effective. There is an unspecified agreed outcome under the Convention (legally binding). Since Bangkok (October 2009), the EU aims for a single legally binding agreement, building on the Kyoto Protocol.

In building on the existing framework, the EU is faced with difficulties. On the one hand it must comply with its obligations under the international legal framework and live up to its concessions made to the developing countries, on the other hand it cannot afford to damage its strategic partnership with the US and other Annex I countries in formulating a demand that at least emerging economies and developing countries should also have some form of binding commitment. EU's loyalty to international law has placed it in a difficult spot.

## US view of the 'Copenhagen Outcome'

The US favours the conclusion of implementing an agreement under the UNFCCC. Interestingly, the US proposal was transmitted under Art. 17(2) UNFCCC (which in essence is intended for proposing protocols). However, the US has stopped short of calling for conclusion of a new 'protocol'. Thus, from the American vantage point, there is not only a problem with the 'K' word, but also with the 'P' word.

Moreover, it is not clear what significance one can attach to this so-called 'implementing agreement' as it has no specific meaning in international law. It is suspected that the intention of the US Administration is to come to some sort of outcome that may not necessarily require the approval of the Senate in terms of ratification, as it is merely an agreement to further implement a framework convention (UNFCCC) which the US has already ratified.

Furthermore, the US has proposed that both developed and developing countries take on commitments – but in accordance with domestic law. Those developing countries with better capabilities should also sign up to the 2020 timeframe. The US has further argued that the commitments that these countries should undertake are to be consistent with the level of ambition needed to achieve the 2020 goals. However, this is strange in terms of 'common but differentiated responsibilities', as the low developed countries must correspond to national law and countries like Brazil and China are required to be more ambitious in their climate change mitigation efforts.

*'Multilateral Energy Governance: EU and US Perspectives on Revising International Energy Treaties', paper by Mr. Thijs Van de Graaf, Department of Political Science at Ghent University*

## ABSTRACT

The energy path we are currently on is far from sustainable. Exploding demand, high and volatile prices, dwindling reserves, a warming climate, enduring energy poverty and an alleged "securitization" of energy trade are only the beginning of a long list of challenges that we have to confront. This makes energy perhaps the topmost sector in need of global governance. Yet, despite this apparent need to manage these

energy-related challenges cooperatively, energy has remained an underdeveloped policy field in global governance, at least compared to other issue areas such as trade, environment or security. The energy work of the UN is too weak and dispersed to be the locus of global energy governance. The two most important multilateral energy institutions, the IEA and OPEC, only represent particular consumer or producer countries. The IEF, in turn, is no more than a talking-shop. The ECT has lost much of its momentum, especially after the recent Russian-Ukrainian gas crises. In the absence of a real global authority on energy, the G8 has tried to fill the void since the 2005 Gleneagles summit. Recently, many proposals have been put forward to reform global energy governance and new initiatives have seen the light of day in the fields of renewables (IRENA) and efficiency (IPEEC). This proposed paper will examine American and European views and debates on the reform of global energy governance to identify the points of convergence and divergence. Special attention will be given to the transatlantic energy forums that were formed in the context of the oil shocks of the 1970s – the IEA and the G8 – to see how they can be updated to the governance challenges and global political order of the 21st century.

## SUMMARY OF THE PRESENTATION


The anxieties propagated by the recent public debates on energy security have to a large extent been overshadowed by the fact that the international trade in oil and natural gas still largely operates within clear and predictable rules. This is not to say that this institutional framework is without serious weaknesses and shortcomings. Having been instituted in the direct aftermath of the oil crisis of the 1970s, the current institutional framework is ill-suited to deal with today's challenges. The current regime does not include rising powers such as Brazil, India, Russia and China and, moreover it not equipped to address emerging challenges such as oil market turbulence, gas conflicts, and energy poverty. More importantly, the current framework still finds itself tangled with an outdated definition of energy security.

Two prominent transatlantic *fora* dealing with energy are the International Energy Agency (IEA) and the G8. Both, however are rather fragmented in terms of substance and membership.

## IEA

Originally envisaged as a counter-cartel to OPEC and the 1973 oil crisis, the IEA is closely affiliated with the OECD, yet enjoys significant autonomy. One of the IEA's fundamental creations has been its oil supply emergency system. This system is however not without problems. As the IEA membership has a declining share in world energy markets, there is a shift occurring towards new consuming countries (non-IEA members such as China, Russia and India). This phenomenon leaves the IEA system redundant as it is only relevant, relative to global oil consumption. It is thus important for the IEA to bring the new consumers on board. However, within the IEA, the US and EU hold divergent views concerning the precise modality of such expansion. The former actively supports IEA enlargement to include China and India, whereas the latter has adopted a more nuanced approach that supports outreach but stops short of full membership.





The US position has a number of implications, namely that only OECD members can become State Parties to the IEA. This inherently includes ramifications for Russia and China which do not exactly live up to the definitions of a market economy, democracy, and respect for human rights. In addition, India and China fall short of the IEA obligation to maintain oil reserves equivalent to 90 days of their import. It must also be added here that both the US and the EU as a whole stand to have their voting weight reduced. Some EU Member States will gain, whereas some will lose a large number of votes. This perhaps explains the reluctance on part of EU Member States and the EU as a whole to agree to enlargement.

### G8/G20

In recent years, the G8 has firmly entered the debate on global energy governance. Next to designing and drafting a plethora of declarations, action plans and commitments, the G8 has set up new institutions such as the Global Bioenergy Partnership and the International Partnership for Energy Efficiency Cooperation. Moreover, it has tasked existing international organizations such as the IEA and the World Bank to carry out studies with regard to energy. Not surprisingly, the G8 has also come under intense pressure to adapt to the changing geopolitical landscape (see *supra*). Insofar as responsiveness to challenges ahead is concerned, the progress within informal state groupings has been better than that observed in international organizations such as the IEA. In this context, the G20's increasing emphasis on global energy governance is notable. However, it cannot be ruled out that the G8 will continue to address energy related matters in the coming few years.

### E8

The E8 is an international forum modelled after the G8. It would be an informal gathering at the heads-of-state level and would consist of Brazil, China, the EU, India, Japan, Russia, South Africa, and the US, representing the key economies in each region of the world. Its origins can be traced back to the 2007 initiative launched by the previous US Administration called the "Major Economies Meeting on Energy Security and Climate Change" (MEM).

### Transatlantic positions

While the US is pushing very hard to extend both the IEA and G8 membership to countries such as China and India, the European stance is less clear in this regard.

### Recommendations

Firstly, both the US and the EU have an interest in reconstituting the IEA as a global energy institution, last but not least to offset the current imbalance with regard to the institution's emergency mechanism. Also, one has to take into account that if the IEA's outreach policy is not flanked by the perspective of eventual membership, it is possible that other countries will simply "cherry pick". What is also needed are sufficient resources and a clear division of labour between the various formal and informal institutions.

Secondly, the G20 should be made into a global energy steering committee through the following steps: the transfer of the G8 *acquis* to the G20; the empowering of the G20 to steer international organizations; the engagement in peer reviews.

*'The EU in Multilateral Security Governance: The Case of the Russian-Ukrainian Gas Crisis', presentation by Sijbren de Jong, Leuven Centre for Global Governance Studies, University of Leuven*

### SUMMARY OF THE PRESENTATION

The 2009 Russian-Ukrainian gas dispute proved to be a litmus test for the EU's energy security policy and its ability to secure a stable supply of energy for the Union. In light of the EU's un-diminishing dependence on Russian gas deliveries, it is important to assess the efficacy of the Union's multilateral security governance in resolving the crisis.

### Methods and Definitions

Before addressing the question however, it is important to define the key concepts. Energy security should, in this context, be understood as constituting the adequacy of supply at a reasonable price (Haghighi, 2007). The *governance* of energy security, should not be confined to bilateral relations between states and should rather constitute a multilateral affair. Security governance on part of the EU should take place according to the Union's own foreign policy doctrine of 'effective multilateralism'. Effective Multilateralism refers to the development of a stronger international society, well functioning international institutions and a rule-based international order (European Security Strategy, 2003).

This 'effective multilateralism' should be viewed as broad enough to encompass four distinct dimensions:

- Regional: EU-internal dimension and the role of individual Member States operating either individually or in a concerted EU-effort
- Bilateral: EU's engagement vis-à-vis individual third States
- Inter-regional: interactions between the EU and other regional organizations
- Global: EU's multilateral action in multilateral organizations/institutions

In order to gauge the efficacy of European multilateralism, the concept of efficacy itself should be broken down into two main components – one pertaining to "process" and the other to "outcome". Efficacy in process denotes the degree to which the EU was able to organize itself efficiently in a consistent, coherent and sustainable manner at all levels of cooperation whereas output efficacy is concerned with the extent to which political decisions and actions at EU level effectively served to improve the Union's problem-solving capacity.

### Findings and Recommendations

The analysis of the EU's performance focused on important events in the run-up to the crisis, the EU's interventions and important events during the height of the dispute, and in its immediate aftermath.

The bilateral dimension by far dominated the EU's approach to the crisis. Recourse to bilateral statements such as the EU Presidency Declaration of 2 January 2009, Council Declaration of 8 January 2009, and threats of legal action made on 14 January are clear indicia of this reign of bilateralism. However, while being the preferred mode of action, bilateralism was not particularly successful in bringing about a desired outcome.

Recourse to such statements was partly due to failure of the Early Warning Mechanism (EWM) which basically left EU policy-makers with little or no time to appropriately explore other dimensions of EU action. Recourse to such statements would have been less necessary if the EWM had functioned properly. Due to transit countries not being associated with the EWM however, the crisis was not anticipated correctly. In order for a correct assessment of an impending crisis to be made and for the EU to be able to organize emergency plans well in advance, it is recommended for (key) transit countries to be associated with the Mechanism in the future. Coupled with the agreement to overhaul Ukraine's ageing energy infrastructure and a step-up in its membership negotiations for the Energy Community, this should aid the Union's oversight of one of its key transit partners.

The regional potential was intensively explored. For example, the Gas Coordination Group was rather quick to gather and resort to solidarity measures such as (1) raising the production levels in EU Member States as well as Non-EU exporters such as Norway, Algeria and Libya; (2) limiting consumption for industry purposes in Bulgaria, Slovakia and Hungary; (3) fall back on Liquefied Natural Gas (LNG) in Greece. Unfortunately however, 7 out of 25 of such measures can be attributed to the Nord and South Stream projects which are in principle not in line with the EU's general strategy, given their inability to diversify both in terms of supplier, as well as in terms of transit.

Moreover, in this context there was a low degree of coordination among EU Member States with regard to emergency planning. Also, Member States had divergent and at times conflicting strategies vis-à-vis other Member States causing relief in one place to bring about constraints in the other. More importantly, acute lack of transparency and confidentiality of data seriously limited information exchanges between infrastructure operators and shippers, which prevented the operators from contemplating feasible and short-term or intermediate solutions to the crisis.

The inter-regional level was not utilized at all. This can be easily attributed to the absence of any regional organization that can match the EU's level of integration in adopting internal and external measures and by implication what the Union demands from its partners in an inter-regional cooperation framework. It is noted that the Shanghai Cooperation Organisation (SCO) only spoke of the possibility of developing (further) ties with the EU in December 2008.

The global dimension was only limitedly used. Actions aimed at resolving the crisis were limited to statements issued by the IEA, even though neither Russia nor Ukraine are State Parties to the Agency. Surprisingly, the Energy Charter was not used by the EU. The Charter could have provided the legal basis for denouncing Ukraine's breach of its international obligations as a transit state. In the future, if the EU wants to use the Charter in a more effective manner, express reference to obligations of state parties under the Charter particularly Article 45 thereof is very important. Furthermore, the finalization of the Charter's Transit Protocol should be stepped up in order to strengthen the Charter's regulatory framework. Doing so could be a significant first step forward into mitigating any future supply crises.

In sum, in light of the empirical evidence that is available, it becomes clear that generally EU action did not prove very effective in solving the crisis. The four levels of EU action had varying roles and levels of significance but taken as a whole, they failed the test.

## Prospects and conclusion


Having realized that the EU's energy security policy failed to secure a stable supply of energy during the 2009 Gas Crisis, on 16 July 2009, the Commission proposed a new Regulation to safeguard security of gas supply. When compared with the current Gas Directive, the proposed Regulation introduces a number of important new safeguards. Should the Regulation be adopted without significant dilution, the EU's prospects of handling a future crisis, both in a consistent, coherent and effective manner would be raised.

Perhaps the most important results of the January 2009 crisis is the increased awareness of the EU's precarious situation of energy dependency. In the near future, investments in long-term infrastructure projects (with the aim of diversifying the EU's supply of energy) and measures to improve internal as well as external solidarity will most likely be given a boost.

*'Transatlantic relations in a multilateral context: The case of energy security', paper by Ms. Shannon Petry, EU International Relations and Diplomacy Studies at the College of Europe in Bruges*

## ABSTRACT

Over the past 40 years, energy supply security has periodically topped the European and American policy agendas. Today, energy is highly securitized, and a constant, affordable supply from producers is seen by consumers as essential to survival. As major oil and natural gas importers, the EU and US share an interest in having stable, predictable relations with energy-exporting states. However, as recent crisis situations have proven, this is often easier said than done. Both the EU and the US have expressed a desire to de-politicize the energy dossier, yet continue to employ rhetoric that reinforces energy securitization in international relations. Both also have spoken of the importance of international coordination to minimize potential impacts of future energy supply crises. Energy security is already discussed within the transatlantic partnership, but foreign energy policy cooperation between these two major consumers currently appears limited to parallelism. This paper examines the status of the EU-US energy security dialogue within multilateral forums, including NATO, the International Energy Agency, the Energy Charter Treaty conference, and various 'Groups of ...' configurations. Analysis of official documents, interpretation of existing academic literature, and expert interviews with officials are employed to contextualize these interactions. The focus remains on how consumer-to-consumer interactions can influence the direction of future discussions. Via analysis of existing mediums' suitability as *lieux de rencontre*, this paper argues that the proliferation of multilateral forums has, paradoxically, encouraged bilateralism on the periphery in order to ensure all facets of energy security are discussed. A main weakness of existing structures is their frequent exclusion of non-traditional actors, which can serve as information sources and promote policy synergy. Final policy proposals promote



an umbrella international forum, inclusive of traditional and non-traditional actors, to increase efficiency and encourage structured cooperation between producers and consumers as well as the public and private sectors.

## SUMMARY OF THE PRESENTATION

"Where common interests exist, cooperation almost always fails". This cannot hold more true than in energy governance. Within the transatlantic framework, due to absence of an overarching multilateral architecture, proliferation of multilateral energy policy coordination initiatives has actually fuelled bilateral cooperation and as such increased competitive parallelism as opposed to true cooperation. This limitation is exacerbated by incomplete or overlapping sets of policy areas and actors in relation to which such initiatives are actually designed.

The cause of parallelism may be traced back to a divergent definition of security of energy supply. This difference is largely due to geography and past infrastructure decisions made for political and practical reasons as markets evolved.

### EU's Definition

The 2003 European Security Strategy (ESS) declared energy dependence as a "special concern for Europe". However, the report stopped short of firmly linking energy and security. Moreover, energy concerns are classified as a 'global challenge' rather than a 'key threat'. However, by the time of the 2008 strategy implementation report, a profound linkage between energy dependence and European security had become accepted. If there were any doubts as to consolidation of this linkage, they were dispelled by EU's pro-active commitment to resolving the 2009 gas dispute between Russia and Ukraine that left millions of EU citizens without the energy needed to provide heat in winter. The EU nevertheless has been reluctant to view energy security from a military perspective. Moreover, the solidarity clause in the Lisbon Treaty remarkably only looks internally and not externally.

### US's Definition

The Department of Energy's Strategic Plan identifies several main focus areas that more or less comprise the American approach to energy security. They are diversification of supply, lowering of environmental impacts, infrastructure improvement, and cost-effective improvement of economic productivity. However, as Baumann notes "even though global cooperation is mentioned the energy plan focuses on domestic measures".

Thus, while the US' conceptualization of energy security is generally similar to the ESS, the US does not discuss energy security within the transatlantic partnership. Rather, the US prefers to focus on (direct) contacts with producer countries, rather than with consumers. This is changing somewhat now however. The US has representatives that work on energy stationed within its embassies abroad for example; also in key consumer countries/regions. The EU and US will likely encounter obstacles; for one, as the US Department of Energy incorporates civilian and military components into its approach to energy security, it can be hard to dissociate the two for the convenience of the civilian EU. For another, overlap with pre-existing bilateral dialogues will be difficult to avoid.

### Non-traditional Actors in Energy Security

The securitization of energy policy has made it the eminent domain of national politicians seeking to lock in their own country's resource supplies through a mixture of domestic and foreign policies. But decisions are not made in a vacuum. Throughout the process, non-state actors shape the direction of the policy debate. Energy companies have a special interest in policies which directly impact their future business prospects.

For now, the formal role assigned to NGOs appears rather limited, but their presence at the G8 summits for example is not insignificant. New initiatives such as the Extractive Industries Transparency Initiative (EITI) for example seek to promote transparency in accounting for investments in and profits made by energy-extracting industries in producer countries.

Energy companies also have a vested interest. There is a daily role for energy companies in energy security that is perhaps overlooked in transatlantic relations. Beyond government direction, there is space for intra- and inter-company cooperation between consumers and producers that can pragmatically counterbalance politicization. A striking example is how industry connections minimized supply disturbances caused by the 1973-1974 crisis.

### Existing International Forums

NATO has seen its role evolve considerably over time. While still focused on military solutions, today its 28 member states can use NATO's framework to discuss a variety of issues. Taking a long-range view, expansion of NATO's Article 5 on collective defence to attacks on energy supplies could deter non-Alliance states from intentionally cutting supplies to NATO members.

The IEA is another forum which has significant potential for energy governance. The IEA was established under the auspices of the OECD following the 1974 oil crisis, and counts 28 industrialized nations among its members, of which 19 are EU members. Its purpose is to minimize impacts of oil crises on its members, who are each required to maintain a 90 day oil reserve. It is exclusively an importers' club, meaning it seems to position itself against OPEC. Despite dialogues and research foci, its emphasis seems more on securing supply in the event of a crisis, not preventing it from occurring: a reactive, rather than proactive, approach to energy security.

### Conclusions and Policy Recommendations

The existing frameworks pertaining to multilateral discourse on energy security have promising characteristics, but a comprehensive forum for international engagement does not yet exist. Whether due to limited membership, a lack of enforcement capability, or a perspective on energy security that is not in line with that of all its members, the current system leaves much to be desired.

It must be emphasized that coordination between consumers is just as important as between producers. As such, construction of a forum for international promotion of energy security which advocates a wider concept of appropriate participants in order to save time and minimize the risk of overlooking important points of synergy is urgent.

## DISCUSSION POINTS

- The January 2009 gas crisis is a learning point. The natural tendency of EU policy-makers is to assume that markets will solve the issue, with the actors acting rationally. The second tendency is to rely on legal formalities. The crisis that unravelled seriously undermined these assumptions. In the first week gas was still flowing, but Ukraine was taking “technical gas” from the Russian supplies, i.e. the minimum amount of gas required to keep the system running. But, they also needed domestic supply – which they deducted from the gas destined for the EU. When Russia realized that Ukraine was deducting gas for its national consumption, they decided to suspend all gas export that transited through Ukraine. It is important to note that Gazprom was in the latter stage of the dispute losing ten times more in exports than the losses they had sustained in the first 10 days. An estimated loss of \$2 billion dollars was the result. Gazprom made the choice to take on these extreme losses, whereas an ordinary corporation would not have resorted to such extreme measures. On the legal side of the dispute there was a role for the Energy Charter Treaty (ECT). However, the ECT provisions were not invoked because the dispute was not purely commercial. There were many strong political elements. As a result, the EU simply “muddled through” on a bilateral basis, rather than seeking recourse to multilateral instruments.
- But, can the ECT or the Early Warning Mechanism be a more effective tool in future energy disputes? Unfortunately, the Early Warning Mechanism relies mostly on good will on both sides, and is mainly a political tool. As far as the ECT is concerned, Russian refusal to ratify the Treaty has seriously diminished its effectiveness and usefulness for the EU.
- Can the IEA be transformed in such a way that all State Parties gain from it? Enlargement will not bring the EU many gains it seems. Other fora such as the G20 and the Major Economies Forum however, are particularly interesting. At first, there was scepticism as to US intentions, possibly being about undermining the existing Treaties. Currently however, a resort to informal settings is seen in a positive light as it avoids discussions about membership which end up lasting for years.
- When discussing the international energy markets a number of issues are important, namely how we ensure that markets are liberal, that there is access to affordable resources and that supply and transit countries do not use their position as a political tool. In this context, the US-EU Energy Council is a significant development. Its objective is to intensify discussions on energy security, market places and their accessibility on both sides of the Atlantic, new technology, and convergence of energy policies. The US and the EU are both consumer regions whose relations go much further than mere energy consumption and see this dialogue as a very good medium for broadening transatlantic discussions.
- Other sources of energy, such as nuclear policy have potentials for transatlantic policy-making. Nuclear energy is also undergoing a renaissance throughout the world, in part due to its climate change mitigation potentials. But, nuclear policy is a local issue in Europe and requires grassroots acceptance and one has to take into account that it is an expensive technology. Nonetheless, nuclear is going to be a key component on both sides of the Atlantic, but it has to be chosen in line with principles of diversification;

there can be no reliance on one type of energy. In terms of security, a prominent concern is the rise of nuclear power installations outside of the US and EU. What are the implications of this development in terms of proliferation? Who produces the fuel? What happens to the spent fuel? In this context, an international fuel bank, controlled in demand and controlled in distribution of fuel and storage of spent fuel is a very promising proposal.

