



cesaa

contemporary european studies association of australia

# Review

NUMBER 34

August 2006

ISSN 1441-0052

## IN THIS ISSUE

### ARTICLES

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- Student Essay Winner: Luke Raffin  
The End of an Alliance or a Storm in a Teacup?  
Recent Tensions across the Atlantic 8
- Student Essay Winner: Florentina Benga  
The European Union as a Protector and Promoter of Human Rights 30
- Feature Article: Selen Ayirtman and Christine Pütz  
Assessing the Role of the Europarties in the Emergence of a  
European Public Sphere 41
- 

### REGULAR FEATURES

- Letter from the Editor: Matt Harvey 2
- President's Report: Bruno Mascitelli 4
- Book Review 1: Philomena Murray  
Australia and the European Superpower 59
- Book Review 2: Attilio Stajano  
Research, Quality, Competitiveness - European Technology  
for the Information Age 62
- Conference Week: CERC, University of Melbourne 29
- Call for Papers: Monash European and EU Centre 40

## LETTER FROM THE EDITOR

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Welcome to CESAA Review No 34, the second electronic issue and nominally the second for 2005. It is now 14 months since the last issue and what a year it has been! I am now the sole editor of the Review and there will only be a single further issue in 2006. There is so much to cover but so few people to put an edition together.

Please accept our apologies for the long delay, but I think you will agree that it was worth the wait. This contains two prizewinning student essays from the 2005 round of the bi-annual CESAA essay competition. This competition includes categories and prizes for the best undergraduate, honours and masters level essays. It is open to all tertiary students in any Australian university.

Please note that because this competition accepts and assesses student essays, this edition includes two different referencing styles, i.e. the first two pieces use footnotes and the feature article uses the Harvard system of referencing. While this is not a customary practice for the *CESAA Review*, the use of this format allows the reader to understand the type of work pursued by Australian students when writing about Europe.

Luke Raffin, an Honours student at the University of Melbourne (Melbourne), opens this issue with his essay entitled: 'The End of an Alliance or a Storm in a Teacup? Recent Tensions across the Atlantic'. The second piece is written by Florentina Benga, a postgraduate at Macquarie University (Sydney). Her essay is entitled: 'The European Union as a Protector and Promoter of Human Rights'.

The feature article is a piece written by two post-graduate students, Selen Ayirtman and Christine Pütz. Ms. Ayirtman is currently pursuing her doctoral studies at the Australian National University. Ms. Pütz is a student at the Mannheim Centre for European Social Research at the University of Mannheim (Germany).

I would like to thank Carol Strong for her assistance with formatting the issue.

The major EU event since the last issue of the Review has been the rejection of the Constitutional Treaty by the voters of France and the Netherlands in late May/early June 2005. This has left the Constitution in limbo, ratified by some Member States but apparently unable to be re-presented to France and the Netherlands, unlike previous rejections such as that of Denmark of Maastricht and Ireland of Nice. The Council announced a period of "reflection" which has now been extended to 2008.

CESAA responded to the rejection by holding a forum at Victoria University at which Dr Natalie Doyle of Monash, Hans Nieuwland, Consul of the Netherlands, and I spoke. The speakers agreed that it was not so much the text of the Constitution that had been the problem but what it stood for. In France, it was seen to be a step towards the admission of Turkey and aroused hostility in some quarters. In the Netherlands, it was the first opportunity for voters to vote on an EU question directly. After many years of tolerance

and reception of refugees from all parts of the world, the Netherlands has experienced heightened tensions about issues of race and religion in recent years and the EU seems to have been blamed as a symbol of cosmopolitanism. Be that as it may, it does not appear possible to re-present the Constitution to these countries any time soon, if at all.

This is both bad news and good news. For those advocating an EU Constitution, despite its faults, the Constitution would have been an advance. There is now the question of whether pursuing a formal constitution is even feasible. On the other hand, the present “constitution”, established by the treaties and the institutions that they created, continues to function. The good news is that this defeat provides the opportunity to reflect and come up with a better Constitution. The contributions to this issue all assist that process.

A further contribution by CESAA to European integration has been its participation in the European Diaspora Research Network, an EU-funded research project including the National Europe Centre at ANU, University of Adelaide and Victoria University. As part of this project, CESAA hosted a conference on 28 April, 2006 on the subject: “European diasporas in Australia – their contribution to European Integration”. The “Capstone” conference of the project was held at ANU on 17-18 July, 2006. It is hoped that some papers from these conferences will be published in the next CESAA Review. The project has highlighted the extent of the European diaspora in Australia and the diversity of its contributions to European integration. This in turn has shed light on the relationship between the EU and Australia, the subject of Philomena Murray’s book, reviewed in this issue.

Another exciting development in EU-Australia relations has been the funding by the Commission of three EU Study Centres in Australian universities. The National Europe Centre at ANU received renewed funding, Monash University has established the Monash European & EU Centre (MEEUC), and a consortium of La Trobe, Macquarie, Newcastle, Flinders, Griffith and Murdoch universities has established the Innovative Universities EU Centre (IUEU Centre). It is to be hoped that these centres will help to bring Australia and the EU closer together and foster many forms of collaboration.

I hope you enjoy this issue and welcome your feedback to me at [Matt.Harvey@law.monash.edu.au](mailto:Matt.Harvey@law.monash.edu.au).

Matt Harvey

Editor  
Faculty of Law  
Monash University

## PRESIDENT'S REPORT TO CESAA'S 2005 AGM, APRIL 2006

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Our AGM coincides with the closure of this important CESAA diaspora conference which we took on with enthusiasm and passion. Our instincts and our objectives proved us right and we cannot but conclude it was a success. We should congratulate ourselves and especially Dr. Carol Strong for such a wide ranging, academically enriching and well organized conference. This was a success much owed to her hard work.

On reflection the last 12 months have produced some important outcomes though maybe a fewer outcomes than what we projected at our last AGM. I think there is no one single reason for this and reflects more the precarious nature of associations which juggle valuable time resources of our few passionate individuals interested in promoting European Studies across the country.