- A question was raised as to why within the Lisbon Process and the recent integration momentum in the EU, EURATOM has been effectively excluded? EURATOM has always been left out due to its sensitive nature. It will be out there as a separate element, but it was said to function well and serves our interests for today. The Lisbon Treaty furthermore places the choice of ‘energy mix’ within the sphere of national competence. By some this is seen as a step back. However, there seems really little sense in having different nuclear policies in different Member States. For example, a common European nuclear installation siting policy is necessary in order to avoid a non-nuclear Member State from building a plant just over its borders in a Member State that has existing nuclear energy production capability.

*‘Multilateralism 2.0 and Climate Governance: EU-US Positions’, presentation by Mr. Graeme Webb, United Nations University – Comparative Regional Integration Studies (UNU-CRIS)*

## ABSTRACT

International reports on climate change continue to stress the need for immediate action on global environmental policy in order to avert far reaching human security disasters. As leading climate change champion Al Gore has recognized, ‘climate change is not so much a political issue as it is a moral issue’; the human security impacts of climate change morally require global action. However, despite overwhelming scientific data there remains a social and political hesitancy to act. While climate change may be a moral issue, it requires political action – global climate governance – to successfully mobilize the world. If global climate governance initiatives, such as the 2009 Copenhagen UNFCCC negotiations, are to succeed, the EU and the US, as leading global actors, must help steer a new course. However, while the EU and the US are leading global actors there are a whole host of other actors – governments, businesses, and civil society – whose resources must cooperatively draw upon, whether they be knowledge, credibility, or funding, to successfully address climate change. What is needed to address issues of global scope is a global response; old models of multilateralism – state-centric models – are not sufficient to conceptualize the scope of global cooperation that is needed to successfully implement global climate governance. Multilateralism 2.0 acknowledges that while states retain the central role in multilateral initiatives, other actors, such as regions, IGOs, TNCs, NGOs, and networks of individuals are needed to make global governance a success. This paper proposes to examine and compare the depth and quality of EU and US collaborative engagement with a plurality of actors in a multilateralism 2.0 framework, while also providing concrete policy recommendations for future engagement on global climate governance.

## SUMMARY OF THE PRESENTATION

The world is undergoing a shift in how governance occurs: from traditional to non-traditional modes of governance incorporating a plurality of actors. A new type of multilateralism is needed to deal with this shift, but how are the EU and the US engaging this phenomenon?

With respect to the shift in governance paradigm from government to governance, three aspects of non-traditional governance can be discerned: (i) sometimes governance is in need of different tools that society, the market or the state has, thus making a case for sectoral collaboration; (ii) non-traditional governance is more multi-level in nature, creating a need for multi-level collaboration; (iii) institutions and individuals are part of the process and warrant attention.

Current forms of multilateralism do not stress enough the roles that individuals and networks of individuals play. Three reasons can be given as to why 'multilateralism 2.0' is needed: (i) it is necessary to mobilize resources and political will from all sectors; (ii) a global solution is needed, yet it needs to be implemented locally, thus calling for involvement at State level but also at provincial, federal state and city level; (iii) networks of individuals must be leveraged into action as change must also come from below and from those within the community. In multilateralism 2.0, the government should be an enabler so that individuals and civil society can play a role, but it should also be a convener as people need to be brought together. The US' engagement to multilateralism 2.0 is not confined to the federal level, as many states have global climate initiatives to reduce CO<sub>2</sub>. The EU has a long history of exporting its model of regionalism to other regions in the world, now called inter-regionalism, thus no longer referring to 'state to state', but rather 'region to region'. This also constitutes a form of multilateralism 2.0. Within the EU there are also 'micro-regions', such as Catalonia, who work hard to gain their own international voice through sustainable development initiatives.

In the context of Copenhagen, multilateralism 2.0 means not only having a place at the table, but rather setting the agenda.

***'Moving Closer or Drifting Further Apart? The EU, the US and the Struggle for a Post-2012 Climate Change Agreement', paper by Mr. Simon Schunz, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven***

### ABSTRACT

Over the last two decades, the European Union (EU) and the United States (US) have been the two protagonists among the industrialized actors in the United Nations (UN) climate change regime. Although the context for global policy-making has evolved considerably in recent times, with the rise of emerging economies like China and India, an EU-US entente remains of central importance to the successful conclusion of the post-2012 climate regime negotiations. Where this year's change of government in the US had sparked high hopes in Europe, the chances of really reaching a global deal on climate change have come to look rather slim shortly before the 15th conference of the parties in Copenhagen. This paper argues that one significant

cause for the very limited progress of global climate talks is a continued lack of transatlantic agreement on the main pillars of a future climate agreement, rooted in diverging interests, but also in deeply embedded cultural differences. Parting from a comparative analysis of the two parties' positions on key issues in the negotiations, a European perspective is deliberately adopted to examine how the Union has tried to (re-engage) the US in global climate politics over the past year and with what success. In a concluding section, the less successful elements of the EU's current strategy will be highlighted to come to policy recommendations on how to forge a transatlantic response to the challenge of climate change in the medium to long term future. The recommendations are addressed, in the first place, to the relevant actors within the EU, but also to the US administration, which has recently tended to overly focus on its relations with China.

## SUMMARY OF THE PRESENTATION

EU-US entente still remains of central importance to the successful conclusion of the post-2012 climate regime negotiations. Having said this, the prospects of reaching a global deal on climate change have become very slim shortly before the 15th conference of the parties in Copenhagen. This stalemate is the result of continued lack of transatlantic agreement on the main pillars of a future climate agreement, rooted in diverging interests, but also in deeply embedded cultural differences between the EU and the US.

The EU-US relations vis-à-vis climate change can be characterized as having undergone two distinct stages, namely the 'benign antagonism' of the 1990's and the total disengagement of the Bush presidency. After 12 months of Obama presidency, it seems that the US, while offering to be active and open in climate talks, is still unwilling to indicate what precisely it is willing to offer in terms of emission cuts and provisions of finances.

### EU and US positions

Major differences are longstanding. They pertain to the level of ambition as well as the legal form of any eventual climate deal.

The root causes of these differences can be traced to structural differences – the way legislation and international treaties are adopted in the different political systems. Unfortunately but also unsurprisingly, the divergences within the political system cannot be easily overcome.

However, concomitant to these structural dissimilarities runs a profound divergence in transatlantic values and interests. Bridging the gap here is plausible and the EU should invest its resources to modify how the issue of climate change is presented and perceived within US policy circles. Recognizing this potential, the EU already has taken the following steps:

- It has increased lobbying efforts at all levels;
- It has increased negotiator to negotiator exchanges since Obama administration took office;
- It has participated in high level meetings such as the US-EU Energy Council.

It is noted that current EU diplomatic efforts charged towards varying perceptions and interests in US policy circles have not yet had the desired effect. Partially, this is because they are yet too limited and probably not yet sufficiently targeted towards a broader US audience. Moreover, there are probably yet too few multipliers in the US that this message could be addressed to, so that it spreads more widely.

Against this backdrop two alternative (ideal-typical) strategies are conceivable namely "soft talking" and "playing hardball".

### Soft talking

Within this approach, the EU would have to address the key perceptions and worries of American policy-makers and population particularly in relation to the scepticism about the science of climate change and the negative economic effects of climate change mitigation. Parallel to this, the EU would highlight common transatlantic interests such as the benefit in independence from imported fossil fuels. This effort of arguing and showing the way - at all political levels, through diplomatic channels and public diplomacy - could be paired to a soft approach to what Europeans may perceive as US lack of ambition, showing understanding for the fact that the US has to catch up after a lost decade, and for the fact that the national political system is not favourable. In the absence of domestic legislation in the US, the EU could, for instance, encourage the US to make a unilateral pledge on targets and to declare that it considers this as binding under international law (cf. Ott 2007: 26). This, as well as the argumentation strategy on the whole, would largely need to rely on joint efforts with coalition partners together and sending a single message to the Americans. Gradually, the US could thus be encouraged to fully come back on board of the international regime, and more wide-reaching demands could be made in the medium term, hoping for a functionalist logic.

### Hardball

The less likely approach would be playing hardball. This approach entails active coalition-building by the EU which can subsequently exert pressure on the US. This pressure could come in various ways. Firstly, an extensive naming and shaming manoeuvre could isolate the US internationally to such an extent that it may feel compelled to join into the fight against climate change.

Secondly, the EU could openly propose an initial climate regime without US participation. The success of such regime however largely depends on EU success in preventing carbon leakage to the US. By providing positive incentives (inclusion in the carbon market envisaged by the regime only after adoption of ambitious, legally binding caps) or negative incentives (fixing taxes on goods imported from countries that do not adopt comparable climate policies), the US may be encouraged to enter such climate change regime.

### Recommendations

In the immediate future, the EU's approach should be in line with the first option, that is reinforcing the soft talking strategy and encouraging the US administration to be more daring. In the medium term future and if no satisfactory global agreement is in place, the EU should at least consider the second approach pursued in a fair but aggressive manner.

*'The Societal Foundation of Diverging Views on Climate Change Politics in the US and Europe', presentation by Hans Bruyninckx, Head of the Research Group on Global Environmental Government, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven*

### SUMMARY OF THE PRESENTATION

Within the climate change debate, the differences in policy outcomes between EU and the US are striking. Until the 1980s, the US was at the centre of global leadership in international environmental governance. This trend however came to a sudden halt in the first half of the 1980s, after which the US has persistently failed to ratify multi-lateral environmental agreements, making it the only major power without a significant policy on climate change. Although, the EU seems to have filled the vacuum, it is appropriate to investigate the root sociological causes of the American surrender in international environmental governance.

It is often that the explanations such as shifts within the political weight of Democrats and Republicans as well as the ratification/ accession hurdle enacted by the American constitution are provided as reasons behind the mentioned decline. These explanations however, as justified as they may be in their own right, do not seem to provide a complete answer.

It is posited that three fundamental societal differences between Americans and Europeans may be responsible for the varying importance or urgency that those respective populations attach to climate change.

### Role of science

US citizens are far more optimistic about technology than their European counterparts. They however, are far less inclined to accept or are extremely doubtful of natural and social sciences in comparison with Europeans. This trend is accompanied by a shift from social and fiscal conservatism to religious conservatism. The latter by having amassed a profound impact on the media has become an effective and efficient organizing principle within the American society. Religious Right and its media while being a relatively new phenomenon have not only altered ordinary social networks of but also made an impact on the economy, the production of knowledge by think-tanks, and the acceptance of knowledge in society. Given that climate change discourse is fundamentally science driven, disbelief in science by a significant and politically well-mobilized group of Americans plays a big role in exciting US disinclination to proactively contribute to global climate change governance.

Another point that begs mention here is the 'frontier identity' of the US and its inhabitants. Within the US, strong notions of frontier economy, frontier society, identity, get translated into local, state-level and to a lesser extent federal politics. Expectedly, limits to growth, limits to resources, and spatial constraints are treated very differently in US politics and US environmental politics in particular, than they are in Europe.

A final contributor is the pragmatics of a country that emerged out of a specific historical context. American politics is shaped by mistrust in a strong central government, and perhaps a disdain for foreign states that are suspected of trying to influence the American policy agenda. A majority of US citizens has mistrust in the federal government, and its taxes. As a result, the 'functional space' enjoyed by the US government to aid its people is much more narrow than it is in EU Member States.

In sum, the divergent approaches to climate change go beyond variations in the political systems that are in place in the US and the EU. The underlying currents broached here seem to prevent the US from negotiating a strong climate deal for the time being.

## DISCUSSION POINTS

- The EU system appears more open to specific interest representations, but it probably goes beyond representing these interests. The Commission and the European Parliament being further detached of the immediacy of constituents – in the sense that Commissioners are supposed to be detached of national positions – which on environmental issues has translated into an activist Commission that sometimes goes beyond what the majority wants. The Commission works with "lead States" and pushes its agenda through. The same goes for the Parliament as the general public is largely unaware of who represents who at the European parliamentary level. It is at the institutional level that such things also play a role in the end.
- In the US, interest groups are equally involved and needed. Research is conducted, representatives from key interest groups are invited for discussions, to take part in panels, as well as many more activities. The general public also takes part in such debates, for if the public is not included, policy is very vulnerable to challenges. An interesting thought here would be to think of where the interest representation occurs. In Europe it seems to be more the case that this happens in the legislative institutions.
- The US system follows more of a lobby dynamic, whereas many EU countries possess a more institutionalized dynamic at the state level – at times referred to as 'democratic corporatism or neo-corporatism'. In Europe these actors are even paid to be critical of the system. As such, the EU has institutionalized a number of these inputs in the system. It is on top of this, that lobbying takes place.
- In the US, certain geographical areas are underrepresented, yet many other places however do take part significantly. If the climate issue is framed as an opportunity for economic growth and job creation, this touches upon another core issue in US society: *i.e.* the freedom to succeed, live your dream and so on. It was said that the hardball scenario would actually go over well, but there needs to be a market incentive to overcome this scenario in the end as a 'backs to the wall' scenario is not likely to be effective. It is preferable to touch more upon the core motivational factors in US society; *i.e.* taking part in an agreement should be preferred from a market perspective. If an agreement represents a good market opportunity for the US, there is a strong incentive for the US to participate.

## Recommendations

Several strategies exist, revolving around either (i) coercion and/or political pressure, (ii) market incentives, or (iii) norms, *i.e.* a conversion of norms/values.

- If the future multilateral energy architecture is to be truly representative, an expansion of the member base of international treaties aimed at promoting the inclusion of key players in multilateral energy treaties is imperative.
- Success at Copenhagen and in Mexico thereafter for the EU hinges firmly on the outreach to US climate leaders, including sub union leaders and non state actors. By inviting those actors in the US who do work positively on climate change to an EU-US summit for dialogue, it sends a clear signal to US policy makers.
- There should be a strict cap and market incentive for the US to join a carbon cap-and-trade market. This however should be conditional on the participation in a legally binding treaty, including additional demands such as for example a climate financing mechanism for the developing countries.
- Strategically, the EU can for the moment best accept the US Senate proposal. Accepting the US position, although representing an accommodating strategy, would also be a point of pressure for the Obama administration to pressure the Senate into ratification.
- With respect to renewables, different strategies exist. In the EU as well as in the US there is both a tension and an opportunity at the sub-Union and the Union-level. EU Member States and US States alike exert pressures to maintain control over energy competences. Policies geared towards renewable policies towards the US should therefore be framed according to the underlying societal themes (*cf. supra*), whereas in the EU, Member States need to be 'stimulated' in making smart choices concerning their energy mix by focusing on the benefits that result from it at Member State level.



Prof. Dr. Marc Pallemarts and Dr. Pamela Doughman

# Report Workshop Migration

## INTRODUCTION BY THE WORKSHOP CHAIRS

*Introduction by Mrs. Susan Ginsburg, Director of the Mobility and Security Program, Migration Policy Institute*

### **The main transatlantic challenges in the field of migration**

It is a time of tremendous strategic ferment, and profound re-examination of the foundations of the transatlantic alliance. This is epitomized by the debate at this conference over the future path for NATO. New opportunities abound, but firm conclusions are not easily drawn.

Not in question are the fundamental obligations set forth in the 1990 Charter of Paris, to uphold democracy and free elections, to protect and promote human rights, and to provide market economies and afford equality of opportunity. The transatlantic partners may have different views of market regulation, but the principles of respect for the rule of law and obligation to defend the person is the same.

The pursuit of these goals in the context of migration policy is immensely complex and very underdeveloped. Twentieth century arrangements are not meeting 21st century conditions, but new arrangements to accommodate them are not yet developed.

In the 20th century the transatlantic alliance agreed two basic means of protecting vulnerable individuals and advancing freedom in the context of migration:

- The Universal Declaration and other human rights documents declared a right to departure to be upheld against totalitarian regimes;
- International law gained a refugee protection regime and resettlement infrastructure to take care of people whose survival was threatened, who were rendered stateless, and needed rescue from persecution. International law supplemented this with other protective principles, such as asylum and non-refoulement.

The developed world recognized each nation state's right to control its borders which was understood to be integral to self-defence. National immigration laws responded to political factors – colonial relationships and historical receptivity to immigration. All nation states countries practiced selective immigration based on a combination of political, economic and/or demographic, and socio-cultural interests.

Today, the circumstances and character of human mobility have changed dramatically, and therefore the laws written to accommodate this movement must be modified.

Persecution as understood in the 20th century often no longer describes why individuals are the move. Mixed political and economic motives arising from environmental disasters, violent conflict and poor governance, economic crisis or sheer lack of opportunity all drive migration. The breakdown of the assumptions on which the refugee regime was founded, combined with the intensification of economic globalization, including expanded access to travel, has led to widespread illegal immigration, causing insecurity for individuals and states.

Low and high skilled individuals flee lack of opportunity, weak governance and civil disorder; they are recruited by businesses legally and illegally; and seek to join up with family, legally and illegally. They fuel developed economies but also undermine their laws. They prosper as individuals and families but have an ambiguous impact on their countries of origin. They comprise a brain drain but also may send back remittances, share expertise, promote entrepreneurship and reform at home.

People choose not only to immigrate as in the past, but to live lives of mobility – of seasonal work, foreign study or apprenticeship, a global management career, cross-border commuting, retirement in a different country, and dual citizenship. Economies demand high and low skilled labour. Families need unity. In addition, natural and manmade disasters can cause precipitous mass migration that overwhelms resources and endangers lives.

This twenty first century mobility at the low end and high end of the skills ladder challenges the fundamental transatlantic commitments in several ways:

- Low skilled individuals who migrate from poor countries lack a legal regime that answers their needs, leaving them with myriad vulnerabilities including economic downturns, family separation, human trafficking, and death during illegal transit. Immigrants need social, market, and political voice and access to thrive.
- Democracies are accountable for maintaining the laws to which electorates consent. Large scale illegal immigration arising from a gap between laws and market forces is delegitimizing for receiving countries and gives rise to nativist backlash.
- Immigration laws duly enacted can clash with traditionally understood right to exit a country or with humanitarian commitments. When migrants die en route, the rule of law makes a mockery of the commitment to uphold life.
- Large scale crisis driven migration also undermines legitimacy of wealthy states unless they act to mitigate disaster. It also undermines the legitimacy of the sending state which has failed to provide opportunities or protection for its citizens.





Transatlantic states also face new security challenges associated with the movement of people. These have been much discussed: global pandemics and nimble non-state actors or clandestine agents of states selling or wielding CBRNE weapons globally, aiming to induce a state of terror in which states constituted to defend human rights end up conceding their fundamental constitutional commitments, or worse.

Mobility channels can be sites and vectors of disease, attack, exploitation, and systemic collapse. Diasporas may be the sites of conspiracy against targets in the new location, elsewhere, or in the country of origin. This makes *securing human mobility* one of the major operational goals of *civil security* (known as *homeland security* in the United States), comparable to securing cyberspace, financial flows and other critical infrastructure.

The transatlantic alliance will be re-forged in part in addressing the common challenges posed by human mobility, including recreating the linkages between mobility and security for the 21st century on the foundation of the refugee convention of the 20th century. At the same time, all economies will be competing for high and low skilled workers and/or for migrants to fill demographic gaps. We have two simultaneous tasks -- designing new collective structures that reduce insecurity for individuals and states, and foster economic equality and prosperity; and ensuring that issues of access to markets do not tip into outright conflict.

#### **The state and future of transatlantic cooperation: mobility security**

The first challenge is to arrive at a common definition of the critical transatlantic agenda that goes beyond mutual support for refugee convention commitments. There are a series of issues relating to access to economies – such as the movement of high skilled and low skilled labour mobility, to related development issues, such as “brain drain” and remittances, and to family unification and integration. And there are a series of mobility security issues as they affect people on the move in global channels, and sending, transit, and receiving countries: human trafficking, terrorist travel, human smuggling, and the movement of organized crime and other criminals. The transatlantic states have a “north-north” agenda based on issues of mobility security and labour market access, and a common “north-south” agenda based on both sets of issues, including development in terms of a range of capabilities, from raising incomes to border control.

We may tackle this dual agenda in various ways – for example, through promoting WTO negotiations to expand the scope of the General Agreement on Trade in Services (GATS); through a unified migration agenda, bilateral or multilateral, that opens access while regulating and securing movement; through the G-20; through the Intergovernmental Conference on Migration; through existing UN fora, such as the International Civil Aviation Organization (ICAO) and the Counterterrorism Executive Directorate (CTED); through new intergovernmental organizations; through a new transatlantic mobility forum and/or other new institutions; through an evolution from the Global Forum on Migration and Development.

This is a short list – we do not lack the ability to structure dialogue. Indeed, in the migration arena there have been many regional dialogues: The Intergovernmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC) (1985); Budapest Process (1991); Commonwealth of Independent States Process (1995); Puebla Process (1996); Manila Process (1996); Intergovernmental Asia-Pacific Consultations on Refugees and Displaced Persons (1996); Bangkok Declaration (1999); South American Meeting on Migration, Integration and Development (1999); Migration Dialogue for Southern Africa (2000); Dakar Declaration (2000).<sup>70</sup> The United States has participated in the IGC, Budapest Process and the Puebla Process initiated by Mexico.

In addition, the EU and member states are experimenting with mobility partnership agreements aimed at ensuring that there are benefits for migrants and the sending and receiving countries. The EU and the Republic of Moldova signed a joint mobility partnership declaration in June 2008; and France has signed agreements on joint management flows and co-development with Senegal, Gabon, the Democratic Republic of Congo, Benin, Tunisia, Mauritius, Cape Verde, Burkina Faso, and Cameroon. Spain has ratified similar agreements with Gambia, Guinea, and Mali.

#### **Transatlantic Mobility Security Agreements**

Transatlantic mobility security discussions are based on an increasingly common understanding of the need to preclude terrorism through border controls and to address illegal movement. Canada has begun convicting terrorists for the first time, and one political party in Denmark is calling for tougher scrutiny of U.S. passports, after a Chicago resident was arrested for plotting an attack in Denmark. A series of conversations since 9/11 has placed the following subjects on a transatlantic agenda (including Canada), with varying degrees of specificity, commitment, and action:

- mobility-related threat and risk assessment techniques and practice;
- non-visa travel policy and process;
- security during air travel;
- refugee and asylum-seeker screening and processing policy;
- *terrorist* identities intelligence sharing to screen travellers/applicants;
- *criminal* identities intelligence sharing to screen travellers/applicants
- *traveller*-related biographic and biometric information sharing;
- protection of traveller personal information and privacy;
- passports and other traveller identity management;
- dual passports and citizenship issues;
- standards and practices for use of biometrics (fingerprints to DNA);
- design of and standards for registered traveller/facilitated entry programs;
- port of entry screening and search process;
- preclearance or juxtaposed controls for border-crossers;
- port of entry and green/blue border facilities, equipment, and technology;
- investigations and patrol, both land and maritime;
- human trafficking, human smuggling, travel document fraud;
- movement during and after emergencies; and
- assistance to developing countries to bolster mobility security capabilities.

<sup>70</sup> *The Role of Regional Consultative Processes in Managing International Migration, IOM Migration Research Series No.3, IOM 2001.*

This agenda has not been recognized as such; rather, these issues have been approached piecemeal. In some circumstances this may be practical. However, these issues are part of a common mobility security agenda. This mobility security agenda is part of a larger civil security agenda, relating to defence of the person in an age of risk. For example, all the personal information and data security provisions of separate agreements, e.g. SWIFT and PNR, belong in one binding agreement. The transatlantic partners have not yet considered this agenda as a whole.

There already is global governance with regard to mobility security: the human trafficking and human smuggling protocols; travel bans and border and travel document capability mandates imposed by the UN Security Council; in addition to the refugee convention. The likelihood of more binding agreements encompassing access, development, and security is low.

**Introduction by Prof. Dr. Virginie Guiraudon, Research Director of the National Center for Scientific Research (CNRS) and Co-Director of the Centre for Politics (CERAPS) at the University of Lille**

## SUMMARY

The linkages between migration, security, mobility, and travel are of crucial importance. A wide range of actions have been taken on these intertwined issues, but in a very scattered fashion. Almost all relevant agencies have been working on the issue. The ILO and the IOM are particularly active, next to the many bilateral talks between the EU and third countries. The main problem with migration policy is that all actions are taken in a very scattered and non-comprehensive fashion.

There is no global regime such as the climate change regime for migration. We are starting not from scratch but from a very complicated web of scattered policies involving many other policy domains.

However, there is room for the exchange of best practises between the EU and the US. Much more convergence is possible, as the EU for example did on the issue of high-skilled migration. The EU is trying to learn from the US, without always succeeding.

The question is whether there could be opportunities for actual cooperation, for example on the issue of asylum-seekers, the important movements of people caused by the Afghanistan and Iraq wars and of course the climate and environmental refugees. These are all examples of areas where the EU and the US could cooperate effectively. Another good example is the discussion on the link between migration and development. There is hardly anything happening right now on this issue (although the EU and the US actually have common interests here).

We should always keep in mind that there are 'push' and 'pull' factors determining migration flows. 'Pull' factors point at national competences of host countries: political economy, social security, etc. The main focus will indeed lie more on the management of the 'push' factors within source countries. In the end, this should lead to a win-win-win outcome for both migrants, host and source countries.

What is the best form to discuss these kinds of cooperation? First, we should start from the limitations and shortcomings of existing systems. Civil society, for example, is largely absent in the debate. In the entire European Union there are only a few people active in this field. There are other groups that would want to be represented but are currently not. There is a lot of expertise, from scholars, from the ground and from humanitarian organisations, but the local level expertise is really absent. Migrants can actually help in their home countries. There is a need to work on the local level, possibly through city networks.

## PRESENTATIONS AND DISCUSSIONS


**'Some Reflections on the immigration discourse in the US and the EU', presentation by Prof. Dr. Ching Lin Pang, Interculturalism, Migration and Minorities Research Centre (IMMRC) at the University of Leuven**

Globalisation is characterised by the free flows of goods, capital, information and ideas but not of people. Western liberal democracies promote vigorously most of these movements except for the mobility of people.

Despite the different migration regimes in the US and the EU there seems to be a convergence on many issues in recent years. The US represents the traditional immigration country as opposed to 'fortress' Europe, pursuing basically a restrictive immigration policy. Yet the discourse on migrants and migration have progressively converged in the past few years. The common stance on migration is basically

negative. The majority of people in both regions want a status quo and if possible a decrease of migration and immigrants. Anti-immigration sentiments seem to proliferate in Western post-industrial economies.

According to the survey, conducted by the OECD in 2003 in 10 major European countries (Austria, Denmark, France, Germany, UK, the Netherlands, Norway, Spain, Switzerland and Sweden), US and Canada less than 10% of the population favours increased immigration, half of the residents of these countries want a decrease of the immigrant population except for Canada (30%) and Switzerland (47%). Top of the list one finds the UK with 78% favouring a decrease of immigration. This is all the more striking as the UK not so long ago represented one of the most multicultural and tolerant societies, where mixture and hybridity are not only accepted but celebrated. These data correspond with the general trend as reflected in the mass media and other fora of public opinion making. How to account for the distaste for immigration?



The ideological underpinnings of immigration pose great challenges for both progressive and conservative parties and thinkers.

In the American context, the ideology of the left is less isolationist and more internationally oriented. They show more compassion and empathy with the precarious position of immigrants. Furthermore they display much respect for cultural diversity and they subscribe to ethnic minority rights.

Yet they disapprove of immigrants in the area of gender practices, unequal treatment of girls and immigrant views on homosexuality. As secularists, they have difficulties dealing with religious practices and religious revival.

In the European context, the progressive side shares many commonalities with the US except that most progressives are generally reluctant to take public stances on issues of homosexuality, unequal gender practices, etc.

The progressive ideologies endorse and support migration as a principle but they have problems with some social and religious practices of immigrants. This trend is more conspicuous in the US rather than in the EU.

For conservatives and rightists migration constitutes a major problem. In the US, the right opposes immigration, while taking a firm position on the legal status of immigrants. This is to say that they have little tolerance for undocumented workers. In order to alleviate the poverty in the world they believe that free trade rather than immigration will be a better strategy to tackle this problem. Yet in their social and religious practices they share commonalities with immigrants. Most conservatives are religious, have a negative view of homosexuality and endorse traditional gender-parental roles. In the EU, rightists demand unilateral assimilation of immigrants as the second best solution after repatriation to the country of origin.

Despite converging similarities there are some basic differences in the discourse on immigrants. In the US, migration is cast as a process mostly driven by economic concerns. In the EU a high premium is laid on human rights and a humanitarian approach to migration. Economic migration, especially unskilled, has become over the years a stigmatised term, often used synonymously with 'bogus asylum seekers' or 'fake asylum seekers'.

The refusal to accept that migration is predominantly or partially economically driven poses a real challenge for policy makers in the area of migration and integration. Economic factors loom large in the wide and blurred area of migration motives; in practice, often a mixture of humanitarian, economic and increasingly ecological concerns. This way of thinking leads to the stigmatisation of undocumented economic migrants. The public opinion in Europe cannot imagine that semi-skilled, often undocumented, migrants can make a constructive contribution to society.

In addition, I would like to introduce a new region, a new actor in the global scene, namely China. Although China is mostly known for emigration, it has recently emerged as an immigrant country.

Emigration has continued in the era of China's ascendance on the world scene. Among the contemporary flows there is an expansion of sending regions, encompassing the traditional regions (Fujian, Zhejiang and Guangzhou), great urban areas and Dongbei (Northeast provinces) and Central China. Currently there are 400,000 Chinese in France, 600,000 in Japan, 900,000 in Canada, 2.5 million in the US and some 580,000 to 800,000 Chinese migrants in Africa. The number of non-Chinese nationals is growing steadily and poses some challenges to the central and city governments. There is a sizeable group of Taiwanese (700,000), Koreans (80,000) in Beijing, 40,000 African (Nigerian) migrants in major cities such as Canton and Shanghai. Traders, foreign workers, returnees, cross border migrants, the fortune seekers and finally African human smugglers in China form the remainder of the non-Chinese. As the phenomenon has emerged only recently, no adequate policies have been implemented. Yet there appears to be a general consensus among Chinese people that the immigration of non Chinese in China is the outcome of the economic success of the country. On the whole, the Chinese at present adopts a highly open and pragmatic attitude to migrants. They fully understand the migration motives of undocumented migrants.

Yet at this point it is premature to speculate how and in what direction China will develop its immigration policies and integration programmes, and to connect them, if at all to indigenous ethnic minority groups. It is equally premature to forecast the general public opinion towards migrants and immigration. Yet it seems safe to state that most Chinese believe that migration is primarily economically driven. With the Chinese economy booming, most Chinese seem to accept, in a pragmatic manner, the fact that the many opportunities in the Chinese market are attracting all sorts of international migrants ranging from low skilled to highly skilled. Immigrant China is a fact, yet immigration and integration policies and the public debate concerning migration and integration will follow suit.

#### ***Intervention by Mr. Michal Kaplan (Head of External Relations Unit, Czech Permanent Representation to the EU)***

#### **SUMMARY**

Migration cannot be dealt with alone but only in relation to other elements such as security and development. There are 'push' and 'pull' factors affecting migration. 'Push' factors and 'pull' factors are the precise opposites of each other: the former 'pushing' people from the source country, the latter 'pulling' them to the host country.

The point here is that migration should not be seen as either positive or negative, but as a combination of the two. For example, it helps labour imbalances in host countries, but also affects issues such as identity and religion.

Even if we cannot control migration flows, we might try to amplify the benefits of remittances and have proactive migration policies, and at the same time reduce the costs (such as religious tensions). There are ideas about turning brain-drain into brain-gain, but the actions stay theoretical.

Migration is relevant for EU-US relations because we are on the same side: both powers are destinations of international migration. It is beneficial to have dialogues on all levels to stimulate learning and exchange of best practises. Also, on the global level there is action to be undertaken. The official point of view is that we are sceptical of setting up new regimes and treaties, however. 'Coherence' is the key word here: there should be coherence between the policies made in different domains. Trade and development cooperation tackle the root causes and should be synergetic with other migration-related policies. The US and the EU have a major role to play here.

**'Power Struggles in the EU Agenda on Labour Migration', presentation by Ms. Anaïs Faure Atger, Centre for European Policy Studies (CEPS)**<sup>71</sup>

The policy discussions taking place at EU level provide an ideal backdrop for examining the power struggles surrounding the theme of economic migration. My intent in this research has been to map out the different interactions taking place between the EU, the States of origin and those of destination without forgetting to examine the economic interests pursued by companies and the position of the individual involved.

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Following an overview of national policies on labour migration in Europe, I will move on to consider the attempts for developing an EU labour migration policy and the extent to which the EU is creating a supranational framework for the access by third country nationals (TCN) to its labour market.

## 1. A TRADITIONALLY NATIONAL CONTROL CHALLENGED BY THE EU

Within the EU, national regimes applicable to labour migration tend to vary from one Member State (MS) to the other. Nonetheless, a cross-country comparison reveals some common principles. While these simplify national realities and dynamics, such a categorisation contributes to uncovering the balance of interests and powers in the European dialogue on labour migration. The following elements generally characterize standard national procedures:

### The employers' authority over the admission process

The most salient feature of national regulations on labour migration is the fact that a person wishing to migrate from abroad on professional grounds can do so *only* with the assistance of the future employer. This implies that he/she must have already identified, prior to arrival thus from the country of origin, a position which he/she can occupy. This is necessary to obtain the required documents for entering a MS for economic purposes. In some countries such as Denmark, it is even necessary that the migrant receives the assurance (such as a personalized job offer or a contract) that he/she will be employed in order to be granted an authorization to enter. The role played by the employing company is therefore critical as they are, in a majority of national regimes, the ones who initiate the administrative proceedings. This also implies that the employer is empowered by the State to carry out externally control over access to the national territory.

This often complex procedure results in a dependency of the employee towards his/her future employer prior to accessing the country, however once within; this state of affairs is prolonged. The issuing of a work permit and corresponding residence rights usually depend upon the continuity of the job for which a TCN has first entered a country. Such situations imply that conflicts or tensions with an employer will directly affect the employee's administrative status and may involve their immediate return to the country of origin.

### State oversight over the labour market

While the employer is entrusted to launch the admission process, the State intervenes through two different processes: First, by requiring that the proposed remuneration is at least the minimum national salary for an equivalent position; Second, by giving the priority to local workers which has progressively evolved to the so-called community preference which gives priority to the European labour force before considering TCN applications.

The State's aspiration to ultimately control the access to its labour market is further attempted through the control of the overall share of TCNs entering for labour purposes, though it is often defined with the assistance of employers as is the case of Spain. Annual quotas thus determine the maximum number of work permits to be granted to TCNs nationally, or on a sectoral basis.

### Emergence of privileged categories of labour force

Over the years, privileged schemes have emerged when dealing with what is considered as *highly qualified employment*. In several recently modified national legislations, certain types of jobs are open to TCNs without having to comply with the usual entry requirements. Journalists, language teachers, artists, cultural mission members or scientists fall under this category, thereby entitling them to more favourable regimes and treatment. According to the MS, these privileged schemes benefit certain categories of workers depending on their qualifications, earnings or expertise. While in Germany, highly qualified employment is defined according to the salary perceived in the UK, access to the territory is facilitated for certain professions. As a result, some categories of migrants benefit from more favourable national labour migration rules which provide exceptions to the standard, burdensome procedures. However, the determination of these privileged categories varies from country to country, as the selection operates on the basis of the field of occupation, education, salary or qualifications.

### Europeanization of the rules for the entry of TCN

As migration became an EU competence with the adoption of the Amsterdam Treaty in 1999. This traditionally national prerogative was gradually affected and shaped by the Europeanization of the movement of persons, and particularly the principle of free movement of persons within an expanding EU. While this was primarily intended for European workers, it was later extended to all MS nationals as well as to some categories of third-country nationals. It implied that for these categories of person, there now existed a right to move across borders, without the prior assent *neither of a potential employer nor of the destination state*.

<sup>71</sup> This contribution formed the basis for the drafting of a chapter to be published in *Constructing and Imagining Labour Migration: Perspectives of Control from Five Continents*, E. Guild and S. Mantu (eds.), forthcoming.



Three European legislative instruments have further affected the national competence over the entry and residence of TCNs and transferred it towards the EU arena:

- Directive 2004/38, the so-called 'Citizenship Directive', strengthening the right to move and reside for all citizens of the Union and their family members and registered partners, whether they are citizens of the Union or not.
- Council Directive 2003/86/EC on the right to Family Reunification which provides for rights and benefits to family members of third country nationals legally residing in the EU including the right to facilitated access to the territory, and to the labour market.
- Council Directive 2003/109 on the status of TCNs who are long term residents. (That is to say for a period of time of five years) which provides for equal treatment with nationals as regards employment conditions.

As a consequence of these instruments, for certain categories of TCNs, MS are no longer entitled to freely decide which entry and residence criteria to apply, as those are provided for in European law and subject to the European Court of Justice oversight. However, common rules for accessing the EU for the purposes of labour were still lacking. In fact, the various initiatives promoted by the European Commission have triggered a fierce resistance which has been hard to overcome and has effectively slowed down legal developments in this field.

## 2. OVERCOMING RELUCTANCE TO THE DEVELOPMENT OF AN EU FRAMEWORK ON LABOUR MIGRATION

While at the Tampere Council there appeared to be a political consensus with regard to the need to design a common European approach to the entry and stay of TCNs, this has so far not resulted in substantial advances. This may be explained by MS reluctances to transfer this sensitive policy field to community level with a retention of the unanimity rule until the adoption of the Lisbon treaty, but also by the progressive Europeanization of rules for entry and residence of *certain* TCNs.

### Europeanization and the unanimity rule

In 2004 the European Commission presented a Green Book so as to re-launch a debate on the added value of a European approach to legal migration. This process highlighted the reservations of MS, as well as their preference for a *differentiated* approach implying taking into account the levels of qualifications of migrant workers when granting them rights.

The 2005 Commission Policy Plan for Legal Migration thus announced the publication of *five* proposals on labour migration between 2007 and 2009. This implied that emerging European policy towards labour migration moved away from the development of a comprehensive policy, which would involve developing *common* rules for access to any employment across the European Union, towards sector-specific rules according to the type of activity to be pursued by the migrant worker. Four different categories were identified: highly qualified workers, seasonal workers, remunerated trainees and intra-corporate transferees.

By partly reflecting national schemes which privilege certain groups, the Commission has prioritized reaching a consensus within the Council at the expense of an innovative, rights-based European migration policy. Nevertheless, moving Europeanization forward at all costs might have undermined the already disputed added value of an EU approach towards labour migration.

### Attracting 'skills' to the EU

The EU Blue Card is the first proposal to be adopted in the field of labour migration since the publication of the 2005 Policy Plan. Negotiations towards an agreement have been difficult within the Council, since MS' perceptions as to *who* belongs to the category of highly qualified and who should be granted a *facilitated* access to the labour market vary significantly.

The scope of the Directive bears evidence of this, whereby highly qualified employment is relies upon the salary offered in the destination MS as it has to be at least 1.5 times the average gross national salary. This aspect of the scheme reveals who the real sponsors of such a framework are as eligibility depends exclusively on the salary which the company is willing to propose. A TCN must be in possession of a work contract or a formal offer of employment of at least one year in a MS and three consecutive months of unemployment trigger the cancellation of the Blue Card.

The Blue Card should be greeted as the *first real EU* instrument for labour migration; however, its added value is jeopardized by the fact that existing national schemes for the highly qualified may remain in force. Quotas may still be imposed and a whole series of provisions are subject to national interpretation, including the procedure for applying for admission under a Blue Card, which MS are free to leave in the hands of the employer or of the employee, within or outside their territory.

Notwithstanding the emergence of an EU scheme on labour migration, MS still keep a significant margin of control over the implementation of EU standards, while the exercise of authority for the recruitment of TCN continues being left in the hands of the employers.

### Establishing EU wide rights and procedures

Seemingly aware that a common European procedure would significantly contribute to the establishment and visibility of a European approach to labour migration, the Commission submitted such a proposal in October 2007. While several actors have emphasized the need to adopt a collective procedural framework before attracting skills, the relevant proposal remains under negotiation.

It aims to simplify access to the EU for labour purposes through the establishment of a common combined residence and work permit with a single application procedure. The scope of the proposal is nevertheless limited as for instance the highly qualified and those entering under special agreements will not be covered by this *common* procedure.

According to the proposal, *comparable* rights to those of European workers are to be guaranteed however it (equal treatment) may be subject to actual employment. And if linking the work and residence permit may facilitate administrative procedures for the TCN, it will also reinforce the dependency of the TCN towards his/her employer, as the interruption of the work contract will immediately change his/her residence status.

National quotas for the issuance of such permits may be retained and the length of the permit and the conditions for obtaining, renewing and withdrawing it would continue to be a matter of *national competence*.

### The Global Approach to Migration

Further advances in the field were sought through a more comprehensive European strategy. The driving logic of what strives to be a *global approach* consists in building a *coherent* framework and ensuring *adapted* partnerships with third countries covering fight against irregular migration, enhancing links between migration and development and legal migration. The implementation of this global approach has so far given birth to two mobility partnerships developed and negotiated under the auspices of the EU with Cape Verde and Moldova. These consist in non-legally binding agreements (Joint Declarations) between certain MS (15 in the case of Moldova and 5 in the case of Cape Verde) and a particular State of origin.

The labour migration provisions revolve essentially around capacity building, information sharing and the establishment of paths for mobility mainly of a temporary nature allowing a kind of circular migration. The MS which have engaged in these frameworks have indeed committed themselves to guarantee nationals of those 'partner' third countries a facilitated access to certain positions. As highlighted by the Council, the global approach should enable "*Member States [to ensure], within the framework of their national legislation, the emergence of legal migration opportunities, in particular according to the needs of their labour market.*"

Currently, this seems to lead to a proliferation of specific bilateral arrangements, containing provisions on labour migration, migration and development and especially cooperation in the EU efforts against irregular migration. Consistency and coherency of the European approach towards labour migration thus seem inherently challenged by the development of such schemes.

### 3. RE-ALLOCATION OF POWER?

The move towards the Europeanization of the rules on access to the EU by TCNs for labour purposes has been hampered by MS's will to maintain their influence over this sensitive topic. However, emphasizing the need to ensure credibility and economic profitability, the EU has developed paths for addressing this issue at supranational level.

Whether this has contributed to the transfer of control from the national realm to the European level is far from evident. Notwithstanding the successive shifts in approaches, it indeed appears that the MS's resistances have given rise to a dispersed and fragmented EU framework where the protection of the TCN rights is still largely tributary of the prospective employer.

The only instrument adopted so far in the field, because of its proximity to national legislations, seems limited in terms of scope and benefits. The current imbalance between EU legislative outputs relating to the control of irregular migration and those covering the development of legal channels for facilitating access to the EU shows that MS's common priority consists in creating the illusion of an inaccessible EU, the admission of which is strictly controlled. This filtering logic has prioritized the development of selective, utilitarian schemes for labour migration. While this has facilitated agreement among MS, it appears redundant and to lack added value compared to national developments.

The implementation of the global approach to migration has further fragmented the European endeavour to design a common framework on labour migration as this has so far concretely resulted in the emergence of various agreements between certain EU MS and other third countries. The inherent intergovernmentalism of such developments undermines the call for a genuine EU approach. The channels offered in the mobility partnership demonstrate a desire to have the third state participate in the fight against irregular migration towards the EU as well as enable its labour force to contribute to the economy of the European Union as the repeated aspiration is to match skills available in countries of origin with EU labour market needs. The current rhetoric based on *partnerships* and *cooperation* builds upon an illusive role for sending countries. However, the commitments which sending States need to make in the context of these global partnerships appear disproportionate when compared to the benefits they receive from such alliances in a limited number of countries.

In this regard, the role given in the implementation phase to new actors with different agendas should not be minimized as it further blurs an already complicated picture. It should be noted that the role of trade unions is not mentioned. As to the role given to employers, they are called to identify future needs of the European economies and to provide employment positions upon the return of the TCN to the country of origin. After MS formalize the type of desired migration with regard to their economical and political commitments, third, non-state actors are thus empowered to control the entry and legal status of TCNs both within national frameworks and the proposed European frameworks.