Since last year there has been a change of the guard with the EU delegation with a new Ambassador Bruno Julien. He has replaced Ambassador Mazzocchi. Moreover two new important European Centres have been announced in Victoria led by Monash University and the Australian European Innovation Consortium involving amongst others La Trobe University. Our recent CESAA conference invited the directors of the three European centres in Melbourne, CERC University of Melbourne Assoc. Prof. Philomena Murray, La Trobe Philip Bull and the new Monash Centre Natalie Doyle. We listed to the three directors about their centres and their new plans to promote European studies. We can only conclude that institutionally European Studies is certainly on the increase and that there is much room for organizations like ourselves which not only seek to promote European studies ourselves but do so within a framework in which there is greater potential for activity.

Over the last year we have undertaken a series of activities. We held a seminar on the European Constitution referendums, we have organized two essay competitions, we have participated in the University of Melbourne Postgraduate Conference in December, we participated in the Asia EU Studies conference in Tokyo and the in the Sydney postgraduate EU conference. Also over the last 12 months CESAA joined the successful European diaspora bid in conjunction with the ANU and Victoria University which was successful. This has become an important point of reference for CESAA and will do over the next 12 months also. Our organization has continued to carry on our "normal" activities of publishing our CESAA Review and CESAA E-News. Our CESAA Review has not been as forthcoming as we would have liked and our intention should be to provide more support and time for it to assume the importance it deserves. The task we face is to consolidate and stabilize the Review. It is clear that we have voted with our feet on the question of not pursuing a hard copy version and opting for an electronic version offered on our website. CESAA E-News has worked and while it may mirror in part other databases, it serves a useful communication point with our supporters, members and friends.

Financially we are a little vulnerable without a sustainable and guaranteed income but here there is little new to CESAA. Our funding as an ECSA cannot be assumed as guaranteed and our need to occasionally seek other forms of funding in order to undertake activities will be a necessity. I think I say nothing new to you here. Our membership administration is tighter and there are no glaring omissions or internal holes. We should be proud of having undertaken so many important activities pushing and promoting CESAA.

Our national expansion has not gone at the pace we originally expected and our Sydney expansion will require more time and effort. There needs to be an understanding that CESAA seeks to be a real national organization and not purely a Melbourne outpost. We are very enthusiastic with the activity that is occurring in Canberra and CESAA via the ANU primarily is establishing a good name.

While we have highlighted the juggling of scarce time of CESAA committee members, the organization needs to attract more active committee members and a greater access to members who wish to be active with CESAA. This was and remains a weakness and one which hopefully we can find a solution to. We need to make our meetings open to members and continue to push the benefits that make membership worthwhile: CESAA review, social interaction, academic, conferences. We face major changes with committee members who for their good reasons will not be able to be part of the committee as they had been. We need other members to take up the responsibility.

Essay competitions have been successful and bigger than in the past. While we were unsuccessful with the Art competition, we know that it is an idea for the future. Katrina Stats has been instrumental here in keeping the CESAA essay competition going and going successfully. Website is working well and for the cost in time and resources I think serves us well and should continue to be supported.

Bruno Mascitelli

CESAA President  
28 April 2006

## CESAA AGM ELECTION RESULTS, APRIL 2006

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### ELECTIONS TO THE COMMITTEE, ELECTIONS OF OFFICERS AND OTHER RESPONSIBILITIES

We are obliged elect three positions for the Associations Act and confirm or change the Public Officer.

The following office holders were elected at the CESAA 2006 AGM:

**President (Chair)** – Bruno Mascitelli

**Vice President** – Steve Bakalis

**Secretary** – Leanne McCormick

**Treasurer** – Muhammad Mahmood

**CESAA Review Editor** – Matt Harvey

**Membership Secretary** – Simone Battiston

#### **Additional Committee Members:**

Carol Strong

Andrew Hind

Proposal to have a nominated representative from each EU Centre: NEC, MEEUC, IUEUC and CERC sit on the CESAA committee. (Carried) Invitations have been issued to these bodies.

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THE END OF AN ALLIANCE OR A STORM IN A TEACUP?  
RECENT TENSIONS ACROSS THE ATLANTIC

Luke Raffin  
University of Melbourne (Melbourne, Australia)  
Winner, CESAA Student Essay Contest 2005, Honours Division

*'Old Europe will have to lean on our shoulders, and  
to hobble along by our side ... What a colossus we  
shall be'.<sup>1</sup>*

— Thomas Jefferson

## Introduction

The transatlantic alliance has long been considered Europe and America's most important.<sup>2</sup> While tensions in the partnership are not new,<sup>3</sup> the recent deterioration in relations between the Bush administration and France, Germany and the European Union leadership has fuelled speculation that this is 'not just a transitory problem'.<sup>4</sup> Many think the current crisis is unprecedented in its 'scope, intensity, and, at times, pettiness',<sup>5</sup> confirming Kagan's assertion that Americans and Europeans are inhabiting 'separate

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<sup>1</sup> Thomas Jefferson quoted in Niall Ferguson, *Colossus: The Price of America's Empire*, New York, The Penguin Press, 2004, p. i.

<sup>2</sup> Ronald D. Asmus, 'Rebuilding the Atlantic Alliance', in *Foreign Affairs*, Vol. 82, No. 5, p. 20; William Drozdiak, 'The North Atlantic Drift', in *Foreign Affairs*, Vol. 84, No. 1, p. 88.

<sup>3</sup> Ever since NATO was created to thwart Soviet expansionism more than half a century ago, Americans and Europeans have weathered serious crises: the 1956 Suez debacle; the Vietnam War; Charles de Gaulle's withdrawal of France from NATO's military command in 1966; the 1973 Arab-Israeli War; the battle over 'Euromissiles' and Central America in the early 1980s; and the 'Second Cold War' following the 1979 Soviet invasion of Afghanistan. They all 'fuelled dire speculation that the Western allies were on the brink of divorce': William Drozdiak, 'The North Atlantic Drift', p. 90; John Palmer, *Europe Without America? The Crisis in Atlantic Relations*, Oxford, Oxford University Press, 1987, p. 1.

<sup>4</sup> Francis Fukuyama, 'The West May be Cracking', in *International Herald Tribune*, London, 9 August 2002, p. 14; Francis Fukuyama, 'Has History Restarted Since September 11?', Speech delivered at the John Bonython Lecture, Melbourne, 8 August 2002.