### Conclusion

Conflicting forces are at play in the EU agenda on labour migration, giving rise to a blurred picture. In this context, the position of the individual moving to the EU for labour migration purposes remains extremely weak, as a fragmented and inefficient set of European labour migration rules has emerged at the expense of a rights-based approach. The external relations consequences of the message being sent abroad by giving overriding priority to policies on return and border controls without offering substantial paths for enabling labour migration should not be disregarded. The selective process which such developments operate undermines the EU's credibility on human rights. This could nevertheless be reasserted through the adoption of an exhaustive and consolidated framework of protection respectful of the fundamental rights of the individual on the move.

*'The Legal Framework for Highly-Skilled Migration to the EU: Assessing the Attractiveness of European Legislation', paper by Dr. Anja Wiesbrock and Ms. Metka Hercog, Maastricht University*

## ABSTRACT

In the international competition for highly-skilled labour, many industrialized countries are changing their policies in order to become more 'attractive' for highly-skilled migrants. Several European countries have recently introduced fast-track entry systems for knowledge migrants and in May 2009 the EU Member States adopted the 'Blue Card' Directive. Nevertheless, the number of migrants entering and residing in the Member States under such policies has been lower than expected. This paper addresses the question on how European countries can improve their position in the 'international competition for talents'. In this context, we look at the existing legal framework on highly-skilled migration in three EU Member States and compare it with the labour migration policy of their main competitor country in the international competition for highly-skilled labour force, namely the United States of America. We have chosen three major EU immigration countries with recently introduced migration policies, targeting skilled migrants. These are the United Kingdom, the Netherlands and Germany. We look at a set of immigration policy dimensions, trying to assess the 'attractiveness' of EU and national rules for potential highly-skilled migrants. The comparison is done by looking at six different aspects of policies: eligibility criteria, special provision for young migrants and options for former students, validity of permits and access to permanent residence, employment right and social security provisions, family migration options, and national rules for the acquisition of citizenship. The paper also addresses the question of the added value of the Blue Card Directive for the entry and residence of highly skilled workers in the European Union.

## SUMMARY OF THE PRESENTATION

Research question: how does the European legal framework compare to the US in the international competition for talents? This question involves a comparison of the legal framework on highly-skilled migration in the UK, the Netherlands and Germany vs. USA, as well as an analysis of the provisions in the Blue Card Directive (in particular the added value for the Netherlands and Germany).

Comparative criteria are: eligibility criteria; a special provision for young migrants and options for transition stay for former students; validity of permit and access to permanent residence; employment rights and social security provisions; family migration options; and national rules for the acquisition of citizenship.

The conclusion is that European rules on highly-skilled migration are similar and in many respects favourable to the US (labour market test in the US; special provisions for the young lacking in the US; lower social security; no working rights for the spouse). Bottlenecks remain, in particular the public perception of a 'fortress Europe' and the fragmentation of the European labour market.

## DISCUSSION POINTS

- In the European Union, there are more limitations than in Canada, where the entire family receives citizenship after 3 years. The EU blue card system is not attractive, and as such unsuccessful. The requirements for blue cards are too high, e.g. in Germany.
- In the Netherlands, however, there is an increase in highly-skilled immigration after the new policy was adopted.
- Perception is often more important than the actual policy and legal aspects thereof. For example, highly-skilled Moroccans prefer going to the US or Canada. In comparison, some European countries have the reputation of 'being racist'. Big multinationals can still work their way through, being able to rely on their Human Resource departments. SME's, on the other hand, have a lot less capacity to attract highly-skilled workers.
- Another problem is the educational degrees and 'credentials' that are not tuned internationally.
- A possible venue for transatlantic cooperation is inter-business cooperation, solving parts of the highly-skilled labour migration flows.
- Policy changes with regard to migration have been lagging behind the thinking, rhetoric and ideologies. It is hard for policy-makers and politicians to be positive about migration, as the public opinion has become very negative.

*'The Wood and the Trees: The Need for an Encompassing Migration Policy', presentation by Prof. Dr. Johan Wets, Research Manager Migration of the Higher Institute of Labour Studies at the University of Leuven, Visiting Professor Facultés Universitaires Saint-Louis Brussels*

## SUMMARY OF THE PRESENTATION

### Introduction:

- Managing the shape and dynamics of future immigration flows to make them appropriate for the EU economy can prove difficult in practice as immigration is caused by multiple factors which can be beyond the scope of any single public authority.
- However, governments increasingly recognize that a more pro-active and forward-looking approach to immigration is needed to facilitate integration into employment and that, unless a more open approach is taken to legal immigration, the EU may be faced with increasing pressures, running the risk of increased illegal immigration.

What are we talking about: asylum seekers and refugee migration (asylum policy, reception policy and return policy); family migration (marriage migration and family formation, family reunification); labour migration (highly-skilled migration and blue cards, seasonal migration, services); non-migration (students, tourists); irregular migration (return policy, detention policy, regularisation policy, and a grey zone of irremovable migrants); and the migration of minors (unaccompanied minor migrants, minor asylum seekers). The problem is that these statuses are not stable: there is status transition.

Root causes of migration: see human development index; population doubling time; income distribution; and future prospects of environmental migration.

Migration and development: pertains mainly to migrant remittances. However, we have to be critical as well: the flip side of the economic reality is the social reality, i.e. remittances can create an emigration dynamic, and the positive economic effects often go hand in hand with negative social effects. There is a need for a social balance. In this context, a WHO study on brain drain is relevant (study by John Connell, University of Sydney in commissioned by the WHO), because it shows that the health situation of the populations suffers from the emigration of health workers abroad (focus on doctors and nurses, in Fiji, Palau, Samoa, Tonga, Vanuatu – the Pacific).

Labour migration in Europe: labour migration is needed (cf. Lisbon strategy; cf. national policies), but Europe should aim for a larger approach, focusing on the actors, context, goals and different levels of analysis:

- Levels of analysis: micro- or individual level (migrants and their close family, employers), meso- or group level (family or clan, companies), and the macro- or societal level (countries or origin, countries of destination. Advantages and disadvantages can differ on each level.
- Actors: the migrant, his/her environment, the society in the country of origin, the society in the country of destination, the 'recruiting' company.
- Goals: individual level of the migrant (income and perspectives), countries of origin (diminishing social tension, and income through remittances), countries of destination and employers (filling the gaps on the labour market), and employees (preservation of employment, income level, social achievements, etc.)
- Context: ageing population in the industrialized world; shortages in some sectors of the labour market; poverty and underemployment in the South (incl. unemployment of skilled workers); strong population growth in the countries in the South.

There is a need for a creative approach: a compensation fund? A re-evaluation of theories of e.g. the seventies (Baghwati)?

### Migration and security:

- First of all, what kind of security are we talking about? Cf. Human security (UNDP 1994), cf. societal security (Buzan & Waever). Security is about perception ('a perceived reality is true in its consequences and as such', and as such, 'a perceived threat is true in its consequences').
- Migration rhetoric: security approach; utilitarian/economic approach; humanitarian approach. In different institutions, we find different approaches: securitarian approach in the EU Council; humanitarian approach in the EU Parliament; and the blue card is based on a utilitarian approach. It is also important to note that the media plays a big role in 'framing' migration.

### Some conclusions:

- Migration is high on the political agenda and will stay there.
- The number of international migrants steadily increases.
- National policies cannot tackle the causes of migration.
- Migration policy, integration policy, foreign policy, development policy, etc. are all related.
- Large scale migration of today is the export of the problems of the developing world.
- Each situation has to be studied on different levels (macro/meso/micro).
- All policy decisions have to be studied in the light of their impact on other domains.
- (Labour) migration also generates opportunities.
- The challenge is to look for win-win situations.
- There is a need for an encompassing migration policy. Right now, 'the wood often cannot be seen for the trees'.

### DISCUSSION POINTS

- It is important to make sure that the fundamental reasons in the countries where migrants come from change. Development and development aid are very important in this regard. Grass-root and bottom-up aspects are crucial here. Transatlantic cooperation on development would have added value in this respect. E.g. in Algeria, where the situation is terrible, the EU and the US have a major role to play, and have historical responsibilities as well.
- According to some sources, terrorism, so-called extremist terrorism, is more due to developmental reasons than religion.
- The fight against corruption is another aspect where cooperation is possible. For example, some countries refuse to take back certain persons, such as India or Pakistan, on the basis of uncertainty of identity. The problem of identity is a real one. People cross the borders in South Asia, and simply 'buy' resident permits of the neighbouring country. This also depends on the receiving country: with China, for example, there is a bilateral agreement and it is easier to send illegal migrants back.

*'EU Governance of Migration: a Focus on the Transatlantic Dimension', paper by Dr. Michela Ceccorulli, Forum on the Problems of Peace and War, Florence*

### SUMMARY OF THE PRESENTATION

#### The transatlantic dimension of border security management

While it is common to approach the issue of European migration by looking at relations with Southern or Eastern countries at more levels, the impact of the transatlantic dimension on this issue regulation is often overlooked. This may occur because most of the times provisions touching upon border controls and other migration-related issues pass through agreements on coordination against terrorism and organized crime. Thus, transatlantic cooperation patterns impinging specifically on the movement of people remain an unexplored field of investigation.



The transatlantic dimension is an important facet of the European security governance for several reasons, among others:

- It defines relations among the partners towards efforts at common responses in areas where both are affected. Notwithstanding the different 'nature' of the US compared to what is often supposed to be a post-Westphalian region, cooperation between the two actors is paramount given the peculiarities of the matter. Thus, aside from yet existent bilateral agreements a broader cooperation pattern with the EU is searched especially to take advantage of data-bases at the European level.
- It builds a coordinated platform upon which to work with other actors at the bilateral, regional or global level. Assuming a coordinated approach it is supposed to increase the complementarities and the effectiveness of the provisions towards third countries.

The 11 September 2001 saw a blunt tightening on immigration controls on both sides of the Atlantic. Moreover, that date set the stage for a groundbreaking cooperation on border security management, with the United States increasingly interested in determining the speed and the content of coordination efforts.<sup>72</sup> Since that point in time, multiple channels, formal and informal have been created (EU-US Justice and Home Affairs Ministerial Troika; EU-US High Level Contact Group on common data protection principles), agreements signed (EU-US Passenger name record – PNR 2007; agreement on extradition and mutual legal assistance, Working agreement between US Department of Homeland Security and FRONTEX<sup>73</sup>) and statements tabled (EU-US statement on 'Enhancing transatlantic cooperation in the area of Justice, Freedom and Security')<sup>74</sup>.

Coordination among the partners has not always gone on easily: different approaches on some matters (data protection,<sup>75</sup> extradition) have rendered the path toward common objectives and provisions long and hard. This has been so because these matters were and still are understood and interpreted differently, thus driving towards different policies. Also, there still exists a problem as far as the 'reciprocity' clause is concerned, especially given that some European countries are still not on the US VISA Waiver Programme.<sup>76</sup>

Thus, aside from observing increased transatlantic cooperation in areas related to border security management, including the exchange of strategic information, training capacity building, collaboration on relevant technologies and increased dialogue in matters such as migration and refugees, it is of some interest to investigate how the coordination approach has been taken forward, the different levels of cooperation and the obstacles still hampering a thorough and smooth cooperation framework. Given that the transatlantic dimension is one of the building blocks of ongoing efforts at global governance as well as a fundamental facet of European security policies, in-depth research is needed.

72 See on this point Council of the European Union, *Strategic Committee on Immigration, Frontiers and Asylum meeting with the United States*, 26 October 2001.

73 See [http://www.frontex.europa.eu/newsroom/news\\_releases/art61.html](http://www.frontex.europa.eu/newsroom/news_releases/art61.html).

74 See Council of the European Union, *EU-US Statement on "Enhancing transatlantic cooperation in the area of Justice, Freedom and Security"*, adopted in Washington D.C. on 28 October 2009, 15184, Brussels, 29 October 2009.

75 See Council of the European Union, *Final Report by EU-US High Level Contact Group on information sharing and privacy and personal data protection*, 9831/08, 28 May 2008.

76 Kristin Archick, "US-EU Cooperation against Terrorism", *CRS Report for Congress*, October 16, 2006.

## *Intervention by Mr. Joseph Pomper (US Mission to the EU)*

### SUMMARY

The EU and US systems are in many ways similar and in many ways different:

- There are short-term and long-term visas in Europe, which does not exist in the US. The US, as any other country, wants to know who is entering the country and uses a system of immigrant and non-immigrant visas. According to the latest figures, there are about 12 million illegal residents in the US. The policy ruled by is, in short, 'Open Doors, Secure Borders', the goal of which is to maximize the advantages of migration while minimizing the costs.
- Both the EU and the US want to thwart illegal travel, but encourage and facilitate legal travel. Illegal migration can happen on an individual basis, or through alien smuggling. Alien smugglers are very often involved in other forms of smuggling, such as in drugs or arms.
- Involuntary migration refers to persons such as refugees, asylum-seekers and persons being smuggled. The US philosophy is to enable involuntary migrants to return when possible or to integrate if preferred.
- Non-immigrant visas consist of a number of categories, ranging from A-V. These are temporary visas. Everyone has to fit into one of these categories. With regard to investors, journalist, specialists or experts, there is a cap set on 66000 per year. 55000 is the annual cap for blue collars. The other kind of visas are permanent or immigrant visas. The philosophy is two-fold: family reunification, with a maximum of 262000 per year (except direct relatives), and employment. The demand for these visas is greater than the supply, so for a lot of these visas there is a waiting line depending on the region or country. 140000 visas are reserved for the employment category. These are again divided in four categories, with separate waiting lines (blue collar workers, professionals with a high degree, investors, persons with extraordinary abilities). The economic turn-down has an impact on the applications. Non-immigrant visas are down by 13 percent this year. Immigrant visas are only down by about 1 percent.

Legal, illegal, voluntary and involuntary migration are four areas for cooperation between the EU and the US where we can learn from each other and explore further possibilities. There already exists a dialogue on consular work. Talks on visa application rules are still work-in-progress, as there are still five countries in the EU (Poland, Greece, Cyprus, Romania and Bulgaria) who are not allowed in the visa waiver programme (visa-free travel) due to not meeting the US requirements on late or non-return rates.

## DISCUSSION POINTS

- As of today there is a new agreement on information sharing with 16 provisions. The next step is to negotiate a binding agreement. As it is emerging, there are three types of information sharing: criminal, intelligence and passengers. Intelligence is not public but is government to government. The criminal part is subject to a formal agreement, which is very far-reaching. This agreement is ratified by all member states of the EU and the US and will enter into force on February 1, 2010.
  - The US and the EU have a huge economic relationship, having someone to talk to is a huge plus (Lisbon treaty), certainly in crisis periods. Having one voice is certainly an asset. The more there is one voice, the more productively we can work. If you, for example want to study in Germany, you need to apply for a visa in Germany, not Europe, and you have to know that. So having one voice, makes figuring this out much easier.
  - Indeed, from the US side it is difficult to know 'who to call', but this is improving very much now. Unfortunately migration and asylum will be separated from police cooperation, with two directors. This will prove to be a whole new 'ball game'. There are not going to be any new treaties as the underlying structures are currently not stable and changing. Rapidly changing technology is another challenge to law-making. So you need to write treaties that comprise the changes in technology and governance. Both sides have to stay very flexible in order to get anything done.
  - Decisions are made on the basis of available technology right now (e.g. finger prints), but this is not necessarily the best in a long-term perspective when new technologies become available.
  - One of the areas of attention is inter-operable technology. One day, we all hope that there will be one system for everyone to use. Third countries and developing countries will be helped (subsidized) to install machines to read visas on the borders automatically.
- Ginsburg: EU-US discussions about asylum seekers and refugees, and the sharing of information are very important in order to find out false stories. An agreement has been set-up between all five English speaking countries with regard to this (US, UK, Australia, Canada and New-Zealand). Countries are able to see whether certain persons already left the country: the overlap of overstay / double application between Canada and the US is about 40 percent, which is huge. In comparison, the EU is way ahead of the US in that regard, at least within the EU member states. The information retained, however, is different.
  - Another issue are development efforts and development aid, with regard to border inspections and technology. Here, the US can learn a lot from EU integration methods. There should be a dialogue on the topic of integration.
  - Some officials and some posts in the US allow temporary visas for grandmothers, while others don't. The rules are extremely complicated (proof of financial capacity, room to live, etc.). An appeal to rejected visa applications is allowed for relatives, but it is limited in scope due to fears of overburdening justice departments. Perhaps this needs to be reconsidered.
  - In sum, possible areas for cooperation and/or dialogue between the EU and the US are: information sharing (from the principles to a binding agreement.); highly-skilled mobility; coordination of technical assistance for border management in developing countries; economic development; integration; asylum and refugee standards (where the EU has something to learn from the US); family rights and appeal to visa rejections.



Mrs. Susan Ginsburg and Prof. Dr. Johan Wets

# Report Workshop Trade and Political Economy

## INTRODUCTION BY THE WORKSHOP CHAIRS

*'The Political Economy of Transatlantic Trade', Discussion note by Prof. Dr. Christophe Crombez, Visiting Professor at the Freeman Spogli Institute for International Studies of Stanford University and Professor at the Faculty of Business and Economics at the University of Leuven*

From a political economy perspective, that is, for someone who studies institutions and their impact on policies, the most interesting current development that may affect transatlantic trade relations is the entry into force of the Treaty of Lisbon.

The Treaty of Lisbon alters the procedures for setting EU trade policy and adopting international trade agreements. The most important change is that the co-decision procedure, renamed the 'ordinary legislative procedure' will now apply in the area of trade. This implies that the European Parliament will now have to approve EU trade policies and may amend Commission proposals in this area together with the Council. Moreover, the Parliament's consent will be required for the adoption of international trade agreements.

The implications of this procedural change are twofold. First, setting trade policy and adopting trade agreements will become more difficult. Adding an additional requirement, in this case the approval of the Parliament, for the adoption of a policy or agreement cannot make it easier for the Commission to get such a policy or agreement approved.

Second, the requirement that the Parliament approve trade agreements may strengthen the Commission's position in international negotiations. The Commission will now be able to argue that although the Commission itself may be willing to accept certain conditions for an agreement, the Parliament would not go along and vote the agreement down. The Commission will thus be able to point at the Parliament much in the same way as the US Administration does with the Congress. This is especially significant since the Parliament can be expected to be more protectionist than the Commission; much like the Congress tends to be more protectionist than the Administration. As a result of the Parliament's involvement in the EU's domestic political process the Commission may thus be able to obtain more concessions from its counterparts in international negotiations.

*'Politicizing without Politicizing? The Dilemma Transatlantic Trade Relations Face', Discussion note by Prof. Dr. Bart Kerremans, Professor of International Relations and American Government at the Institute for International and European Policy of the University of Leuven*

### 1. INTRODUCTION

There are three elements that keep coming back in the transatlantic trade relationship when one looks at that relationship during the last twenty years. There is first the disproportionate attention for trade conflicts between the U.S. and the EU even if the term "trade wars" – which used to be popular among journalists during the Clinton and Bush eras – doesn't seem to be used that readily anymore. There is, second, the prevalent role that behind-the-border regulation continues to play in the trade relationship, both as a factor that promotes the relationship, and as a factor that regularly leads to frictions. And third, there is the constant effort to trigger political interest – that is interest from the higher political levels and the concomitant preparedness of political leaders to invest political capital – in the relationship. These three elements are not independent from each other. Several, but not all so-called trade wars are related to questions of behind-the-border regulation and the difference in a number basic societal values that these may reveal across the North Atlantic. These wars sometimes attract the political capital that may be needed to move forward on the removal of regulatory barriers. But the search for the investment of more political capital in the Transatlantic trade relationship finds again and again a stumbling block in these trade wars, leading to ever new initiatives to overcome them. As a consequence, the list of labels and acronyms with respect to the Transatlantic trade relationship has grown as well. Starting with the New Transatlantic Agenda, there is the New Transatlantic Marketplace (NTM), the Transatlantic Economic Partnership (TEP), the Transatlantic Economic Council (TEC), the ever floating idea of a Transatlantic Free Trade Agreement (TAFTA), and more recently the objective of a Transatlantic Partnership Agreement by 2012 and a unified Transatlantic Market by 2015. At the same time however, one can see that the role of the Transatlantic relationship has become more ambivalent in the context of the WTO. The time that Transatlantic arrangements or agreements were the main drivers in the multilateral trading system seems to be over. Such agreements are still important, but not sufficient. And in some cases, they may even backfire. Take the EU-U.S. arrangement on agriculture in the run-up to the WTO Cancun Ministerial.

The objective of this discussion brief is to shed some light on the ambivalent role that politicization plays in the Transatlantic trade relationship, and this from the perspective of the EU. The elements depicted above, are all related one way or the other to the role of politicization in this relationship, and to the complexity of that role. They are indications either of excessive politicization or insufficient politicization, and are thus the expression of a problem to manage politicization in the relationship, both in the EU and in the U.S. Politicization is indeed not neutral for the kinds of players that are politically activated by an issue, and thus for the political costs and benefits of moving an issue forward in public policy-making. Politicization may be targeted at waking-up political actors that are dormant on an issue. But it may, and often does, wake-up actors that should remain dormant for an issue to be able to move forward. The effect of politicization on the probability that public policy decisions will be taken on an issue may thus be affected by the question who remains dormant and who is woken-up as a consequence of it. And in that answer, institutions and institutional set-ups may matter significantly. Seen from the EU perspective, the claim can indeed be made that the stop-and-go nature of the Transatlantic trade relationship is affected significantly by the EU's institutional set-up, most particularly by the way in which and the level at which its principal-agent dynamics operate when it comes to negotiating and concluding trade agreements, specifically in a bilateral context. These dynamics lead indeed to the observation that whereas politicization may be an essential factor in moving the Transatlantic trade relationship forward, it is at the same time also a major impediment for such a movement.