<sup>5</sup> Erik Jones, 'Debating the Transatlantic Relationship: Rhetoric and Reality', in *International Affairs*, Vol. 80, No. 4, 2004, p. 595. Pond sees the tension arising from 'a whole range of topics that obstructed conciliation on any one of them and maximised ill will': Elizabeth Pond, *Friendly Fire: The Near-Death of the Transatlantic Alliance*, Washington D.C., Brookings Institution Press, 2004, p. x.

strategic and ideological planets'.<sup>6</sup> Is the damage that severe, or is this just a 'grumpy phase'?<sup>7</sup> After highlighting the structural divisions that have separated Europe and America before George W. Bush became President, the essay will examine the recent tensions. The administration's increasing emphasis on unilateralism, the doctrine of pre-emption and Bush's uncompromising rhetoric have divided Europe and alienated its major powers. The invasion of Iraq amplified the friction. The role of anti-Americanism and anti-Europeanism in exacerbating these tensions will also be discussed. The alliance has sustained serious, but not severe damage: there are factors which mitigate the recent tensions and the deeper differences. Today, Europe and America need each other as much as ever. The tension cannot defeat the alliance's shared vision and values, and it has failed to damage the booming transatlantic economic relationship. Ultimately, the founding vision of the alliance will prevail.

### Deeper Divisions between Europe and America

The recent tensions in the relationship have partly emerged from deep structural gaps distinguishing America from Europe. Kagan has accurately identified one of the biggest differences: '[o]n the all-important question of power — the efficacy of power, the morality of power, the desirability of power — American and European perspectives are diverging'.<sup>8</sup> America entered its 'unipolar moment' as the Berlin Wall collapsed,<sup>9</sup> claiming 'a pre-eminence unrivalled by the greatest empires of the past'.<sup>10</sup> The seemingly unassailable 'hard power' of America was recently demonstrated in the first Gulf War, the Balkans, Afghanistan and Iraq.<sup>11</sup> Beyond military supremacy, the American economy is the largest and most powerful in the world. While the vitality of American soft power

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<sup>6</sup> Robert Kagan, 'A Question of Legitimacy', in *The Australian*, Sydney, 10 November 2004, p. 15. For further pessimism, see Charles Krauthammer, 'Reimagining NATO', in *Washington Post*, Washington, 24 May 2002, p. 18; Christopher Tugendhat, 'Europe's Need for Self-Confidence', in *International Affairs*, Vol. 58, No. 1, 1981, p. 7; Charles Kupchan, *The End of the America Era: US Foreign Policy and the Geopolitics of the Twenty-First Century*, New York, Alfred A. Knopf, 2002, p. 153; Charles Kupchan, 'The Alliance Lies in the Rubble', in *Financial Times*, London, 10 April 2003, p. 8.

<sup>7</sup> 'Weathering the Storm', in *The Economist*, London, 7 September 2000, p. 23.

<sup>8</sup> Kagan contends that '[o]n major strategic and international questions today, Americans are from Mars and Europeans are from Venus: they agree on little and understand one another less': Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order*, New York, Alfred A. Knopf, 2003, p. 3.

<sup>9</sup> Charles Krauthammer, 'The Unipolar Moment', in *Foreign Affairs*, Vol. 70, 1991, p. 17.

<sup>10</sup> Henry Kissinger, 'America at the Apex', in *National Interest*, Vol. 64, 2001, p. 3. See also Hubert Védrine and Dominique Moisi, *France in an Age of Globalization*, New York, Brookings Institution Press, 2000.

<sup>11</sup> In 2004, America was spending nearly as much on defence as the rest of the world combined: Editorial, 'Spending Spree at the Pentagon', in *The New York Times*, New York, 10 February 2003, p. 22. Huntington has also warned of military overstretch, arguing that American military spending in the first Gulf War consumed too large a percentage of American military capacity to allow a proper US provision for global conflict: Samuel Huntington, *The Clash of Civilisations and the Remaking of World Order*, New York, Simon & Schuster, 1997, pp. 83–91.

is disputed,<sup>12</sup> the reach of American culture is unmatched. In stark contrast, Kagan insists that Europeans are happy to live in ‘a post-historical paradise of peace and relative prosperity’.<sup>13</sup> Military might is compromised for greater welfare spending.<sup>14</sup> Ironically, Europe’s limited interest in developing hard power is partly the result of American protection during the Cold War.<sup>15</sup> It is also a consequence of the continent’s often bloody and violent history. Besides, Europe has enough to worry about as it seeks enhanced unification: grappling with a popular constitutional text, completing the internal market, shaping a problematic Common Foreign and Security Policy and integrating 75 million citizens of formerly communist countries.

### *Gulf in Power, Gulf in Perception*

For Kagan, this power disparity in the alliance explains transatlantic tensions, because Europe and America have fundamentally different visions of global order. These differences are ‘not just awkward, inconvenient blots’; they are ‘great, ugly cleavages in basic perceptions, strategy and policy’.<sup>16</sup> Former French Foreign Minister Dominique de Villepin argued that the Iraq War highlighted the struggle between ‘two visions of the world’.<sup>17</sup> Kagan agrees, asserting that ‘when it comes to setting national priorities, determining threats, defining challenges, and fashioning and implementing foreign and defence policies, the United States and Europe have parted ways’.<sup>18</sup> Americans and Europeans often view the security environment through a different lens. Gordon believes that whilst ‘Americans are in the habit of worrying about Iraq, North Korean missiles, or a Chinese invasion of Taiwan, Europeans are generally more worried about food safety

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<sup>12</sup> For a critique of the sustainability of US soft power, see Ronald D. Asmus, ‘Rebuilding the Atlantic Alliance’, p. 21; Joseph S. Nye, ‘The Decline of America’s Soft Power: Why Washington Should Worry’, in *Foreign Affairs*, Vol. 83, No. 3, 2004, p. 16.

<sup>13</sup> Robert Kagan, *Of Paradise and Power*, p. 3; Stephen Haseler, *Super-State: The New Europe and its Challenge to America*, London, I.B. Tauris, 2004, p. 2.

<sup>14</sup> ‘Europeans do not want to give up their butter for more guns, not least because they feel there is no threat at present that would justify attempting to close such a yawning gap in credibility’: ‘Who Needs Whom?’, *The Economist*, London, 7 March 2002, p. 31. According to Cooper, ‘Europe may have chosen to neglect power politics because it is militarily weak; but it is also true that it is militarily weak because it has chosen to abandon power politics’. Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century*, London, Atlantic Books, 2003, p. 159. See also Charles Krauthammer, ‘The Bold Road to NATO expansion’, in *The Washington Post*, Washington, 22 November 2002, p. A41. This has invited harsh assessments of European relevancy: Europe’s ‘sclerotic economy, stagnant demography, military obsolescence and strategic pusillanimity create the impression of a gently disintegrating, mildly irritating, but mostly inconsequential relic’. Gerard Barker, ‘Old Europe can Still Undermine the US’, in *The Australian*, Sydney, 21 February 2005, p. 9. Haseler rejects this criticism of Europe’s welfare societies, arguing that they have proved ‘more stable than the gyrating, raw, free-market American model’: Stephen Haseler, *Super-State*, p. 5.

<sup>15</sup> See Geir Lundestad, ‘Empire’ By Integration: the United States and European Integration, 1945–97, Oxford, Oxford University Press, 1997. See also G. John Ikenberry, *After Victory: Institutions, Strategic Restraint and the Rebuilding of Order after Major Wars*, New Jersey, Princeton University Press, 2000.

<sup>16</sup> Gerard Barker, ‘Old Europe can Still Undermine the US’, p. 9.

<sup>17</sup> Dominique de Villepin quoted in Robert Kagan, ‘A Question of Legitimacy’, p. 15.

<sup>18</sup> Robert Kagan, *Of Paradise and Power*, p. 4.

and global warming'.<sup>19</sup> The asymmetry has also led some European countries and America to use their power differently. America has sought to fix problems because it was capable. Europe sought to manage them through peaceful solutions because it was not.<sup>20</sup>

Psychologically, the partners often differ. Though arguably a bigger target of terror, America is justifiably optimistic about its enduring military and economic prowess. Europeans are more sensitive to unrestrained power; they are 'convinced that dialogue and development are more effective paths to security than military strength'.<sup>21</sup> The September 11 terrorist attacks accentuated these differences: the Bush administration increasingly viewed the world through the prism of international terrorism and was comfortable with unilaterally wielding American power.<sup>22</sup> America's war on terror aims to 'attack the disease by hitting at its symptoms'.<sup>23</sup> More familiar with terrorism,<sup>24</sup> Europeans seek to 'drain the swamp' in which international terrorism festers, eliminating its root causes.<sup>25</sup> This gulf in power and consequent divergence in approaching international relations enhances the likelihood of transatlantic disagreement. However, that imbalance in the alliance has not posed a severe threat to its survival.

## The Source of Recent Tensions

Contrary to Kagan's contention,<sup>26</sup> the foreign policy of the Bush administration has exposed and agitated these existing differences. Entering office at a time when many thought Europe and America were closer to a strategic partnership than ever before,<sup>27</sup> the

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<sup>19</sup> Philip H. Gordon, 'Bridging the Atlantic Divide', in *Foreign Affairs*, Vol. 82, No. 1, 2003, p. 74.

<sup>20</sup> In the words of Thucydides, 'the strong do what they can and the weak suffer what they must': Thucydides, *The Peloponnesian War*, Cambridge, Cambridge University Press, 1982, p. 124. Kagan believes that '[a] man armed only with a knife may decide that a bear prowling the forest is a tolerable danger ... the same man armed with a rifle, however, will likely make a different calculation of what constitutes a tolerable risk': Robert Kagan, *Of Paradise and Power*, p. 31.

<sup>21</sup> R. Laurence Moore and Maurizio Vaudagna (eds.), *The American Century in Europe*, Ithaca, Cornell University Press, 2003, p. 58.

<sup>22</sup> William Drozdiak, 'The North Atlantic Drift', p. 91. 'For Americans, September 11 changed the world; for Europeans, it changed America': Philip H. Gordon and Jeremy Shapiro, *Allies at War: America, Europe, and the Crisis Over Iraq*, New York, McGraw-Hill, 2004, p. 84.

<sup>23</sup> John Peterson, 'America as a European Power: The End of Empire by Integration?', in *International Affairs*, Vol. 80, No. 4, 2004, p. 626.

<sup>24</sup> Home-grown terrorism has been seen frequently throughout Europe: emerging from the Basque region in Spain; widespread in Northern Ireland; perpetrated by extreme leftists in Italy, extreme conservatives in Germany and Islamic terrorists in France. Governments and societies in Europe have 'internalised the notion that terrorism, given its roots in deep social alienation and its tenacious resistance to purely regressive means, can never be completely eradicated': Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 60.

<sup>25</sup> Americans thought Iraq was involved in 9/11. Europeans did not think Iraq was a threat. John Peterson, 'America as a European Power', p. 626.

<sup>26</sup> Kagan argues the policies of individual administrations are not the principal explanations for transatlantic tension: see Robert Kagan, *Of Paradise and Power*, p. 7.

<sup>27</sup> See generally Kevin Featherstone and Roy Ginsberg, *The European Community and the United*

‘ill-informed cowboy’ quickly caused tension.<sup>28</sup> Friedman thinks that Bush was ‘more widely and deeply disliked in Europe than any US president in history’.<sup>29</sup> Although Clinton’s ‘progressive internationalist pragmatism’ was often welcomed in Europe,<sup>30</sup> the Bush administration’s foreign policy proceeded ‘from the firm ground of the national interest, not from the interests of an illusory international community’.<sup>31</sup> Soon after September 11 prompted an unprecedented wave of support from Europe,<sup>32</sup> the Bush administration declared its right to take pre-emptive action in the face of an imminent or even *potential* threat.<sup>33</sup> Bush’s apparent disregard for close allies in the war on terror has heightened transatlantic tensions. He ominously warned that ‘some governments will be timid in the face of terror. And make no mistake about it: if they do not act, America will’.<sup>34</sup> Viewing the September 11 attacks as ‘an act of war against our country’,<sup>35</sup> Bush

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States in the 1990s: Partners in Transition, London, Macmillan, 1996; John Peterson, *Europe and America: the Prospects for Partnership*, London, Routledge, 1996; Michael Smith, ‘Competitive Co-Operation and EU-US Relations: Can the EU be a Strategic Partner for the United States in the World Political Economy?’, in *Journal of European Public Policy*, Vol. 5, No. 4, p. 561; Jörg Monar (ed.), *The New Transatlantic Agenda and the Future of EU-US Relations*, London, Kluwer Law International, 1998; David Allen, ‘A Competitive Relationship: The Maturing of the EU-US Relationship, 1980–2000’, in Sabrina Ramet and Christine Ingebritsen (eds.), *Coming in From the Cold War: Changes in US-European Interactions Since 1980*, Oxford, Rowman and Littlefield, 2002, p. 45.