## 2. THE AMBIVALENCE OF POLITICIZATION

As has been mentioned above, politicization matters as an element in the structuring and re-structuring of the Transatlantic trade relationship. Each of the major initiatives since the fall of the Berlin Wall has been motivated by the need for more political input and for more political leadership in the relationship. This was an argument in 1995 when the New Transatlantic Agenda (NTA) was launched, seen as it was as a stepping stone for improved Transatlantic relations and meant to create a political momentum in favour of deeper trade, security, and political relations. Likewise, the Transatlantic Economic Partnership (TEP) of 1998 was meant to trigger political attention and leadership for a relationship that was increasingly haunted by trade conflicts. And in the same vein, the creation of a Transatlantic Economic Council (TEC) as a consequence of the 2007 Framework Agreement targeted political leadership. As Günter Verheugen, member of the European Commission and European chair of the Transatlantic Economic Council phrased the importance of this Council in the European Parliament:<sup>77</sup>

*"Transatlantic cooperation is not possible without political leadership. To agree that it is desirable to have a market without trade barriers is one thing; but as soon as we begin tackling specific barriers, we find that economic integration requires a great deal of hard work, patience, perseverance and, as I said, political leadership."*

And during the following debate on the TEC, one MEP observed succinctly where the importance of political leadership can be located, given that most issues on the agenda are not political issues as such, but "issues that bureaucrats are failing to agree on", but where the economic costs of this failure are substantial.<sup>78</sup> Agreeing on them is difficult as several of these questions often affect laws "with a specific social, environmental, cultural or public health purpose", and where the obstacles that these laws may entail in Transatlantic trade "cannot be removed without a democratic decision and positive legislative action to protect these objectives."<sup>79</sup> It is here that the role of political leadership shows up.

The need to have political leadership to move the Transatlantic trade relationship forward is thus important. But it has its limits as well. During the aforementioned European Parliamentary debate, some MEPs clearly hinted at these risks. Erika Mann (PSE), for instance, pointed at the need for realism, thereby observing "how difficult the negotiations [on the TEC] were this time. It is still very early days for the Transatlantic Economic Council and expectations are, naturally, very high. There is a lot on the 'to do' list and I personally believe that healthy realism would be appropriate, because there are some on the team who are simply overloading the Council with too many topics (...). My personal recommendation would be to be a little more realistic here, and perhaps to pare down the agenda."

There are not only limits however. There are also risks. Increasing political attention for issues often goes hand-in-hand with increased publicity on them, and thus with increased public scrutiny. And as such, meetings that are supposed to create political momentum may suffer from political mobilization that limits the degrees of freedom that political leaders may have, or may increase the cost for political leaders of making concessions. Ironic in this sense may be the first TEC meeting that took place after the European Parliament debate mentioned above. It was a meeting in which the question of the import of chlorinated chicken into the EU had a prominent place. On top of that, it was a meeting in which efforts by the European Commissioner to move forward by seeking an opening with the U.S. were countered by the fierce resistance against such imports as expressed explicitly by 21 member state governments.<sup>80</sup> Clearly, political leadership, or rather politicization with the aim of triggering such leadership is a double-edged sword, certainly in the EU. Part of the reason can be found in the way in which its principal-agent dynamics run their course. The principals are then the member states or their representatives, and the agent is the EU negotiator, mainly the Commission.

## 3. PRINCIPALS AND AGENT-CONTROL IN THE EU

As has been observed elsewhere, the central point in principal-agent modelling consists of the relationship between an agent and a principal, and the related question of agent autonomy. It is about the delegation of competences to an agent, and the accompanying inclination by those that delegate – the principals – to control what the agent is doing with these competences, given that ultimately, they will be held

<sup>77</sup> European Parliament Plenary Debate of May 9, 2008.

<sup>78</sup> Intervention by Malcolm Harbour (PPE).

<sup>79</sup> Intervention by Benoît Hamon (PSE).

<sup>80</sup> Agence Europe, May 21, 2008, p. 10.



responsible for the actions of the agent (Hood and Lodge, 2006: 44) or the consequences of its actions. The assumption is then that agents will try to engage in self-serving behaviour, even if that happens against the interests of the principals, and thus, that the latter suffer from an agency loss. They try to limit that loss however by controlling the agent in different ways and thus, by creating incentives for the agent to behave according to the wishes of its principals. Such incentives may be positive (rewards) or negative (penalties). In the case of international negotiations, a negative incentive may consist of the threat that an agreement negotiated by the agent will be rejected or that not enough support will exist for it to be ratified.

In order to understand a principal-agent relationship in the context of international negotiations, thus where the agent acts as the negotiator and the principals act as the ratifiers, one needs to look at the interests of the agent, the strategic opportunities available to the agent as a consequence of its international negotiating role, the interests of the principals, and the pressure that is exerted on the principals for them to keep a short leash on the agent.

As far as the interests of the agent are concerned, it is clear that the Commission – who acts as the major negotiator on behalf of the EU in Transatlantic trade relations – has been in the forefront of efforts to deepen and to institutionalize the Transatlantic trade relationship. One could even see an increased role of the Commission in this regard as gradually, the emphasis by the Commission on institutionalized Transatlantic trade relations has become stronger than the one of its U.S. counterpart, the USTR, or the U.S. administrations in general. The Commission has equally been in the forefront of broadening and deepening the involvement of a range of stakeholders in the process, particularly through the Transatlantic dialogues. Part of the Commission strategy has consisted here of enhancing the export-oriented business input into the process, most prominently through the Transatlantic Business Dialogue, even if the dialogue itself has faced its own problems. That is not to say that the Commission always tends to defend the relationship itself above other concerns. But among the different players involved in the relationship, the Commission has tended to be the one that paid most attention to the relationship overall.

When it comes to the principals – the member states – the relationship with the Commission-as-agent is affected by the kind of domestic pressure each of them faces. Part of that pressure is dormant, and part of it is active. But the level of activity tends to rise when it comes to issues that focus on behind-the-border issues. And it tends to be skewed as well, this in the direction of increased resistance against concessions to the U.S. This does not reflect anti-Americanism as such (even if that may be a factor in some cases), but an attempt to protect interests and concerns that tend to be considered as a reflection of more or less fundamental societal values. These relate to redistributive justice (and the stronger emphasis on redistribution in Europe), the role of government intervention in the economy overall, and to the way in which risk and scientific uncertainty are approached. As Isaac (2006) has observed, whereas the EU tends to use a social rationality with regard to risks, the U.S. tends to focus more on scientific rationality.<sup>81</sup>

And the political relevance of that difference tends to be extremely high between the two sides of the North Atlantic. This means that in the case of the EU, the pressure on the member states as principals tends to increase relatively rapidly when it comes to issues that relate to such risks. Tentative research in the parliamentary debates of four EU member states between 2001 and 2008 indicate that when it comes to Transatlantic trade relations, it is exactly this kind of issues that prevails.<sup>82</sup> This is maybe not a perfect indication of political mobilization on trade-related issues, but it is a reliable proxy of public political mobilization on such issues. And the opposition against concessions is often vehemently strong. This opposition would matter less however in case the agent would be able to resist more strongly to pressures from the principals. In case of the EU-side in the Transatlantic trade relationship, the ability to resist tends to be relatively low however. This is due to the limited ability of the Commission-as-agent to fully play its Janus-like role in this relationship. Such a role consist of strategically making use of negotiations at the international level to increase the pressure on the domestic principals. One way to do so is to negotiate agreements without member state involvement and then to submit them as accomplished facts to them (cf. Kerremans, 2004; Delreux, 2009; Delreux & Kerremans, 2010). Another consists of exploiting limited agenda-setting power at the international level as a way to resist agenda-setting demands of the member states. It is a kind of paradox of weakness that is at play here and that the Commission-as-agent can use as a barrier against pressures from the member states-as-principals. The point is however that such a paradox of weakness is only available in an international context where such weakness can credibly be claimed. This is more the case in multilateral negotiations with a relatively high level of institutionalisation. In such a case, the agent is able to hide itself behind international institutional rules and norms on the one hand, and able to credibly claim that it cannot change or manipulate those rules for the interest of the EU on the other hand. In a bilateral context, such claims cannot easily be made, and with it, the ability of the Commission to exploit its role as agent is much more restricted. As such, the ripple effects of domestic political mobilization in individual member states on the constraints that the Commission (as agent) faces are relatively strong. Keeping issues out of the political limelight may be helpful here even if it is also risky as it may undermine the legitimacy of agreements concluded on these issues. The relationship between politicization and Transatlantic cooperation may thus be quadratic. High levels of such politicization undermine the probability of cooperation as skewed political mobilization tends to be triggered as a consequence in the EU. Low levels of politicization lead to the same outcome as low levels of legitimacy increase the risk that ultimately, non-ratification by the principals will follow. Intermediate levels of politicization may be the solution. They imply an involvement of member state representatives in the process, without attracting too much public attention.

81 But, as Vogel (2004) indicates. This has not always been the case. Until the 1980s, the roles were largely reversed.

82 These member states are Italy, Austria, Spain, and Germany.

## 4. CONCLUSION

The Transatlantic relationship tends to be affected by three elements: a disproportionate attention for trade conflicts between the U.S. and the EU, the prevalent role that behind-the-border regulation continues to play in the trade relationship, and the repeated efforts to trigger political interest – that is interest from the higher political levels – in the relationship. In this brief, we tried to indicate how these three elements affect each other, and why the repeated efforts to politicize the relationship tend to meet their limits relatively rapidly. We tried to look for the answer in the principal-agent relationship that exists between the Commission and the member states inside the EU, the fact that the agent's ability to exploit its agency is constrained by the bilateral nature of the Transatlantic relationship, and by the fact politicization tends to trigger skewed political mobilization against EU concessions inside the member states as fundamental issues about societal values tend to be at stake. For those that favour a deeper relationship therefore, rather than seeking for increased political input and thus higher politicization, it may be better to wonder whether it isn't often better to do the opposite.

Discussion note by Prof. Dr. Timothy Josling, Professor Emeritus at the former Food Research Institute and Senior Fellow by courtesy at the Freeman Spogli Institute for International Studies of Stanford University

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There is little disagreement as to the nature of the challenges facing the EU and the US in the area of international trade and the governance of the multilateral trade system. After decades of a broadly effective (if bickering) bigemony that created the rules and institutions for an impressive increase in world trade, the transatlantic partners now have to share that responsibility with emerging world economic powers (in Schott's term, the BRICKs – he includes Korea as well as Brazil, Russia, China and India). It is uncertain as to the direction in which the new partners will wish to direct the trade system, and whether that will conflict with the interests of the EU and the US.

The response to these challenges is less clear-cut. Most observers would put at the top of the list the completion of the Doha Round. This would accomplish several useful tasks. It will give some short-run boost to the global economy through the removal of some uncertainty as to the future of trade policy (not least in the US). It would provide confidence for investors and businesses that the trend toward more open markets will continue. And it would lessen the attractiveness of regional trade agreements and reduce their trade-distorting impacts. In addition it would strengthen a key multilateral institution (the WTO) at a time when confidence in such bodies is shaky.

But the Doha Round may not be rescued despite the good intentions of the transatlantic partners. There may not be a "win set" to be chosen. And so a viable transatlantic strategy in the area of trade must think ahead about the WTO in the absence of a Doha agreement. One opportunity may have been lost this week, with the inconsequential nature of the agenda for the WTO ministerial. Housekeeping is not the issue. A collective vision as to where the WTO is heading would have been of much greater moment (though that was clearly not feasible in the current circumstances).

So the transatlantic partnership needs to focus on systemic issues that confront the trade system. Some of these issues have to do with the architecture of global governance. The relationship between the WTO and (say) the G20 seems to be of some significance. Establishing more effective negotiating modalities within the WTO is also important, though it may not be the right time to discuss the options while the DDA is still alive. The integration of the Least Developed Countries into the trade system is a priority: this is primarily an issue for the US in improving its own offer on tariff and quota free access. The recent food security scare has brought another issue back to the agenda of heads of governments: tackling the issue of supply security for raw materials is also becoming important.

Are there any specific topics in the area of strengthening the multi-lateral trade system where EU-US cooperation could be particularly valuable? Four such issues seem to stand out:

- The challenge of regionalism. Both the EU and the US are guilty of embracing regional and bilateral trade strategies and essentially undermining the concept of non-discrimination. But there is no way back. At present the only viable strategy may be to expand the number of agreements, by forging links between existing ones. So a potential EU-US FTA could be reborn as an agreement between NAFTA and the US bilateral partners and the EU and its FTA partners. Some sector-specific arrangements may be needed, but a simple agreement to extend duty-free access to all included countries could bring together a large proportion of the WTO members in a free trade zone. Links to Asia through the ASEAN+3 process could provide the glue to halt any slide toward competing blocs.
- The challenge of harmonization of standards. It is undoubtedly true that outside of some sectors (perhaps agriculture) the most significant trade barriers arise from the transactions cost of complying with different national standards. The private sector is ahead of the public sector in establishing sector guidelines for good practices and developing certification schemes to enable quality controls in supply chains. Standards harmonization (and its milder forms of mutual recognition, equivalence, etc.) has been bogged down by bureaucratic turf-defence and quasi protectionism. But the growth of private standards opens up new challenges, as the WTO has few rules that apply in such cases. A constructive EU-US agreement on standards could prevent the division of the trade system into competing standards regimes and incidentally be of considerable help to developing countries.
- The challenge of regulating subsidies. Whether for helping ailing industries or establishing new ones the ability of the state to expend funds has been widely exploited to the detriment of the trade system. WTO rules (in the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture) attempt to restrict such subsidies. But the succession of trade disputes that involve subsidies, most notably the Airbus/Boeing cases, illustrate the continuing problem. So long as subsidies are restricted to domestic producers there will always be a trade impact. And yet opening up stimulus payments to non-native companies does not seem on the cards. A transatlantic subsidies accord mirrored on the single market regulations seems a long shot but may be worth including in a trade strategy.

- The challenge of national climate change legislation. Though another workshop will deal directly with energy and climate change, the trade issues are sufficiently important to be listed here. The main challenge in this case is to respond to the political imperative to offset at the border any advantages that foreign suppliers may (be seen to) have without subdividing the world into blocs differing in the price they put on carbon. The issue differs from the regulation of subsidies in that border measures (border tax adjustments) are legitimate to offset tax differences. The question is whether having to purchase emission permits counts as a tax. Transatlantic cooperation on this issue could be crucial.

In each of these four areas one can imagine a constructive EU-US position having considerable weight with other countries, including the BRICs. The best avenue would be through the WTO, as the institution set up to deal with such matters. If the WTO is too unwieldy to act as a negotiating forum then a bilateral approach may be needed, at least initially.

## PRESENTATIONS AND DISCUSSIONS

*'Dissecting the Transatlantic Pattern of Trade: Evidence of Variety and Quality in EU-US Trade', Presentation by Prof. Dr. Jan Van Hove, European University College Brussels and Faculty of Business and Economics at the University of Leuven*

### SUMMARY

#### 1. Aim and motivation of the paper

Starting from product-level (around 7000 categories) data on trade between the EU27 and the US, this paper aims to analyse, by variety and by quality, the transatlantic trade pattern. Motivations are the following:

- The EU-US trade relationship continues to be the most important bilateral trade relationship in the world.
- Evolutions in this relationship, observed at the product level, may help to better understand the impact of the rise of emerging economies, particularly China.
- Only at the product level can the true impact of trade policy be monitored, especially the effects of anti-dumping measures, countervailing duties and temporary safeguards.
- In this trade pattern, the appearance of more variety and increased quality can be considered an indication of increased welfare.

For these reasons, recent years have seen an increase of this type of product-level trade analysis in trade literature, mainly focused on the manufacturing sector.

#### 2. Stylized facts drawn from the analysis

Both the EU exports to the US and the US exports to the EU show similar trends: their value increases while their variety is on the decrease. Additionally, price-level data allow the conclusion that, since 2007, this decrease in variety has been flanked by an increase in quality. The evolution of this trade pattern has allowed the value of transatlantic trade to continue to grow, whereas on the volume front, the effects of China's growing competitiveness can be felt.

#### 3. Conclusion

Transatlantic trade still remains the dominant two-way trade relationship in the world and is adapting to the rise of China by specialisation and quality upgrading.

*'Transatlantic cooperation in response to the financial crisis', intervention by Mr. Moreno Bertoldi (European Commission, DG ECFIN)*

### SUMMARY

The transatlantic cooperation, it is posited, did in fact make a difference in allowing an effective response to the financial crisis. It contributed to the fact that the mistakes of the 1930's were avoided. In this respect, the importance of the G20 must be stressed, as it functioned as an enabler of reform of the global financial architecture and allowed decisions on important stimulus packages. At this point, two questions remain. The first question is whether the two sides could have done more and used their partnership more effectively and is not answered here; the second pertains to the future role of the transatlantic partnership. As to this second question, the importance of the transatlantic partnership in managing the global economy could increase or decrease.

Factors that are likely to contribute to a decreased importance of the transatlantic relation:

- In the context of the G20, the relative combined weight of the EU and the US is smaller than it is in the G7/8.
- The US can be observed to turn its attention towards the Pacific.
- The perspective of a G2 consisting of the US and China
- The era in which the international financial institutions (IFIs) were continuously run by the old G2 is at its end.
- US and EU might well choose divergent policy paths.

Factors that are likely to contribute to an increased importance of the transatlantic relation:

- The G20's ability to act was largely due to the special circumstances of the crisis. In a normal context, the G7/8 might prove to be the more effective forum.
- Although both the EU and the US are actively looking east, in doing so, they still face many of the same problems.
- Although the IFIs will not be run by the old G2 indefinitely, the role of the EU and the US in ensuring their sound and effective management is far from being played out.
- Choosing divergent policy paths would put both the EU and the US economy at risk of permanent damage.

## *Intervention by Mr. Eoin O'Malley (Business Europe)*

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### **SUMMARY**

The intervention consists of three remarks:

- In spite of the rather negative depiction in the press, the similarities and the tendency to cooperate between the EU and the US remain fundamental. Two clear examples are the principle of basing regulation on scientific evidence and a fundamental striving towards the opening up of markets in general.
- In the multilateral arena, the Doha Round must remain the top priority. Whereas it is true that re-engagement from the US side is wanted, the EU must be ready to make its contribution when called upon. In this context, a joining of forces would help the EU and the US in the negotiations with China and India.
- Within the bilateral relationship, closer attention must be paid to harmonisation of regulatory standards. This would once again help in dealing with third countries and the TEC might serve a valuable instrument to help politicise these issues. As it stands, divergence on regulatory standards does not bode well for the reaching of international standardisation.

## *Intervention by Dr. Razeen Sally (European Centre for International Political Economy – ECIPE)*

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### **SUMMARY**

This intervention aims to make a case for a transatlantic free trade agreement (TAFTA). Starting from the present situation, where both the EU and US trade policies seem to be on the defensive, the latter arguably even worse than during the Bush administration, it is posited that this might lead to a shift to the East, which would mainly go to the detriment of the EU. This sets the stage for the creation of a TAFTA in two stages. The first stage should consist of a simple tariff abolition to clear up the few remaining tariff peaks between the EU and the US. As these tariff peaks at present effectively prevent the occurrence of substantial trade, there is very little risk of trade diversion and both parties stand to benefit from this measure. Admittedly, the feasibility of this scheme for agriculture is questionable. In a post-Doha scenario, this FTA could then be modified into an open multilateral format. In a second stage, NTBs should be lifted and trade in services should be freed up. Contrastingly to the first stage, the effects of this process would be enormous, leading to as much gains as the past half century of free trade agreements. This initiative too could later be opened.

### **DISCUSSION POINTS**

- Rather than involving the EU's and the US's bilateral partners in the setting up of a TAFTA from the outset, true deep integration might benefit from involving the minimum number of partners initially, followed by an opening up of the initiative, possibly in the WTO framework. Only this approach can allow a substantial reduction of tariffs and of NTBs.

- Whereas such a bilateral approach might be interpreted as anti-China, the preference in this case is not for one or the other partner, but rather for a comprehensive and deep integration process. China is at this moment involved in a number of FTAs, but these are mainly limited to standard tariff reductions.
- Both the EU and the US should stop looking at the WTO from an egocentric viewpoint. The South-South trade and relations are equally important. In this respect too, an increased diplomatic effort might be in order to get the EU and the US in alignment.

*'The Relation between the European Commission and the EU Member States in the Transatlantic Open Skies Negotiations: An Analysis of their Opportunities and Constraints', paper by Dr. Tom Delreux, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven*

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### **ABSTRACT**

The paper examines the internal decision-making process in the European Union with regard to the 2007 EU-US Open Skies Agreement. By exploring the principal-agent relation between the European Commission and the member states, it analyses the constraints and opportunities the Commission faced in avoiding an involuntary defection in the context of transatlantic negotiations. Based on interviews and document research, the process-tracing in the paper reveals that the main constraints for the Commission were the high degree of political sensitivity in certain member states, the struggle on external aviation competences, and an ambitious mandate. However, during the process, the Commission was able to overcome these constraints by making use of the following opportunities: closely involving the member states in its negotiation task, and increasing the cost of no agreement for the member states, not at least by making an appeal on European allies, such as the Court of Justice, the Presidency and member states with Commission-like preferences.

### **SUMMARY OF THE PRESENTATION**

The Open Skies Agreement that was concluded in 2007 was the result of an interesting negotiation process conducted by the European Commission. The negotiations took place, not only on the external front, but also internally, as member states in turn had to ratify the result of the international negotiations. It is therefore interesting to examine why the member states agreed to the outcome of the negotiation process, which would seem unlikely in light of three factors:

- The member states are by nature reluctant to grant the Commission freedom to negotiate.
- The stakes for member states are high, especially for the UK, which is now bound to open up London Heathrow to non-British carriers.
- The result of the negotiations diverged considerably from the original mandate: negotiators failed to conclude an 'open aviation area'-agreement, which would have also opened up US and EU internal flights to foreign carriers.