<sup>28</sup> This is how many in Europe viewed Bush: Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 1; Philip H. Gordon, ‘Bridging the Atlantic Divide’, p. 70.

<sup>29</sup> Thomas L. Friedman, ‘If Only Bush would Lend Europe his Ears’, in *The Age*, Melbourne, 31 January 2005, p. 11.

<sup>30</sup> Shaped as a pragmatic neo-Wilsonian vision, this involved a combination of breaching a state’s sovereignty to protect human rights through multilateralism, and secondly, aspiring to enlarge the community of free-market democracies. Fraser Cameron, *US Foreign Policy After the Cold War: Global Hegemon or Reluctant Sheriff?*, London, Routledge, 2002, p. 19; William Hyland, ‘A World of Troubles’, in *World and I*, Vol. 14, 1999, p. 46; ‘Where Do America’s Interests Lie?’, in *The Economist*, London, 18 September 1999, p. 29; Ivo H. Daalder and James L. Lindsay, *America Unbound: The Bush Revolution in Foreign Policy*, Washington, D.C., Brookings Institution Press, 2003, p. 37; Robert Kagan and William Kristol, ‘The Present Danger’, in *National Interest*, Vol. 59, 2000, p. 58.

<sup>31</sup> Condoleeza Rice, ‘Promoting the National Interest’, in *Foreign Affairs*, Vol. 79, No. 1, 2000, pp. 45–62. See also Richard Herrman and Michael Reese, ‘George W Bush’s Foreign Policy’ in Colin Campbell and Bert Rockman, *The George W Bush Presidency: Appraisals and Prospects*, Washington, Congressional Quarterly Press, 2004.

<sup>32</sup> Le Monde declared that ‘[w]e are all American’. British Prime Minister Tony Blair talked of ‘standing shoulder to shoulder’ with the US. European leaders pledged their ‘unlimited solidarity’ and invoked ‘its most sacred covenant’: the mutual defence clause of the NATO treaty. The Security Council offered its support: Frank Bruni, ‘Europe Pauses and Grieves’ in *New York Times*, New York, 12 September 2002, p. 1; Richard W. Stevenson, ‘The Bush Philosophy: Resolute, No Matter What’ in *New York Times*, New York, 26 October 2004, p. 4. Initially, it seemed that ‘the biggest problem for the European allies was that they wanted to send more troops than Washington was prepared to accept’: Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 1. This would not be the first of their problems.

<sup>33</sup> George W. Bush, *The National Security Strategy of the United States of America*, Washington D.C., 2002, p. 6.

<sup>34</sup> George W. Bush, ‘State of the Union Address’, Speech delivered at a Joint Session of the Congress, Washington D.C., 29 January 2002, p. 2.

<sup>35</sup> George W. Bush, ‘Address to a Joint Session of Congress and the American People’, Speech

declared that ‘this nation won’t rest until we have destroyed terrorism’.<sup>36</sup> In that fight, ‘either you are with us, or you are with the terrorists’.<sup>37</sup>

## Europe’s Response

Bush’s uncompromising rhetoric polarised Europe. Paris and Berlin resented the delineation of Iran, Iraq and North Korea as an ‘axis of evil’.<sup>38</sup> They felt ostracised by Secretary of Defense Donald Rumsfeld’s announcement that ‘the mission needs to define the coalition’,<sup>39</sup> and they were infuriated when he termed them ‘old Europe’.<sup>40</sup> France’s foreign minister, Hubert Védrine, rejected the conflation of the war against al Qaeda with the objective of confronting ‘rogue states’ as ‘simplistic’.<sup>41</sup> Chris Patten, the EU’s foreign affairs commissioner, warned that America was going into ‘unilateralist overdrive’.<sup>42</sup> Revealing tensions within Europe itself, the Italian, Polish and Spanish Prime Ministers welcomed the speech.<sup>43</sup> Conflicting visions of how to combat terrorism have intensified transatlantic tensions.<sup>44</sup> While both sides recognise the danger of terrorism, each has employed strategies consistent with their strengths and conforming with their conceptual understanding of the post-Cold War world to combat it.

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delivered at a Joint Session of the Congress, Washington D.C., 20 September 2001, p. 2.

<sup>36</sup> Ibid., p. 3.

<sup>37</sup> Ibid., p. 4.

<sup>38</sup> Christopher Layne, ‘Iraq and Beyond: “Old Europe” and the End of the US Hegemony’, in Christina V. Balis and Simon Serfaty (eds.), Christina Balis and Simon Serfaty (eds.), *Visions of America and Europe: September 11, Iraq and Transatlantic Relations*, Washington D.C., Center for Strategic and International Studies, 2004, p. 48. Many in the French press were quick to draw symbolic comparisons to Reagan’s ‘evil empire’: See, eg, Alain Franchon, ‘Les années bis’, in *Le Monde*, Paris, 16 February 2002, p. 1.

<sup>39</sup> Donald Rumsfeld quoted in Vernon Loeb, ‘Rumsfeld says War will Need Backing of “Revolving Coalitions”’, in *The Washington Post*, Washington, 26 September 2001, p. A7.

<sup>40</sup> Donald Rumsfeld quoted in Michael Cox, ‘Martians and Venusians in the New World Order’, in *International Affairs*, Vol. 79, No. 3, 2003, p. 531.