With these unlikely odds, it was not evident that the Commission was even granted a negotiation mandate. It finally succeeded by using an ECJ judgment declaring the existing system of bilateral agreements between the member states and the US as incompatible with EU law as leverage. Still, this bold approach resulted in a lack of trust between the member states and the Commission. Coupled to this, the Commission, or at least DG TREN, was acting on the international stage for the first time and arguably lacked the experience to successfully manage such a complex negotiation process. This resulted in a failed attempt at an agreement in 2003, in which the Commission had attempted to keep the member states out of the negotiations themselves and present the resulting agreement to them as a *fait accompli*. The Council subsequently rejected the agreement.

The approach in the successful negotiations that resulted in the 2007 agreement could scarcely have been more different: this time, the member states were continuously involved and they were appeased by the inclusion of a sunset clause, stipulating that the agreement would expire if no follow-up agreement is concluded before the end of 2010. Last but not least, the Commission succeeded in effectively playing out the increased cost of non-agreement and aligning its interest with that of allies within the EU such as the ECJ, the presidency and certain member states that were pushing for an EU-wide open sky.

***'How EU-Canada CETA Will Alter EU-US Transatlantic Trade and Investment Relations and the Repercussions on the Multilateral System', paper by Dr. Selen Sarisoy Guerin, Head of Trade Policy Unit, Research Fellow, Center for European Policy Studies***

## ABSTRACT

The negotiations with Canada have officially started and both sides acknowledge that if the agreement is not substantially deeper than NAFTA it is not worth negotiating. Although there is no empirical study that shows trade diversion during the formation of NAFTA (at the expense of the EU) we can see that (preliminary partial equilibrium analysis has already been carried out) there will be some trade diverted away from the US to the EU when the CETA is signed. The US in this case is likely to feel pressured into looking for a similar deal with the EU.

## SUMMARY OF THE PRESENTATION

Whereas the EU-Canada relationships are often neglected in the transatlantic discussion, the successive German and French presidencies have brought this topic to attention, resulting in the starting up of negotiations on an EU-Canada Comprehensive Economic and Trade Agreement (CETA) in 2008. Based on an analysis of EU-US trade patterns, it is posited that, although the average tariff level is low, important gains are to be had by 1) reducing the remaining tariff peaks and 2) limiting the multitude and stringency of NTBs.

The CETA's ambition is significant because it would reduce Canada's dependence on the US and the trade diversion vis-à-vis Europe that is occurring under NAFTA, thereby creating a level playing field for the EU. For this approach to be successful, the degree of liberalization

must be at least equal to NAFTA levels, and the government procurement markets should be included, as they can be seen as the reason why the EU is on board for the negotiations. The repercussions to the US depend on the adoption of the MFN principle. If this principle is adopted, the results will be beneficial; if not, the risk of trade diversion exists.

***Intervention by Mr. Daniel Schaubacher (European Bahá'i Business Forum)***

## SUMMARY

The intervention highlights the common elements the EU, the US and Canada share and that lie in the soft values pervading the business sector. Among these can be cited lifelong learning, education, the spirit of enterprise, the importance of SMEs etc. Another important common aspect is the multi-stakeholder concept (CSR), implying a degree of corporate governance. This common heritage is at risk in the new global economy that is at this moment still lacking an effective system of global governance and in which the enterprise has become the dominant agent of social change.

## DISCUSSION POINTS

The hypothesis that an institution such as the European Commission is in any way lacking in experience to successfully manage a negotiation process, may seem difficult to accept. Nevertheless, the Commission, and DG TREN in particular, at that point wanted to do it their way. This stern approach was later abandoned with a change of staff.

Even with an Open Skies Agreement, the effective liberalisation of transatlantic air travel hinges on the availability of landing rights (slots) at key airports. This was the reason that the entry into force of the Open Skies Agreement was postponed until the extension of London Heathrow was complete, freeing up a number of slots.

***'Constructive Engagement in Global Governance: Resolving US-EU Trade Disputes', paper by Mr. David Hornsby, Department of International Relations at the University of the Witwatersrand***

## ABSTRACT

One of the major strategic challenges facing the transatlantic trade relationship is the ability to effectively regulate risk whilst maintaining important trade flows. Much scholarship has emphasized the US-EU trade disputes over the regulation of risk. Such issues as hormone fed beef and genetically modified foods have been costly and acrimonious episodes that have highlighted divisions in how both regions regulate and deal with risk. However, these cases represent a minority of the issues that get dealt with at the World Trade Organization (WTO). A majority of the trade issues that occur between the US and the EU get raised, debated and resolved informally in the WTO committee structure. The Sanitary and Phytosanitary (SPS) Agreement is the WTO institutional arrangement that seeks to reconcile risk regulations with trade objectives.

The SPS Committee structure embodies an 'in-house' dispute resolution mechanism that is based on the notion of constructive engagement in seeking to resolve SPS trade issues prior to invoking Article IV of the Dispute Settlement Mechanism. The 'in-house' SPS mechanism consists of such formal mechanisms as registering official protests (Specific Trade Concerns, STC) and the use of the chair's good offices. However, it also uses informal mechanisms such as bilateral consultations and engagement with international standard setting organizations. The current paper seeks to elucidate how American and EU policy-makers have resolved differences over risk regulations at the SPS Committee, avoiding a formal dispute. A case study pertaining to wood packaging material is provided as a transatlantic example, reinforce the effectiveness of constructive engagement. Strengthening the SPS Committee mechanisms represents an effective way to promote trade harmony and effective regulation of risk.

## SUMMARY OF THE PRESENTATION

Starting from the fact that SPS cases constitute only a small part of WTO disputes, and that only a small part of these SPS disputes involved the transatlantic relations, the paper examines the array of measures at the disposal of SPS parties to bilaterally resolve trade disputes. Special focus is the Wood-packing material case, in which the EU erected emergency measures as a precaution against pest spreading. Starting from this case study, the functioning of the series of bilateral dispute resolution mechanisms is examined and the following recommendations are reached:

- A forum should be created that allows the SPS secretariat to focus on likely trade conflict areas.
- A forum should be created to coordinate between the SPS secretariat and the three sister organizations.
- The ad-hoc consultation mechanism should include a fixed timeline.
- The SPS secretariat and chair should be involved in the ad-hoc consultation mechanism.
- It should be ensured that all SPS mechanisms are used (including the Chair's Good Offices).

***'A Race to Market Space: Comparing EU and US Bilateral Trade Agreements', paper by Mr. Johan Adriaensen, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven***

## ABSTRACT

To which extent can policy-makers be thought of as mere transmission belts of societal interests? Government officials tend to have preferences of their own and to neglect them in the policymaking process would be an oversimplification. On the other hand, to assume that states develop policy in isolation from societal demands would be equally problematic.

The transmission belt perspective primarily focused on protectionist interest groups and as a consequence it was able to explain the exception, but not the rule. Indeed, during the last decades, we have observed a strong decline in trade barriers rather than a move towards more closed economies.

In recent years however, a shift could be observed from the study of importer's to exporter's interests. While closer aligned to the actual policy endorsed, it still leaves an important question unanswered i.e. Why have exporters become more vocal in the policy debate?

Existing research often treats this as an exogenous shift in the domestic economy that favours the exporters. In my paper I want to present an alternative hypothesis by looking at the role that policy maker's preferences can play as a driver for policy change. Policy makers have a number of channels at their disposal to influence societal interests. In my paper I will argue that the channels through which the EU and US policy-makers garner support for their market access strategies determines the ease by which these countries can initiate preferential trade agreements.

This paper will make three contributions to the existing literature. First and foremost it will take government preferences seriously by looking at strategies policy-makers can undertake to synchronize societal interests with their own preferences. Secondly, my paper will advocate a more broadened view on institutions as the mediators between societal and government interests and thirdly I will shed light on the effects these theoretical findings will have on policy-making, more specifically, in the sphere of preferential trade agreements.

## SUMMARY OF THE PRESENTATION

This paper takes as a starting point the importance of time (and of being first) in concluding FTA agreements, citing as possible costs of lagging behind 1) trade diversion, 2) investment protection and 3) regulatory competition. The approaches of the EU and the US are then compared and an important difference is revealed. Whereas the EU takes, on average, more time to conclude an agreement than the US, the subsequent ratification procedure, again on average, takes much less time to complete. Additionally, the time required for ratification is far more variable in the US. A possible reason for these divergent results is the way in which interest groups can intervene in the procedure, and which interest groups are heard. In the EU, interest groups and stakeholders are generally consulted in the negotiation phase by the Commission. In the ratification phase, they can only intervene indirectly, through the member states or the art. 133 TEC Committee. In the US, too, the USTR consults with interest groups during the negotiation phase. Still, interest groups in the US seem much more effective at lobbying with Congress (perhaps also due to weaker party discipline) and at stalling the ratification procedure.

## DISCUSSION POINTS

- The activities of interest groups and lobbyists differ between EU and US in style and in means of action, but this in no way guarantees that Brussels is more immune to lobbying than Washington. The number of lobbyists and law firms engaged in lobbying in Brussels very much suggests the contrary.
- It remains doubtful how the role of the European Parliament will evolve after the Lisbon treaty. Even if its competence *sensu stricto* does not increase, Parliament could make a legal case that an agreement concluded by the Commission affects secondary legislation and thereby have its say in the implementation. Its role would lie closer to that of US Congress, thus narrowing the scope of actions the EU can propose.
- Within the WTO, there is a marked difference of opinion regarding the question whether certain types of standards (labour & safety) should be within the scope of the WTO. Especially when human health is concerned, the debate quickly becomes political; for plant and animal health, agreement is more easily found. The way forward is considered to be a transatlantic agreement on these standards, which could then be adopted by developing countries.
- When trying to define a typology for SPS disputes that 'make it' all the way through the dispute settlement mechanism, one of the proposed characteristics could be the role science plays in the setting of the measures. In the transatlantic context, the different outcomes of the Hormones in beef case compared to the Wood packing materials case are largely due to the fact that the Hormones dispute was much more symbolic and much less disruptive of trade (if not beneficial for European farmers) than the Wood packing materials dispute.

- Drawing from the experience of the two instances of successful transatlantic cooperation highlighted here, notably the Open Skies Agreement and the Wood packing materials SPS dispute, the areas where transatlantic cooperation might be in order next are discussed. One inevitable area is a climate agreement, where the personal role of president Obama is highlighted, but also his inability to show forceful leadership internationally without the firm backing of the US Congress. In any case, transatlantic agreement on not discriminating through a CO2 tax would be good. Additionally, US states could weigh in on this debates, although this multiplication of relationships would drive up transaction costs considerably.
- Although the US-EU trade relationship remains far deeper and far more substantial than any relationship between the US and China, there is real concern in the EU about this shift in attention. The situation is similar to the one experienced in the 1970's, when Europe was concerned about the rise of Japan. As a response, Europe has been trying, through the WTO and other channels, to reaffirm the US-EU partnership. Indeed, a common approach toward China could be useful to prevent China from driving a wedge between the transatlantic partners. This concern might just be the impetus that is needed to relaunch the Doha Round.

## CLOSING REMARKS BY THE WORKSHOP CHAIRS

When negotiating, it is important that negotiators are aware of each other's political and economic contexts. In this way, an alignment of interests between the US and the EU can be used effectively to obtain commitments from other international partners. In doing this, care must be taken to use the tool of politicisation to one's advantage.

Whereas in some cases, political interest might be a positive force, other issues are best dealt with under the radar, especially as regards opposing interests. When it comes to complete the Doha Round, the essential requirement is that some actor or event makes enough movement to re-engage the US. For this, attention turns to India, even though it has already wasted such a chance in the past.



*Prof. Dr. Thomas Weiss, Prof. Dr. Michael Smith, Prof. Dr. Douglas Cassel, Mr. Jan Egeland, Amb. Hugo Paemen and Mr. Christopher Murray*

# Report Closing Session – Conclusions

## **Workshop Peace and Security**

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- Use of the term 'International community'. We usually refer to states when talking about the international community. At the same time, non-State and other kind of actors are active on the international scene. We should be very specific about the actors we refer to, and 'outlaw' the use of 'international community' as a term.
- Use of terms 'unilateral', 'multilateral' and 'global'. Sometimes 'unilateral' means 'illegal' (e.g. war in Iraq). Similarly there are several types of 'multilateralism' (e.g. ECOWAS in Liberia is very similar to NATO in Kosovo). When referring to 'global', which parts of the globe do we mean? Every part? With regard to nuclear disarmament, does it have to be a global discussion? No, it should be globally implemented, while it should not necessarily start on the global level. It is logical that the US and Russia start, and that other powers sign in later. We should keep these distinctions in mind.

## **Workshop Human Rights and the Rule of Law**

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- During the workshop, the chairs presented papers that highlight basic values – with respect to democracy, pluralism, tolerance, judicial review – which the EU and US/Canada share. On the other hand, there are also differences: whether measures taken against terrorism should be adopted in military mode or law enforcement mode; death penalty; imprisonments; carrying weapons; extent of freedom of expression and religious exercise; hate speech; and the level of submission to international law and multilateral institutions. However, we should not allow these differences to make us forget what we have in common, which is very different from most other countries. Important for the EU and US is to recognize the special values that bind them. The EU and US should cooperate to defend those common values and principles.
- Areas of potential agreement have been singled out: women's rights to be free from gender-based violence, rights of gays, review process for the UN Human Rights Council (HRC), business and human rights.

- With regard to the UN HRC: 8 EU Member States are represented out of 47 UN Member States. The US is also a Member States since Spring 2009. The HRC is an arena with opportunities for EU-US cooperation, but also an arena where the EU and US are outvoted. There is a need for compromise and reaching out to allies. This has not been very successful so far. US membership might make a difference. The EU and US have to recognise that they sometimes differ, but make sure that these differences do not poison the atmosphere for other issues.
- With regard to the US role in the International Criminal Court ICC: the US (beginning at the end of the Bush administration and continuing under the Obama administration) has adopted a position of constructive engagement. The US has complained that the EU reaction – condemning the US for not joining the ICC – is sometimes too purist and ideological. There will be no US ratification in the foreseeable future. The US should be both an observer and a *de facto* co-operator.
- One intriguing finding is that participation in the WTO is positively correlated with improvements in the human rights records of some countries (e.g. due process of law). Also this is a potential area for EU-US cooperation.

## **Workshop Energy and Climate Change**

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- The workshop featured a wide-ranging discussion from Copenhagen to the Russian-Ukrainian gas crisis; underlining the social philosophies in the EU and US; and stressing the need to expand multilateral institutions to broaden membership and participants.
- Scheme to tie together all these issues:
  - Tension and opportunity between sub-Union and Union level (both relating to EU and US). Especially in the energy sector pressures exist to maintain control over decisions at state level (e.g. resource nets). There are opportunities as well: e.g. in California there is a legal obligation to reduce greenhouse gas emissions.
  - There is a need to frame policy as to recognize underlying societal themes (frontier, competition, etc.).
- Suggested strategies are the following: (i) outreach to climate leaders (emphasising norms); (ii) strict cap to join market (creating market incentives); (iii) accepting the US position (even when this entails taking a step back, but then it would be harder for the US to reject the outcome of Copenhagen).
- Even if there will be no agreement in Copenhagen, there is still quite some engagement on sub-national level to reduce gas emissions.

### **Workshop Migration**

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- The EU and US are quite comfortable in their position as receiving countries. There are convergences on some points between EU and US, e.g. the EU labour migration policy which ties in to the regime in Canada. There is also competition, e.g. international competition for talent. The US is still winning this competition. The anti-immigrant climate in Europe is not making it attractive for high-skilled talent from abroad to migrate to the EU.
- In comparison with trade and environment, there is no global regime on migration. There are lots of different intergovernmental fora. Migration is also inserted into existing UN agencies, e.g. UNDP, e.g. ILO. There is mainly bilateral talk. The focus in EU-US discussions is on security and travel rather than other issues.
- What are the outstanding issues? What would benefit from better coordination? A direct discussion on highly-skilled migration as intra-company transfers is needed. Also the facilitation of travel is necessary (discussions are taking place within ICAO, but there is a problem of interoperability).
- There exists an emerging will to move towards cooperation in asylum and refugee protection: better exchange of information on asylum seekers. Efforts to stem massive outflows of environmental refugees and refugees from failed states are also needed. The EU and US should avoid duplication in the area of development aid, remittances of migrants. Finally, there is a need to better address capacity building or technical assistance, since there is no coordination on this point.

### **Workshop Trade and Political Economy**

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- There are different dynamics in the EU-US relationship. To what extent are trade wars representative of the overall EU-US relationship? In other areas we find much less antagonism. The reaction to the financial crisis is an example where cooperation has been rather successful.
- What are the demands for transatlantic cooperation? What are the drivers? Regulatory barriers in trade between two sides are significant for many companies. Tariff barriers also pose a problem. Even very low tariffs may be a nuisance affecting profit margins for many companies. This is in particular very burdensome for intra-company trade.
- To what extent can we learn from successful cooperation between the EU and US? With regard to the Open Skies agreements and negotiations: sometimes there is success even though the European Commission has not been able to do all it should have done. Components that may affect the potential for cooperation: excessive politicization may attract attention from players that hinder progress, too little politicization may lack political momentum. This is important for the EU negotiation stage, and for the US ratification stage.
- With regard to China's role in the EU-US relationship: it may bring the two sides together since there are a number of similar interests in trying to convince the Chinese to open up the market for investments. At the same time Europe fears that the US and China may benefit the most (sort of G2) and that the EU will emerge as the loser. Question is which dynamic will prevail. The same goes for the Indian market.

### **Closing keynote address by Mr. Ellis Mathews, Head of Unit (acting), Relations with the United States and Canada, Directorate-General for External Relations, European Commission**

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#### **SUMMARY**

- EU-US relations have been at the centre of the European Union, since its inception: European integration as a peace project, the Marshall Plan, the US backing for EU enlargement after the fall of the Berlin Wall. Despite the emergence of new economic powers, transatlantic relations remain very important and very active. They have a major trade and economic importance. The dynamic of trade disputes is not representative of the EU-US relationship, since only 2 per cent of trade is affected.
- The challenge is to bring to the table all issues that amount to the external aspect of EU policies: trade, energy, environment, etc. The ability to join up those policies will be the yardstick to measure the impact of the new treaty structures.
- Specific challenges in the EU-US relationship: economic cooperation is on top of the list; also the climate change agenda is important; promotion of open trade and investment (incl. freedom of movement); development policy; foreign policy cooperation (support for human rights, nuclear proliferation, terrorism, etc.), in particular with regard to the EU neighbourhood, the Mediterranean, and the Middle East. The EU-US energy council will be looking at energy policies. Also the Transatlantic Economic Council (TEC) constitutes a challenge. We have to engage the US on issues that are important for the EU, and make sure that the US-China relations do not work against the EU interest. The TEC should get balance right between political and technical impulse. In the field of aviation, the challenge is to conclude the second stage in the negotiations with the US. With regards to justice and home affairs, in particular in the context of migration, the EU is very focused on a renewal and update of the relationship with the US. Here, the EU needs to develop a more equal relationship with the US.
- There should be coherence between what is done bilaterally and multilaterally. High Representative/Vice President Ashton intends to launch a review of EU foreign policy in certain key areas. Here, the relation with strategic partners such as US, Russia and China is important. Commission President Barroso presented a transatlantic agenda in 2008 and 2009. The situation for a reinvigoration of the economic and political relationship is more favourable. Also, there is a need for a comprehensive review of EU-US efforts on international peace and security. Finally, new relationships are needed between the High Representative and the Member States, and via national parliaments with the US Congress.

# Leuven Centre for Global Governance Studies



## Mission Statement

The Leuven Centre for Global Governance Studies is an interdisciplinary research centre of the Humanities and Social Sciences at the University of Leuven. It carries out and supports interdisciplinary research at the University on topics related to globalization, governance processes and multilateralism, with a particular focus on the following areas, taking the many cross-cutting issues into account:

- the European Union and global multilateral governance
- trade and sustainable development
- peace and security, including conflict prevention, crisis management and peacebuilding
- human rights, democracy and rule of law.

In full recognition of the complex issues involved, the Centre approaches global governance from a multi-level and multi-actor perspective.

In addition to its fundamental research activities, the Centre carries out independent applied research and offers innovative policy advice to policymakers on multilateral governance and global public policy issues.

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*European Commission President J.M. Barroso at the Centre's Global Governance Conference Leuven, 26 Nov. 2008*



*International Advisory Board Meeting Leuven, 26 Nov. 2008*

## Management

***The Director of the Centre is Prof. Dr. Jan Wouters, Professor of International Law and International Organizations, K.U.Leuven. The strategic lines for the Centre are set out by a Board consisting of:***

**Prof. Dr. Filip Abraham**

Vice-Rector for the Humanities and Social Sciences

**Prof. Dr. Emmanuel Gerard (Chair)**

Dean of the Faculty of Social Sciences

**Mrs. Katrien Verhelst**

Manager of the Humanities and Social Sciences

**Prof. Dr. Jan Wouters**

Professor of International Law and the Law of International Organizations and Director of the Centre for Global Governance Studies

**Prof. Dr. Hans Bruyninckx**

Professor of International Relations

**Prof. Dr. Patrick Develtere**

Professor of Development Policy and Director of Higher Institute of Labour Studies

**Prof. Dr. Bart Kerremans**

Professor of International Relations and American Politics

**Prof. Dr. Stephan Keukeleire**

Jean Monnet Professor in European Integration and EU Foreign Policy

**Prof. Dr. Stephan Parmentier**

Professor of Sociology of Crime, Law and Human Rights

**Prof. Dr. Jo Swinnen**

Professor of Economics, Director of the LICOS Centre for Institutions and Economic Performance International Advisory Board

***The International Advisory Board of the Centre provides intellectual and strategic guidance and includes the following distinguished members:***

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Former Head of Delegation European Commission, Washington D.C.

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Special Adviser to the UN Secretary General for the Responsibility to Protect

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President Emeritus International Center for Transitional Justice

**Prof. Dr. Woo-Sik Moon**

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**Ambassador Hugo Paemen**

Former Head of Delegation European Commission, Washington D.C.

**Ms. Yasmin Sooka**

Executive Director, Foundation for Human Rights South Africa

**Mr. Strobe Talbott**

President, Brookings Institution, Former U.S. Deputy Secretary of State

**H.E. Ambassador Frans Baron van Daele**

Chief of Staff of the President of the European Council

**Prof. Dr. Walter Van Gerven**

Former Advocate General at the Court of Justice of the European Communities

**Prof. Dr. Youqiang Wang**

Associate Dean, School of Public Policy and Management, Tsinghua University

**Prof. Dr. Thomas Weiss**

Presidential Professor of Political Science at the CUNY Graduate Center

## Director and Staff

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The **Director**, Prof. Dr. Jan Wouters, professor of international law and the law of international organizations at the University, is in charge of the management and the day-to-day business of the Centre. He develops a work programme for the Centre and seizes academic opportunities, stimulates the participating research groups to conduct interdisciplinary research on global governance issues, seeks financing opportunities at all levels and represents the Centre within and outside the University.

Dr. Steven Sterkx is the **Research Coordinator**, Dr. Tim Corthaut is **Project Manager**, and Ms. Evelyn Cousy and Mrs. Sofie Verbeeck are the **Administrative Staff** of the Centre.

## Members

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The Centre currently hosts more than 50 senior members, junior members and associate fellows.

- **Senior Members** are Prof. Dr. Filip Abraham, Prof. Dr. Hans Bruyninckx, Prof. Dr. Christophe Crombez, Prof. Dr. Geert De Baere, Prof. Dr. Filip De Beule, Dr. Tom Delreux, Prof. Dr. Helder De Schutter, Prof. Dr. Patrick Develtere, Prof. Dr. Idesbald Goddeeris, Prof. Dr. Bart Kerremans, Prof. Dr. Stephan Keukeleire, Prof. Dr. Miet Maertens, Prof. Dr. Ching Lin Pang, Prof. Dr. Stephan Parmentier, Dr. Tom Ruys, Prof. Dr. Cedric Ryngaert, Prof. Dr. Jo Swinnen, Prof. Dr. Geert Van Calster, Prof. Dr. Jan Van Hove, Prof. Dr. Dimitri Vanoverbeke, and Prof. Dr. Jan Wouters.
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- **Associate Fellows** are Dr. Edith Drieskens, Karen Fogg, Dr. Frederik Naert, Dr. Luc Reydams and Dr. Peter van Kemseke.

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*Prof. Dr. Thomas Weiss and Mr. Jan Egeland*



# Annexes

## Annex 1 – Programme

*Thursday 3 December 2009*

Welcome address by Prof. Dr. Jan Wouters, Director, Leuven Centre for Global Governance Studies, University of Leuven

### PLENARY SESSION 1: THE EU AND THE US IN GLOBAL GOVERNANCE

Chair: H. E. Ambassador Günter Burghardt, Former Head of Delegation European Commission, Washington D.C.

- **Upgrading EU-US Strategic Relations**  
Dr. **Ronald D. Asmus**, Executive Director, GMF Transatlantic Center
- **President Obama's UN Policy – Implications for the EU and Global Governance**  
Prof. Dr. **Thomas Weiss**, Presidential Professor of Political Science, Director, Ralph Bunche Institute for International Studies, City University of New York
- **EU and US in the Global Governance Architecture: the Role of EU Diplomacy**  
Prof. Dr. **Michael Smith**, Jean Monnet Professor of European Politics, University of Loughborough

### PLENARY SESSION 2: TRANSATLANTIC CHALLENGES AND THE RETURN TO MULTILATERALISM

Chair: H. E. Ambassador Hugo Paemen, Former Head of Delegation European Commission, Washington D.C.

- **Transatlantic Challenges: Broadening and Deepening the EU-US Partnership**  
Mr. **Christopher Murray**, Chargé d'Affaires, a.i., US Mission to the EU
- **A Transatlantic Return to Multilateralism**  
Mr. **Jan Egeland**, Former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Director of the Norwegian Institute of International Affairs

**Panel and Floor Debate with the participation of:**

- Dr. **Ronald D. Asmus**
- Prof. Dr. **Douglas Cassel**, Director of the Center for Civil and Human Rights, University of Notre Dame
- Mr. **Jan Egeland**
- Prof. Dr. **Michael Smith**
- Prof. Dr. **Thomas Weiss**

*Friday 4 December 2009*

### PLENARY SESSION 3: PRESENTATION OF KEY EXPERTS AND WORKSHOPS

Five parallel workshops will be held: (i) peace and security, (ii) human rights and rule of law, (iii) energy and climate change, (iv) migration, (v) trade and political economy

#### First Parallel Workshop Session:

- Overview of major trends and challenges by key experts
- Papers and presentations
- Discussion of transatlantic challenges and prospects for global governance

#### Second Parallel Workshop Session:

- Papers and presentations
- Discussion of transatlantic challenges and prospects for global governance

#### Third Parallel Workshop Session:

- Papers and presentations
- Discussion of transatlantic challenges and prospects for global governance

### PLENARY SESSION 4: CONCLUSIONS AND POLICY RECOMMENDATIONS

- Conclusions by key experts and plenary discussion
- **Closing keynote address** by Mr. **Ellis Mathews**, Head of Unit (acting), Relations with the US and Canada, Directorate-General for External Relations, European Commission

## Annex 2 – Workshop Chairs / Key Experts

### PEACE AND SECURITY

- Prof. Dr. Thomas Weiss, Presidential Professor of Political Science at the CUNY Graduate Center and Director of the Ralph Bunche Institute for International Studies
- Prof. Dr. Jan Wouters, Director of the Leuven Centre for Global Governance Studies at the University of Leuven

### HUMAN RIGHTS AND RULE OF LAW

- Prof. Dr. Douglas Cassel, Director of the Center for Civil and Human Rights at the University of Notre Dame
- Prof. Dr. Paul Lemmens, Director of the Institute for Human Rights at the University of Leuven

### ENERGY AND CLIMATE CHANGE

- Dr. Pamela Doughman, Technical Director of the Renewable Energy Office at the California Energy Commission (acting in a personal capacity), and former Professor of Environmental Studies at the University of Illinois, Springfield
- Prof. Dr. Marc O. Bettzüge, Director of the Institute of Energy Economics at the University of Cologne

### MIGRATION

- Mrs. Susan Ginsburg, Director of the Mobility and Security Program, Migration Policy Institute
- Dr. Virginie Guiraudon, Research Director of the National Center for Scientific Research (CNRS) and Co-Director of the Centre for Politics (CERAPS) at the University of Lille

### TRADE AND POLITICAL ECONOMY

- Prof. Dr. Christophe Crombez, Visiting Professor at the Freeman Spogli Institute for International Studies of Stanford University and Professor at the Faculty of Business and Economics at the University of Leuven
- Prof. Dr. Timothy Josling, Professor Emeritus at the former Food Research Institute and Senior Fellow by courtesy at the Freeman Spogli Institute for International Studies of Stanford University
- Prof. Dr. Bart Kerremans, Professor of International Relations and American Government at the Institute for International and European Policy of the University of Leuven

## Annex 3 – Workshop Presentations

### *Schedule Workshop 'Peace and Security'*

With interventions by practitioners and civil society members

### FIRST SESSION

*Introduction and discussion briefs by the chairs*

- **US Expert:** Thomas Weiss, Presidential Professor of Political Science at the CUNY Graduate Center and Director of the Ralph Bunche Institute for International Studies
- **EU Expert:** Jan Wouters, Director of the Leuven Centre for Global Governance Studies at the University of Leuven

*Presentations:*

- Jaïr van der Lijn, Senior Research Fellow at Clingendael Security and Conflict Programme  
**Paper:** *'Future Security Threats: Perceptions and Theory'*
- Hasan Turunc, University of London  
**Paper:** *'European Union and the Middle East: It Is Time to Move from Crisis Management to Crisis Solution'*
- Ruth Hanau Santini, Johns Hopkins Associate Fellow  
**Paper:** *'New Transnational Security Challenges and Responses. European regionalism towards the Middle East: missing features in the elaboration of a comprehensive critical geopolitical approach'*
- Astrid Boening, Associate Director, European Union Center at the University of Miami  
**Paper:** *'Regional Special and Shared Interests Transatlantically: The Mediterranean as Turnstile between North and South and East and West'*

### SECOND SESSION

*Presentations:*

- Tom Sauer, Department of Politics at the University of Antwerp  
**Paper:** *'Nuclear Non-Proliferation and Nuclear Disarmament: Key Challenges and EU-US Cooperation'*
- Stephen Burman, Directorate for Strategy, Policy Planning and Analysis, Foreign & Commonwealth Office, UK  
**Paper:** *'Only Connect: EU and US in the Global Institutional Architecture'*
- Wolfram Hilt, Department of Political Science and Sociology at the University of Bonn  
**Paper:** *'Lessons Un-Learned: The Missing Transatlantic Security Steering Group'*
- Giulio Venneri, School of International Studies at the University of Trento  
**Paper:** *'East-West Relations and the Future of the G8 Political Agenda'*

### THIRD SESSION

#### Presentations:

- Ria Laenen, Research Fellow Institute for International and European Policy  
**Paper:** *'Engaging Russia: How to React to Medvedev's Proposals for a New Pan-European Security Architecture?'*
- Derek Averre, Director, Centre for Russian and East European Studies at the University of Birmingham  
**Paper:** *'The US, the EU and Russia: a 'Strategic Partnership' or a New Détente?'*
- Josef Braml, Program Officer USA/Transatlantic Relations at the German Council on Foreign Relations (DGAP)  
**Paper:** *'WWW: The Worldwide West. The Obama Administration's Global NATO Perspective'*

### Schedule Workshop 'Human Rights and Rule of Law'

With interventions by practitioners and civil society members

#### FIRST SESSION

##### Introduction and discussion briefs by the chairs

- **US Expert:** Douglas Cassel, Director of the Center for Civil and Human Rights at the University of Notre Dame
- **EU Expert:** Paul Lemmens, Director of the Institute for Human Rights at the University of Leuven

#### Presentations:

- Rod Abouharb (in cooperation with Susan Aaronson, George Washington University), School of Public Policy at University College London  
**Paper:** *'Unexpected Bedfellows: The GATT, the WTO and Some Democratic Rights'*

#### SECOND SESSION

##### Presentations:

- Cedric Ryngaert, Institute for International Law and Leuven Centre for Global Governance Studies at the University of Leuven and Faculty of Law at the University of Utrecht  
**Paper:** *'The U.S. and the International Criminal Court: (Re-)Engagement in the Twilight of the Bush Administration and by the Obama Administration'*

#### THIRD SESSION

##### Presentations:

- Sue Basu, Institute for International Law and Leuven Centre for Global Governance Studies at the University of Leuven  
**Paper:** *'The European Union: A 'Model' Human Rights Enhancer?'*
- René Rouwette, Netherlands Institute of Human Rights (SIM) at the University of Utrecht  
**Paper:** *'What have the Romans ever done for us? The imminent review of the Human Rights Council, 2009-2011'*

### Schedule Workshop 'Energy and Climate Change'

With interventions by practitioners and civil society members

#### FIRST SESSION

##### Introduction and discussion briefs by the chairs

- **US Expert:** Pamela Doughman, former Professor of Environmental Studies at the University of Illinois
- **EU Expert:** Marc O. Bettzüge, Director of the Institute of Energy Economics at the University of Cologne

#### Presentations:

- Marc Pallemmaerts, Senior Fellow Institute for European Environmental Policy  
**Presentation:** *'Is International Law Still Relevant for A Copenhagen Climate Agreement? Contrasting EU and US Approaches to Multilateralism'*

#### SECOND SESSION

##### Presentations:

- Sijbren de Jong, Leuven Centre for Global Governance Studies, University of Leuven  
**Presentation:** *'The EU in Multilateral Security Governance: The Case of the Russian-Ukrainian Gas Crisis'*
- Thijs Van de Graaf, Department of Political Science at Ghent University  
**Paper:** *'Multilateral Energy Governance: EU and US Perspectives on Revising International Energy Treaties'*
- Shannon Petry, EU International Relations and Diplomacy Studies at the College of Europe in Bruges  
**Paper:** *'Transatlantic relations in a multilateral context: The case of energy security'*

#### THIRD SESSION

##### Presentations

- Hans Bruyninckx, Head of the Research Group on Global Environmental Government, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven  
**Presentation:** *'The Societal Foundation of Diverging Views on Climate Change Politics in the US and Europe'*
- Simon Schunz, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven  
**Paper:** *'Moving Closer or Drifting Further Apart? The EU, the US and the Struggle for a Post-2012 Climate Change Agreement'*
- Graeme Webb, United Nations University – Comparative Regional Integration Studies (UNU-CRIS)  
**Presentation:** *'Multilateralism 2.0 and Climate Governance: EU-US Positions'*

**Schedule Workshop 'Migration'**

With interventions by practitioners and civil society members

**FIRST SESSION**

*Introduction and discussion briefs by the chairs*

- **US Expert:** Susan Ginsburg, Director of the Mobility and Security Program, Migration Policy Institute
- **EU Expert:** Virginie Guiraudon, Research Director of the National Center for Scientific Research (CNRS) and Co-Director of the Centre for Politics (CERAPS) at the University of Lille

*Presentations:*

- Ching Lin Pang, IMMRC Interculturalism, Migration and Minorities Research Centre at the University of Leuven  
**Presentation:** *'Some Reflections on the immigration discourse in the US and the EU'*

**SECOND SESSION**

*Presentations:*

- Anaïs Faure Atger, Centre for European Policy Studies (CEPS)  
**Presentation:** *'Power Struggles in the EU Agenda on Labour Migration'*
- Johan Wets, Research Manager Migration of the Higher Institute of Labour Studies at the University of Leuven, Visiting Professor Facultés Universitaires Saint-Louis Brussels  
**Presentation:** *'The Wood and the Trees: The Need for an Encompassing Migration Policy'*

**THIRD SESSION**

*Presentations:*

- Anja Wiesbrock and Metka Hercog, Maastricht University  
**Paper:** *'The Legal Framework for Highly-Skilled Migration to the EU: Assessing the Attractiveness of European Legislation'*
- Michela Ceccorulli, Forum on the Problems of Peace and War, Florence  
**Paper:** *'EU Governance of Migration: a Focus on the Transatlantic Dimension'*

**Schedule Workshop 'Trade and Political Economy'**

With interventions by practitioners and civil society members

**FIRST SESSION**

*Introduction and discussion briefs by the chairs*

- **US Expert:** Christophe Crombez, Visiting Professor at the Freeman Spogli Institute for International Studies of Stanford University and Professor at the Faculty of Business and Economics at the University of Leuven
- **US Expert:** Timothy Josling, Professor Emeritus at the former Food Research Institute and Senior Fellow by courtesy at the Freeman Spogli Institute for International Studies of Stanford University
- **EU Expert:** Bart Kerremans, Professor of International Relations and American Government at the Institute for International and European Policy of the University of Leuven

*Presentations:*

- Jan Van Hove, European University College Brussels and Faculty of Business and Economics at the University of Leuven  
**Presentation:** *'Dissecting the Transatlantic Pattern of Trade: Evidence of Variety and Quality in EU-US Trade'*

**SECOND SESSION**

*Presentations:*

- Tom Delreux, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven  
**Paper:** *'The Relation between the European Commission and the EU Member States in the Transatlantic Open Skies negotiations: An Analysis of their Opportunities and Constraints'*
- Selen Sarisoy Guerin, Head of Trade Policy Unit, Research Fellow, Center for European Policy Studies  
**Paper:** *'How EU-Canada CETA Will Alter EU-US Transatlantic Trade and Investment Relations and the Repercussions on the Multilateral System'*

**THIRD SESSION**

*Presentations:*

- David Hornsby, Department of International Relations at the University of the Witwatersrand  
**Paper:** *'Constructive Engagement in Global Governance: Resolving US-EU Trade Disputes'*
- Johan Adriaensen, Institute for International and European Policy and Leuven Centre for Global Governance Studies at the University of Leuven  
**Paper:** *'A Race to Market Space: Comparing EU and US Bilateral Trade Agreements'*

## Annex 4 – Speaker Biographies

*This list includes biographical notes of the speakers during the plenary sessions and of academic presenters during the workshops.*

### In alphabetical order:

**Rodwan Abouharb**, PhD 2005 (Binghamton), is Lecturer in International Relations at the Department of Political Science at the University College London. His fields of expertise cover World Bank and IMF conditionality and human rights, civil conflict, repression, and international organizations.

**Johan Adriaensen** has been working at the department of political sciences since 2007. His main research interests are international political economy and the European Union. He is currently working on a PhD thesis on the interaction between societal interests and government preferences.

**Ronald Asmus**, PhD, is currently Executive Director of the Brussels-based Transatlantic Center and responsible for Strategic Planning at the German Marshall Fund of the US. Dr. Asmus has been a leading thinker, practitioner and policy entrepreneur working on US-European relations for over two decades. He served as Deputy Assistant Secretary of State for European Affairs from 1997-2000 and has been a senior analyst and fellow at Radio Free Europe, RAND and the Council on Foreign Relations. He has published widely and is the author of "Opening Nato's Door" and "The Little War That Shook the World: Georgia, Russia and the Future of the West". For his ideas and diplomatic accomplishments, he has been decorated by the U.S. Department of State as well as the governments of Estonia, Georgia, Italy, Latvia, Lithuania, Poland and Sweden.

**Derek Averre**, PhD, is Director of the Centre for Russian and East European Studies, University of Birmingham, UK. He manages an ongoing project on arms control and economic transition, funded by the UK government, and his academic research interests include Russian foreign and security policy, political relations between Russia and Europe and security and arms control/non-proliferation issues in the USSR successor states. He has published numerous articles and book chapters on these topics. He serves as a member of the Editorial Board of the journal *European Security*.

**Sue Basu** is a PhD Candidate at the Institute for International Law and a Junior Member of the Leuven Centre for Global Governance Studies. Her research focuses on the role of the European Union in global multilateral governance with a concentration on multilateral human rights machineries.

**Marc Oliver Bettzüge** is a Full Professor for Economics, and the Director of the Institute for Energy Economics (EWI), at the University of Cologne. Until 2007, he was a Partner at The Boston Consulting Group, a leading management consultancy. As an academic, he studied and later worked at the Universities of Bonn, Cambridge, Berkeley, and Zurich, both in the fields of mathematics and economics.

**Astrid Boening**, PhD International Studies (University of Miami, Coral Gables/FL. Dissertation: security implications of the EuroMed Partnership/Union for the Mediterranean, supported by a grant from the European Commission through the Miami European Union Center), with additional studies in international economics and marketing at the Rome campus of Georgetown University, and Latin American economics and marketing in Costa Rica, Chile and Brazil through George Washington University, as well as at the United Nations in New York. Her master's thesis fieldwork was undertaken at the Central European Initiative in Trieste, Italy. She is currently the Associate Director of the University of Miami European Union Center, and a visiting scholar at New York University's European and Mediterranean Center.

**Josef Braml** joined the German Council on Foreign Relations (DGAP) in October 2006 as Editor-in-Chief of the 'Jahrbuch Internationale Politik', and he is also a Resident Fellow in the Research Program USA / Transatlantic Relations. Prior to joining DGAP, Dr. Braml was a Research Fellow at the German Institute for International and Security Affairs (SWP), Berlin, the Project Leader at the Aspen Institute Berlin, a Visiting Scholar at the German-American Center, a Consultant at the World Bank, a Guest Scholar at the Brookings Institution, a Congressional Fellow of the American Political Science Association, and a member of the Legislative Staff in the U.S. House of Representatives. He earned a Ph.D. in Political Science (2001) and a Masters in International Business and Cultural Studies, I.B.C.S. (1997) at the University of Passau/Germany. For his recent publications see: <http://www.dgap.org/fi/mitarbeiter/braml.html>.

**Hans Bruyninckx** obtained a PhD in Political Science at the Colorado State University, USA after completing his undergraduate and graduate studies at both K.U.Leuven and UCLouvain. Currently, he is a Professor in International Organizations and International Environmental Policy at K.U.Leuven. His research emphasizes the influence of the various globalization processes on the global governance of environmental problems and sustainable development. Particular attention is paid to underlying theoretical and conceptual frameworks. The translation and testing of innovative and critical social theories (such as network and flows perspectives) to multi-level governance arrangements of global environmental and sustainable development issues are at the core of this team's research efforts. His recent research includes specific expertise for the role of China in environmental governance.

**Günter Burghardt** served as Ambassador for the European Union to the United States (2000-2005), after having accomplished a 30-year-long career with the European Commission's headquarters in Brussels. He had served, in particular, as the Commission's Director General for External Relations under Commissioners Chris Patten (1999-2000) and Hans van den Broek (1993-1999). From 1985 to 1993 he served as Deputy Chief of Staff and Commission's Political Director under Commission President Jacques Delors. During these years he participated in major achievements of the Delors' Presidency such as the completion of the EU's Internal Market Program, the introduction of the Euro, and the historic process leading to full EU membership of Europe's new democracies. From 1970 to 1985 his assignments included the positions of Deputy Chief of Staff to the Commissioner for Internal Market, Environmental Protection, Nuclear Safety and Innovation, Assistant to the Director General for External Relations, and as Desk Officer for relations with the United States,

Canada and Australia. He studied Law and Economics in Germany, France and the UK and obtained his PhD from the University of Hamburg with a thesis on European Community Law in 1969. After retiring from the European Commission in 2005, Günter Burghardt joined the transatlantic law firm of Mayer, Brown, Rowe & Maw, LLP, in Brussels and Washington, DC. He also teaches at the Law Faculty at the University of Ghent, Belgium.

**Stephen Burman** has taught American foreign and domestic policy at the University of Sussex for a number of years. From 2002 to 2009 he was Dean of the Faculty of Humanities at Sussex. During the 1990s he was a Foreign Office Fellow and he is now working on secondment in the Strategy, Policy Planning and Analysis Directorate of the UK Foreign and Commonwealth Office. His most recent book is "The State of the American Empire" (University of California Press, 2007).