<sup>41</sup> Hubert Védrine quoted in Suzanne Daley, ‘French Minister Calls US Policy “Simplistic”’, in *The New York Times*, New York, 7 February 2002, p. 14.

<sup>42</sup> Chris Patten quoted in Ian Black, ‘Threat of War — Patten Warns US over Aid for Iraq’, in *The Guardian*, London, 14 January 2003, p. 4.

<sup>43</sup> Spanish Prime Minister Jose Maria Aznar compared the speech to Harry Truman’s rallying of the West against Soviet Communism: see ‘Who Needs Whom?’, *The Economist*, London, 7 March 2002, p. 31. The range of attitudes to Bush in Europe were illustrated after his recent re-election, which his closest allies ‘greeted as a boost to the war on Islamic extremism’, but ‘most European leaders barely managed to conceal the sense of disappointment they shared with most of the public across the continent’: Peter Wilson, ‘Europe Leaders Lavish with Faint Praise’, in *The Australian*, Sydney, 5 November 2004, p. 8.

<sup>44</sup> Many questioned whether it should be called a war at all. The discourse of war ‘arouses an expectation and a demand for military action against some easily identifiable adversary ... leading to decisive results’: Michael Howard, ‘What’s in a Name? How to Fight Terrorism’, in *Foreign Affairs*, Vol. 81, No. 2, 2002, pp. 8–13. See also Gilles Adreani, ‘The “War on Terror”: Good Cause, Wrong Concept’, in *Survival*, Vol. 46, No. 4, 2004, pp. 31–50; Jacques Chirac, ‘Joint Press Conference with President George W. Bush’, <[www.diplomatie.gouv.fr/actual/dossiers/attentatsusa/chirac180901.html](http://www.diplomatie.gouv.fr/actual/dossiers/attentatsusa/chirac180901.html)>, 18 September 2001.

***Iraq: A Hotbed of Tension***

The invasion of Iraq represents the nadir of transatlantic relations.<sup>45</sup> Many believe that the war inflicted ‘real and irreparable damage’<sup>46</sup> and led to ‘the most serious deterioration of transatlantic relations in recent memory’.<sup>47</sup> The war ‘shook the alliance to its core’ and confirmed that ‘US and European perspectives, interests and even values had seriously diverged in the wake of the end of the Cold War’.<sup>48</sup> The administration sidestepped NATO and refused to wait for the Security Council in holding Saddam accountable for his repeated defiance of international demands. Although the war enjoyed the support of more than 40 nations, some European powers still rejected its legitimacy. German foreign minister Joschka Fischer warned that Washington should not treat European allies as ‘satellites’.<sup>49</sup> The invasion underlined the extent to which some European states and the Bush administration disagree about the role of international law and international institutions. The damage to the relationship has been compounded by repeated American failures in the stabilisation of Iraq, especially the inhumane treatment of detainees at Abu Ghraib and Guantanamo Bay.<sup>50</sup>

***‘We Do Not Use Our Strength to Press for Unilateral Advantage’***

Beyond Baghdad, Bush has brought unilateralism to the forefront of American foreign policy. Consequently, transatlantic cooperation has suffered. Refusing to support the Kyoto Protocol to the United Nations Framework Convention on Climate Change,<sup>51</sup> Bush reasoned that ‘the idea of placing caps on carbon dioxide does not make economic sense for America’.<sup>52</sup> He withdrew Clinton’s signature from the Rome Statute of the International Criminal Court,<sup>53</sup> and abandoned Clinton’s efforts to secure Senate

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<sup>45</sup> On balance, it appears that the war against Iraq was illegal under international law: see Alex Bellamy, ‘International Law and the War with Iraq’, in *Melbourne Journal of International Law*, Vol. 4, No. 2, 2003, p. 519; Ronli Sifris, ‘Operation Iraqi Freedom: United States v Iraq — The Legality of the War’, in *Melbourne Journal of International Law*, Vol. 4, No. 2, 2003, p. 521.

<sup>46</sup> Christopher Layne, ‘Iraq and Beyond’, p. 48.

<sup>47</sup> Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 2.

<sup>48</sup> Dana Allin and Steven Simon, ‘America’s Predicament’, in *Survival*, Vol. 46, No. 4, 2004, p. 25.

<sup>49</sup> Steven Erlanger, ‘Germany Joins Europe’s Cry That the US Won’t Consult’, in *New York Times*, New York, 13 February 2002, p. 14.

<sup>50</sup> For an insightful examination of the rule of law the war on terror, see Kenneth Roth, ‘The Law of War in the War on Terror: Washington’s Abuse of “Enemy Combatants”’, in *Foreign Affairs*, Vol. 83, No. 1, 2004, p. 2.

<sup>51</sup> Opened for signature 16 March 1998, 37 ILM 22. The harsh diplomatic style of the rejection contrasted sharply even with a similar rejection by the Reagan administration of the 1982 *United Nations Convention on the Law of the Sea*: Peter M. Leitner, ‘A Bad Treaty Returns: The Case of the Law of the Sea Treaty’, in *World Affairs*, Vol. 160, 1998, p. 134; Jeffrey Gedmin and Gary Schmitt, ‘Allies in America’s National Interest’, in *New York Times*, New York, 5 August 2001, p. 13.

<sup>52</sup> John Browne, ‘Beyond Kyoto’, in *Foreign Affairs*, Vol. 83, No. 4, 2004, p. 20.

<sup>53</sup> Opened for signature 17 July 1998, 37 ILM 999 (1998) (entered into force 1 July 2002). Through the highly coercive negotiation of article 98 agreements, the Bush administration has actively sought to undermine the ICC’s jurisdiction over American soldiers; an objection the administration relied on in

ratification for the Comprehensive Test Ban Treaty.<sup>54</sup> Bush also refused to sign a UN agreement to limit traffic in small arms, verification protocols to the Biological Weapons Convention,<sup>55</sup> the Ottawa Convention banning the production, trade and use of antipersonnel landmines,<sup>56</sup> the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women.<sup>57</sup> European governments were angered by America's national missile defence project and the decision to tear up the Limitation of Anti-Ballistic Missile Systems Treaty.<sup>58</sup> Recently, Bush considered a radical reduction of US military presence in Europe.<sup>59</sup> America's imposition of steel tariffs and agricultural subsidies — met by European governments giving soft loans to their airlines — has heightened trade tensions.<sup>60</sup> Such unilateralism corroded the cornerstone of cooperation in the alliance.