**Douglass Cassel** is Professor of Law, Notre Dame Presidential Fellow and Director of the Center for Civil and Human Rights of Notre Dame Law School in the United States. He teaches, practices and publishes scholarly articles in the fields of international human rights, international criminal and international humanitarian law. He is President of the Due Process of Law Foundation, based in Washington, D.C., and former President of the Board of the Justice Studies Center of the Americas, to which he was twice elected by the Organization of American States. He is a Consultant Legal Expert to the Office of Special Investigations of the US Department of Justice, and former expert consultant on human rights to the US Department of State.

**Michela Ceccorulli** has a Laurea Degree at the International and Diplomatic Science Faculty, University of Bologna with a specialization on transatlantic issues. She obtained a Diploma in International Studies at SAIS, Johns Hopkins University, Bologna Center (Italy) and a Master of Arts in International Relations and International Economics at SAIS (JHU), Washington DC. She has a PhD at the IMT Institute for Advanced Studies in Lucca, (Italy) where she defended a thesis on cooperation in European defence procurement. She is member of the GARNET Network of Excellence Framework, within which she obtained a mobility fellowship as Visiting Researcher at UNU-CRIS (Bruges) undertaking migration studies. From 2009 she is Researcher at the Forum on the Problems of Peace and War in Florence where she coordinates the Migration Work Package within the EU-GRASP FP7 Project framework.

**Christophe Crombez** is Professor at the Faculty of Business and Economics (FBE), Department of Managerial Economics, Strategy and Innovation (MSI) at the Katholieke Universiteit Leuven. Professor Crombez' main research interests include Political Economy, Economic Analysis of Political Institutions and Policies, Political Business Strategy and Business-Government Relations.

**Sijbren de Jong** is Research Fellow at the Leuven Centre for Global Governance Studies. His area of focus is energy security and EU external energy relations. Prior to working at the Centre Mr de Jong worked in Germany for the Berlin based think tank the Atlantic Initiative e.V.

**Tom Delreux** is a postdoctoral fellow of the Research Foundation Flanders at the Institute for International and European Policy of the K.U.Leuven (Belgium). His research interests include the EU's external

relations in first pillar policy areas, inter- and intra-institutional relations in the EU, international environmental politics and principal-agent modelling.


**Pamela Doughman**, PhD, is Technical Director of the Renewable Energy Office at the California Energy Commission, but she will be acting in a personal capacity. She has also worked as an assistant professor of environmental studies at the University of Illinois, Springfield and as a lecturer at the University of Maryland, College Park. Dr. Doughman is co-editor and a contributing author of "Climate Change: What it Means for us, Our Children, and Our Grandchildren" (DiMento and Doughman, eds., 2007, MIT Press).

**Jan Egeland** is at present Director at NUPI and Professor II at the University of Stavanger. He has a substantial experience in the field of humanitarian relief and conflict resolution within the UN system. From 2006 to 2008 he was Special Adviser to the UN Secretary General for Conflict Prevention and Resolution. From 2003 to 2006 he was Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator at the United Nations Headquarters. From 1999-2001, he was Under-Secretary-General and Special Advisor to the Secretary-General for International Assistance to Colombia. He has long-time experience in conflict resolution from Colombia, the Middle-East, Sudan, Guatemala and the Balkans. From 1990-1991 he was State Secretary in the Ministry of Foreign Affairs. In 2008 he published "A Billion Lives – An Eyewitness Report from the Frontlines of Humanity" (Simon&Schuster).

**Anaïs Faure Atger** is a researcher in the Justice and Home Affairs Unit of the Centre for European Policy Studies. Her area of expertise include Human rights, migration and asylum policies. She holds a Masters in Humanitarian law and aid and applied Human Rights from the University of Aix en Provence and a degree in English and German law from the University of Kent.

**Susan Ginsburg** has been Director of Mobility and Security at the Migration Policy Institute and is an MPI Non-Resident Fellow. A lawyer who has served in the three branches of U.S. government, she is completing a book, "Securing Human Mobility in the Age of Risk: New Challenges for Travel, Migration, and Borders". She served on the National Commission on Terrorist Attacks Against the United States (9/11 Commission) and now serves on the DHS Quadrennial Review Advisory Committee.

**Selen Sarisoy Guerin** (PhD) is a research fellow at Vrije Universiteit Brussel, Institute for European Studies and an associate research fellow at Center for European Policy Studies (CEPS). She has worked on the New Dimension of Transatlantic Trade: EU-Canada CETA and has authored the following articles: "Canada and the European Union: Prospects for a Free Trade Agreement (CEPS Working Document, with C. Napoli)". and "The mega new-generation deal with Canada (CEPS commentary)". Current research interests include: Transatlantic Trade and the Future of Multilateralism, Trade and Climate Change, Trade and ENP, The new EU investment treaties. Other academic work include: "FDI flows from Advanced to Emerging Market Economies: Does Democracy matter?" with S. Manzocchi, Review of World Economics, February 2009; "The Role of Geography in Economic and Financial Integration: A Comparative Analysis of Foreign Direct Investment,



Trade and Portfolio Investment Flows”, *The World Economy*, vol. 29, No. 2, pp. 189-209; “Does Deposit Insurance Stimulate Capital Flows?” *Economics Letters*, 69(2), pp. 193-200 (with Philip Lane).

**Virginie Guiraudon** is research professor (directrice de recherche) at the National Center for Scientific Research, in Lille, France. She holds a PhD in Government from Harvard University where she focused on explaining the evolution of the rights granted to foreigners in France, Germany and the Netherlands since 1974. Her main interests still lie in the comparative politics of immigration, citizenship and ethnicity. She has been a Marie Curie Chair at the European University Institute in Florence, and a visiting fellow at the Center for International Studies at Princeton University. She is the author of “Les politiques d’immigration en Europe” (Harmattan, 2000). She has co-edited “Controlling a New Migration World” with Christian Joppke (Routledge, 2001) and “Immigration Politics in Europe: the Politics of Control” (Taylor and Francis, 2006). Her current research focuses on the Europeanization of immigration, asylum and anti-discrimination policies. Her articles have appeared in a number of volumes and journals including the *Journal of Common Market Studies*, *International Migration Review*, the *Journal of European Public Policy*, *West European Politics*, *Journal of Ethnic and Migration Studies*, *Citizenship Studies*, and *Comparative Political Studies*. She manages the *migres.eu* website that provides resources for migration scholars.

**Metka Hercog** is a Research Fellow at the Maastricht Graduate School of Governance, University of Maastricht. Her main expertise is in labour migration with a special regional focus on Europe at a receiving end and India as a sending country. For her PhD project, she is focusing on the effects of government policies on the choice of a destination country for highly skilled migrants.

**Wolfram Hilz** is Professor of Political Science at Bonn University since 2005. His main areas of research are European integration studies, German foreign policy and new global security challenges. Before joining the faculty at Bonn he worked at the University of the Armed Forces in Neuberg and the University of Technology in Chemnitz.

**David J. Hornsby** is a Lecturer in International Relations at the University of the Witwatersrand in Johannesburg, South Africa. He is also a PhD Candidate in Politics and International Studies at the University of Cambridge. Originally a biomedical scientist, David’s research interests pertain to the use of science in transatlantic trade and environmental contexts.

**Timothy Josling** is a Professor, Emeritus, at the (former) Food Research Institute at Stanford University; a Senior Fellow at the Freeman Spogli Institute for International Studies; and a faculty member at FSI’s Forum on Contemporary Europe. His research focuses on agricultural policy and food policy in industrialized nations; international trade in agricultural and food products; the development of the multilateral trade regime; and the process of economic integration. He is currently studying the reform of the agricultural trading system in the World Trade Organization, including the current round of trade negotiations; the use of geographical indications in agricultural trade; the role of health and safety regulations in trade; the impact of climate change legislation on agricultural trade policies; and the question of regional integration and its role in the multilateral system.

**Bart Kerremans** is Professor of International Relations and American Politics at the Institute for International and European Policy and senior member of the Leuven Centre for Global Governance Studies at the Katholieke Universiteit Leuven. Professor Kerremans conducts research on the external trade policies of the United States and the European Union, and decision-making in this field in general, and on the WTO-related trade relations between the EU and the US in particular.

**Ria Laenen** studied East European Studies in Leuven and London. She wrote her PhD on the link between post-Soviet Russia’s search for identity and its policy towards the ‘Near Abroad’. She is a research fellow at the Institute for International and European Policy (K.U.Leuven), doing research on the political developments in Russia and the FSU. Dr. Laenen is also the coordinator of the Chair InBev-Baillet Latour EU-Russia.

**Paul Lemmens** is Professor of Human Rights Law at the University of Leuven and Judge in the Council of State (Belgium). He is also Director of the Institute for Human Rights (University of Leuven), Member of the Board of Directors of the European Master Programme in Human Rights and Democratization, and Member of the UN Human Rights Advisory Panel for Kosovo. His research is focused on the international law of human rights, in particular the European Convention on Human Rights and related instruments of the Council of Europe.

**Ellis Mathews** is Head of Unit (acting), Relations with the United States and Canada, Directorate-General for External Relations, European Commission.

**Christopher Murray** arrived in Brussels in July 2007 as the Deputy Chief of Mission at the U.S. Mission to the European Union. He became Chargé d’Affaires, a.i. in January 2009. Mr. Murray previously served as Deputy Chief of Mission at the United States Embassies in Beirut, Lebanon, from 2004 to 2007, and in Algiers, Algeria, from 1998 to 2000. In Beirut, during the summer war of 2006, Mr. Murray directed the evacuation of 15,000 Americans from Lebanon, the largest ever overseas evacuation of American citizens. Mr. Murray’s other overseas assignments include Chief of the Political Section at the U.S. Embassy in Damascus, Syria; political officer at the U.S. Mission to the European Communities in Brussels; economic officer at the U.S. Consulate General in Lubumbashi, the Congo; and consular officer at the U.S. Embassy in Kingston, Jamaica. He took part in the Department of State’s long term Arabic language program in Tunis, Tunisia. Mr. Murray’s previous positions at the Department of State in Washington include Director of the Office of Nonproliferation Policy, Deputy Director of European Regional Affairs, Middle East Affairs officer in the Office of UN Political Affairs, political officer in the Office of NATO Affairs, and country officer for Somalia. He received a B.A. in government from Lawrence University and a J.D. from Cornell Law School. He is a member of the District of Columbia Bar and the Middle East Institute. He is the author of several articles and book chapters on U.S.-European relations. He speaks Arabic, Dutch and French.

**Hugo Paemen** is Senior Advisor with Hogan & Hartson. He advises European, US, and other companies concerning their dealings with European institutions. He also provides counsel on a wide variety of trade and investment matters involving the European Union and the United States. Prior to joining Hogan & Hartson, Hugo Paemen served from 1995 to 1999 as head of the European Commission’s Washington Delegation.

From 1987 until 1995 he served as the European Commission's Deputy Director-General for External Relations, where he served as the European community's chief negotiator during the entire length of the Uruguay Round. From 1985 to 1987 he served as the official spokesman of the first Delors Commission, and from 1978 to 1985 he served as chef de cabinet of Commissioner Viscount Davignon. A career diplomat, Hugo Paemen held positions in the Belgian Embassies in Geneva, Paris, and Washington, D.C. where he served as economic minister from 1974 to 1978. Hugo Paemen is currently an adjunct professor at the BMW Center for German and European Studies of the Edmund A. Walsh School of Foreign Service at Georgetown University. He also lectured on European policy and integration problems at the College of Europe in Natolin, Poland and at K.U.Leuven.

**Marc Pallemmaerts** is Professor of European environmental law at the University of Amsterdam and Université Libre de Bruxelles, and Senior Fellow and Head of Environmental Governance Research Programme of the Institute for European Environmental Policy (IEEP), an independent research institute with offices in London and Brussels. An international lawyer and political scientist by training, he has extensive experience in academic research and teaching as well as in policy work. He has been a policy adviser to the Flemish Regional Environment Minister, to the Belgian Federal State Secretary for the Environment, and was Deputy Chief of Staff to the Federal State Secretary for Energy and Sustainable Development. During the Belgian Presidency of the EU in 2001, he chaired the EU Council working party responsible for the climate change negotiations and acted as lead negotiator for the Presidency at COP6bis (Bonn) and COP7 (Marrakech).

**Ching Lin Pang** is Professor of Anthropology and Chinese Politics at K.U.Leuven and ULG. At K.U.Leuven she carries out research at the Interculturalism, Migration and Minorities Research Centre of the Faculty of Social Sciences. Her main research interests lie in the field of anthropology of identity and migration processes as well as cultural globalisation in the urban setting. The main focus is on the Chinese, Japanese and in second instance the Indians in the Belgian/European setting, with attention to trends in the countries of origin.

**Shannon Petry** is an academic assistant in the European Union International Relations & Diplomacy Studies department of the College of Europe in Bruges, Belgium, and received an MA in 2009 from the same department. Her graduate thesis, "Beyond Parallelism? Prospects for Transatlantic Leadership in International Energy Security", focused on EU-US cooperation on energy matters in a variety of international forums.

**René Rouwette** graduated from the University of Amsterdam cum laude with a research master in history of international relations. Currently, he is a PhD-candidate at the faculty of law, economics and governance of Utrecht University and at the Netherlands Institute of Human Rights (SIM). In his interdisciplinary project, Rouwette focuses on the theme of EU cooperation at the UN-Human Rights Commission and at the Council, as well as on the question how this cooperation has affected the policy of the Netherlands between 1970 and now. In August, September and October 2009, Rouwette worked as a visiting professional at the Netherlands Permanent Mission in Geneva.

**Cedric Ryngaert** is Assistant Professor of International Law at Leuven University (since 2008) and Utrecht University (since 2007). PhD Leuven University (2007). Co-rapporteur of the ILA Committee on non-state actors. Author of, amongst others, *Jurisdiction in International Law* (OUP 2008), *Jurisdiction over Antitrust Violations of International Law* (Intersentia 2008), and editor of *The Effectiveness of International Criminal Justice* (Intersentia 2009).

**Ruth Maria Hanau Santini** (PhD) graduated with Honours at the University of Bologna in International Relations in October 2001; she then did a Master at SOAS in Near and Middle Eastern Studies in 2001/2002 and continued with a PhD at the University of Naples Federico II with a PhD thesis entitled "European policymakers threat perceptions since 9/11". Throughout her PhD she benefitted from a European Commission Marie Curie Fellowship at the European Research Institute (University of Birmingham) and subsequently, thanks to a Compagnia di San Paolo- Volkswagen Stiftung- Riksbanken Jubileumsfond, was a Visiting Research Fellow at SWP in Berlin and CEPS in Brussels. Dr. Santini defended her PhD in March 2008. Since September 2007, she has been a Research Fellow at the Johns Hopkins University, SAIS, Bologna Center where she developed a project on Italian foreign Policy ([www.forita.it](http://www.forita.it)), sponsored by Compagnia di San Paolo and the Italian MFA.


**Tom Sauer** is Assistant Professor in International Politics at the Universiteit Antwerpen (Belgium). His major research interest is international security, more in particular nuclear proliferation. He has published "Nuclear Arms Control" (Macmillan, 1998), and "Nuclear Inertia. U.S. Nuclear Weapons Policy after the Cold War" (I.B. Tauris, 2005). Tom Sauer has been a BCSIA Fellow at Harvard University, and a Visiting Fellow at the (W)EU Institute for Security Studies (Paris). Sauer is a member of Pugwash International.

**Simon Schunz** is a research fellow and Ph.D. candidate at the Institute for International and European Policy and a junior member of the Leuven Centre for Global Governance Studies, Leuven University, Belgium. He has been a Visiting Scholar at the Elliott School of International Affairs at George Washington University (2009) and a Carlo Schmid Fellow in the European Parliament (2005). His research focuses on European Union foreign policy and the EU's role in global climate change politics.

**Michael Smith** is Jean Monnet Chair and Professor in the Department of Politics, History and International Relations at Loughborough University, where he is also co-Director of the Jean Monnet Centre of Excellence and of the Centre for the Study of International Governance. His recent publications include *The European Union and the United States: Competition and Convergence in the Global Arena* (2008) as well as articles and chapters on the EU, the US and global governance, on the EU and China and on EU inter-regional strategies. He is the coordinator of a newly-established Jean Monnet Multilateral Research Network on 'The Diplomatic System of the European Union'.

**Hasan Turunc**, Ph.D., is Tutor at the Department of Politics and International Relations, Royal Holloway, University of London. His research interests include: politics and international relations with reference to EU enlargement, Turkish foreign policy and the Middle East.





**Thijs Van de Graaf** is a PhD Fellow of the Research Foundation – Flanders (FWO) in the Global Governance Research Group of Ghent University, Belgium. In his doctoral research, he examines the evolution of the institutional architecture of global energy governance. He has written or contributed to several articles that have been published in journals such as *Global Governance*, *The Review of International Organizations* and *Energy Policy*. He is also a co-author with Dries Lesage and Kirsten Westphal of *Global Energy Governance in a Multipolar World* (Ashgate, forthcoming 2010).

**Jair van der Lijn** joined the Clingendael Institute in 2007. Dr. van der Lijn has strong interests in the many aspects of conflict resolution, such as peace operations, peace agreements, and the role of the United Nations. Given the nature of his research, Dr. van der Lijn's focus lies predominantly, but not exclusively on the Balkans and Africa. In addition, the Future Security Environment for the Netherlands constitutes one of his research topics. Dr. van der Lijn holds a PhD in Management Sciences from the Radboud University Nijmegen, where he is also currently lecturing as an Assistant Professor at the Centre for International Conflict Analysis and Management.

**Jan Van Hove** is professor of European and international economics at the H.U.Brussels, partner of the Association of the K.U.Leuven. He is also research director of the Leuven Centre for Irish Studies for economic research dealing with economic aspects of small open economies, including international trade, innovation and investments. He teaches courses on European economic integration and international trade both at H.U.Brussels and K.U.Leuven. His recent research focuses on firm and product heterogeneity in international trade, including the analysis of variety and quality issues.

**Giulio Venneri** is an expert on multilateral political cooperation and security affairs at the 'Global Challenges Unit' of the Italian Foreign Ministry and a PhD candidate in International Studies at the University of Trento. He has been visiting-scholar at the Brussels School of International Studies and the Buffett Centre for International Comparative Studies at Northwestern University (Chicago, USA). Previously, he supervised Middle-East cooperation programs for 'La Sapienza' University of Rome and carried out research projects at the Organisation for Security and Cooperation in Europe (OSCE), the Italian Foreign Trade Ministry, and the Military Centre for Strategic Studies of the Italian Defence Ministry (CeMiSS). Active in civil society organizations, he has completed a five-year mandate as executive director of the European Association for International Studies.

**Thomas G. Weiss** is Presidential Professor of Political Science at The CUNY Graduate Center and Director of the Ralph Bunche Institute for International Studies, where he is co-director of the United Nations Intellectual History Project. He is President of the International Studies Association (2009-10) and Chair of the Academic Council on the UN System (2006-9). He was editor of *Global Governance*, Research Director of the International Commission on Intervention and State Sovereignty, Research Professor at Brown University's Watson Institute for International Studies, Executive Director of the Academic Council on the UN System and of the International Peace Academy, a member of the UN secretariat, and a consultant to several public and private agencies. He has authored or edited some 40 books and

150 articles and book chapters about multilateral approaches to international peace and security, humanitarian action, and sustainable development. His latest authored volumes are "What's Wrong with the United Nations and How to Fix It" (2009) and "UN Ideas That Changed the World" (2009).

**Johan Wets** (PhD) is migration expert and research manager migration at the Research Institute for Labour and Society (HIVA) an interdisciplinary research institute from the University of Leuven, Belgium (Katholieke Universiteit Leuven). His main fields of research are International Migration and related issues: migration and the labour market, irregular migration, migrant integration, migration and integration policy, migration and development, the attitude towards (new) migrants, ... The research conducted is policy oriented research as well as more fundamental research. Johan Wets is also guest professor at the Facultés Universitaires Saint Louis in Brussels, teaching "political sociology".

**Anja Wiesbrock** is a Junior Researcher at the Faculty of Law, University of Maastricht. Her fields of interests are legal migration to the EU and the integration of immigrants as well as the external dimension of migration policies. Her PhD research focuses on the compliance of EU migration law and national implementing measures with EU principles of law and fundamental rights.

**Jan Wouters** is Professor of International Law and International Organizations, Director of the Leuven Centre for Global Governance Studies and the Institute for International Law, and Jean Monnet Chair *Ad Personam* at K.U.Leuven. He is also President of the Flemish Foreign Affairs Council, which advises the Flemish Government, and Visiting Professor at the College of Europe in Bruges. He studied Law and Philosophy at the University of Antwerp and Yale University (LL.M.), worked as a visiting researcher at Harvard Law School and obtained his PhD at K.U.Leuven in 1996. He has held teaching positions at the Universities of Antwerp and Maastricht and worked previously as *référéndaire* (law clerk) at the European Court of Justice in Luxembourg. Jan Wouters is editor of the *International Encyclopedia of Intergovernmental Organizations* and is vice-director of the *Revue belge de droit international*. He has published widely on international, European, corporate and financial law (more than 360 publications including 30 books). A frequent commentator in the audiovisual and written media, Jan Wouters has testified as an expert before the Flemish, Belgian, Dutch and European Parliaments on issues involving globalization, human rights and rule of law, peace and security, the laws of war, terrorism, the European Union, the United Nations and the World Trade Organization. He has acted as a consultant for the European Commission, Benelux, Interpol and the World Bank. Jan Wouters' recent research agenda focuses on the relationship between global multilateral organizations, such as the United Nations and the World Trade Organization, and the European Union; United Nations reform; multilevel regulatory interactions between global, European and national/subnational rules and standards; and the contribution of the European Union to the international rule of law.

## Annex 5 – List of Participants

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