### **Adding Fuel to the Fire: Anti-Europeanism and Anti-Americanism**

Such apparent indifference for European opinion has generated an underlying deterioration in popular attitudes, even in countries whose governments support the Bush administration.<sup>61</sup> This frustration has produced misinformed, often vitriolic stereotypes.<sup>62</sup>

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refusing to sign the Statute.

<sup>54</sup> On 13 October 1999, the Senate failed to give its consent to ratification of the Comprehensive Test Ban Treaty — the Clinton administration's major arms control initiative. See Terry L. Deibel, 'The Death of a Treaty', in *Foreign Affairs*, Vol. 81, No. 5, 2002, p. 142.

<sup>55</sup> Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on Their Destruction, opened for signature 10 April 1972, 1015 UNTS 163 (entered into force 26 March 1975). The treaty had already been signed by 161 countries and ratified by 71, including every state in the EU.

<sup>56</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, [1999] ATS No 3, 36 ILM 1507, opened for signature 3 December 1997 (entered into force 1 March 1999).

<sup>57</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1588 UNTS 530, 28 ILM 1448 (entered into force 16 January 1991); *Convention on the Elimination of Discrimination Against Women*, GA Res A/54/4, UN GAOR, 54th sess, Annex, Supp No 49, UN Doc A/54/49 (2000). See also Shepard Forman et. al, *The United States in a Global Age: The Case for Multilateral Engagement*, New York, Lynne Rienner, 2002, p. 10.

<sup>58</sup> 26 May 1972, US-USSR, 23 UST 3435 (entered into force 3 October 1972).

<sup>59</sup> Ronald Asmus, 'Bush Withdraws from the World', in *The Age*, Melbourne, 21 August 2004, p. 11; 'Bush in Rethink on Bases Overseas', in *The Australian*, Sydney, 16 August 2004, p. 13. Secretary of State Condoleezza Rice said during the 2000 campaign that the US intended to withdraw its troops from Bosnia and Kosovo: 'We don't need to have the 82<sup>nd</sup> Airborne escorting kids to the kindergarten', in Bosnia and Kosovo: James Traub, 'W's World', in *The New York Times*, New York, 14 January 2001, p. 28. Reflecting the inconsistent line often presented by the administration, Powell reassured NATO foreign ministers that the White House would not precipitously pull forces out of multinational peacekeeping missions in the Balkans: Alan Sipress, 'New Foreign Policy Ringing in the Old', in *The Washington Post*, Washington, 10 June 2001, p. A20.

<sup>60</sup> See Ari Afilalo, 'Not in my Backyard: Power and Protectionism in US Trade Policy', in *New York University Journal of International Law and Politics*, Vol. 24, No. 749, p. 749; 'Trading Blows', in *The Economist*, London, 16 April 2005, p. 48.

<sup>61</sup> The Italian Prime Minister, Silvio Berlusconi, is a staunch ally of George W. Bush. However, the recent death of Italian intelligence agent Nicola Calipari has inflamed opposition in Italy to the American-led war: Edward Wong and Jason Horowitz, 'Italian Hostage, Released in Iraq, is Shot by

In Europe, opposition to American foreign policy is deeper and broader than ever before.<sup>63</sup> The feeling appears to be mutual: 79% of Americans with a favourable view of France in 2002 had shrunk to 33% by March 2004.<sup>64</sup> However, the degree of damage caused by antagonistic attitudes across the Atlantic is limited because of the temporary political advantage that governments have gained from the tension. After all, France is the ‘the home of Gaullism, a form of nationalism saturated with anti-American bilge, and the wellspring of [French President Jacques] Chirac’s political creed’.<sup>65</sup> German Chancellor Gerhard Schröder rode a wave of public anger against America into office in 2002. Republican attempts to paint John Kerry as ‘French’ in the 2004 election enjoyed some success.<sup>66</sup> Domestic forces also influenced political strategy: European leaders were conscious of their poorly integrated Muslim populations.<sup>67</sup> In the United States, influential pro-Israel groups feared the threat Saddam posed to Israel.<sup>68</sup>

Ultimately, the usually hollow rhetoric appears to inflict more damage on the alliance than it actually does. In Europe, anti-Americanism may be an ‘occasional ideological project, an effective political tactic, but it is not a broad strategy’.<sup>69</sup> Today, anti-Americanism can be explained partly because ‘America is shorthand for the Bush administration’.<sup>70</sup> A BBC poll confirmed this, finding that opposition to Bush was

GI’s’, in *The New York Times*, New York, 5 March 2005, p. 1.

<sup>62</sup> ‘The American stereotype is of a Europe that is economically sclerotic, psychologically neurotic and addicted to spirit-sapping welfare schemes and a freedom-infringing state. The European stereotype is of a gun-slinging, bible-bashing, Frankenstein-food-guzzling, behemoth-driving, planet-polluting United States, in which politicians are mere playthings of mighty corporations’: ‘Wanted: New Rules of the Road’, in *The Economist*, London, 7 July 2001 p. 25. For an extensive survey of the literature stimulated by the recent upsurge in spiteful feelings across the Atlantic, see Philippe Roger, *The American Enemy: the History of French Anti-Americanism*, Chicago, University of Chicago Press, 2005; Richard Z. Chesnoff, *The Arrogance of the French: Why They Can’t Stand Us — And Why the Feeling is Mutual*, New York, Sentinel, 2005; Walter Russell Mead, ‘Review Essay: Why do they Hate us? Two Books Take Aim at French Anti-Americanism’, in *Foreign Affairs*, Vol. 82, No. 2, 2003, p. 142.

<sup>63</sup> See ‘The View from Abroad’, *The Economist*, London, 19 February 2005, 24; Stryker McGuire et al., ‘A New Europe: America’s Dwindling Allies in the Region Face Even Angrier Populations Now’, in *Newsweek International*, New York, 29 March 2004, p. 27; Eric Alterman, ‘USA Oui! Bush Non! How Europeans See America’, in *The Nation*, Vol. 276, No. 5, p. 11; James Graff, ‘Power Struggle: Can America and Europe Learn to Work Together During the Bush Administration’s Second Term?’, in *Time*, London, 22 November 2004, p. 38.

<sup>64</sup> ‘A Creaking Partnership’, in *The Economist*, London, 3 June 2004, p. 22.

<sup>65</sup> ‘The View from Abroad’, p. 24. Anti-Americanism is partly ‘because of the rivalry between France and America, based on their remarkably similar self-images: the two countries both think they invented the rights of man, have a unique calling to spread liberty round the world and hold a variety of other attributes that make them utterly and admirably exceptional’.

<sup>66</sup> Frank Rich, ‘Decision 2004: Fear Fatigue v Sheer Fatigue’, in *New York Times*, New York, 31 October 2004, p. 1.

<sup>67</sup> The Muslim population is 4–6 million in France, more than 3 million in Germany and more than 1.5 million in Britain: Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 90.

<sup>68</sup> It is common for the tenor of public diplomacy to obscure communality of purpose in transatlantic relations: John Peterson, ‘America as a European Power’, p. 627.

<sup>69</sup> Simon Serfaty, ‘Anti-Europeanism in America and Anti-Americanism in Europe’, p. 14.

<sup>70</sup> ‘The View from Abroad’, p. 24.

stronger than anti-Americanism generally.<sup>71</sup> The Bush administration has done as much to fracture European relations as any before it. But the advent of the ‘most socially conservative and internationally unilateralist administration in Washington in more than 20 years’ does not necessarily represent a fundamental shift in American values.<sup>72</sup> In 2000, Democrat nominee Al Gore won more votes than Bush on a platform more consistent with prevailing European attitudes. Similarly, an ‘assertive multilateralist’ Clinton was re-elected after Americans had twice endorsed Reagan’s foreign policy. From 2008, a new US administration could arrest popular disenchantment and bring renewed momentum to healing the rift.

### **Why the Damage is Not Severe**

Is there a ‘false crisis over the Atlantic’?<sup>73</sup> A spectrum of factors mitigates the damage recently inflicted on the transatlantic relationship. Europe needs America because it continues to underpin much of the freedom and prosperity that Europeans enjoy and expect.<sup>74</sup> Furthermore, America is the most determined and capable warrior in the war against terror. The Madrid train attacks in March 2003, and, to a lesser extent, the murder of Dutch film-maker Theo van Gogh,<sup>75</sup> reminded Europeans that they are not immune from terrorism. Besides, efforts to form a united opposition against America have failed spectacularly. Rather than rallying to forge greater European unity in response to the transatlantic tensions, Europe has been weakened by its divisiveness. British Prime Minister and close Bush ally Tony Blair chided certain colleagues, insisting that ‘it is not a sensible or intelligent response for us in Europe to ridicule American argument or parody their political leadership’.<sup>76</sup> In spite of his multipolar ambition,<sup>77</sup> Jacques Chirac must acknowledge the important role American power plays for Europe.

### ***America Needs Europe Too***

The recent friction in the alliance has also illustrated how much America needs its powerful European allies. As the financial and human burden escalates daily in Iraq, supporters of the war must acknowledge that ‘the US needs to be more prudent and subtle

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<sup>71</sup> Asked how Bush’s re-election had affected their views of the American people, 42% said it had made them feel worse towards Americans: *ibid.* Alterman even disputes the existence of anti-Americanism, dismissing it as ‘a kind of journalistic mirage’: Eric Alterman, ‘USA Oui! Bush Non!’, p. 11.

<sup>72</sup> Philip H. Gordon, ‘Bridging the Atlantic Divide’, p. 72.

<sup>73</sup> Antony Blinken, ‘The False Crisis Over the Atlantic’, in *Foreign Affairs*, Vol. 80, No. 3, 2001, p. 35.

<sup>74</sup> American presence in Europe helped destroy Nazism, restrained Soviet Communism, and induced an economic boom throughout the continent through the Marshall plan and transatlantic trade.

<sup>75</sup> ‘The New Dutch Model?’, in *The Economist*, London, 2 April 2005, p. 22. The collapse of Cold War barricades has rendered Western Europe open to the East and the flood of legal and illegal immigrants, who are transforming previously homogenous societies.

<sup>76</sup> Peter Fray, ‘Chirac Mocks Blair’s Faith in the US’, in *The Age*, Melbourne, 17 November 2004, p. 12.

<sup>77</sup> See Elaine Sciolino, ‘French Struggle Now with how to Coexist with Bush’ in *New York Times*, New York, 8 February 2005, p. 9.

in exercising power in pursuit of both its interests and values'.<sup>78</sup> As Garton-Ash observes, America cannot 'rebuild Iraq on its own. It can't bring about the liberalisation and modernisation of the Arab-Islamic world on its own. It can't stop Iran from developing nuclear weapons on its own. It can't manage the emergence of China as a superpower on its own'.<sup>79</sup> George H. Bush recognised this reality, arguing that September 11 should 'erase the concept ... that America can somehow go it alone in the fight against terrorism or in anything else for that matter'.<sup>80</sup> It would be foolish to fashion American foreign policy on the premise that current American power makes the transatlantic alliance an unnecessary impediment to freedom of action. In seeking to achieve global security, America needs the support of the Europeans — 'the most useful, prosperous, and like-minded allies it is likely to find anywhere'.<sup>81</sup> Ongoing unilateralism could ultimately erode the reservoir of international consent to US pre-eminence that has served as a critical component of American power. Additionally, Europe is an invaluable weapon in the war on terror, and the location of numerous al Qaeda sleeper cells.<sup>82</sup> America needs Europe's political support, military bases, cooperation in international organisations, intelligence-sharing, peacekeepers and police, diplomatic help with others and good will.<sup>83</sup> As Blair stresses, terrorism cannot be beaten by 'military might alone'.<sup>84</sup> Besides, America cannot afford unbridled unilateralism. Soon after his re-election, Bush asked Congress to raise the debt ceiling. The ballooning budget deficit is set to reach a record US\$427 billion next financial year, with foreign debt growing to US\$7.5 trillion.<sup>85</sup> Rather than being driven apart by the recent tensions, America and Europe need each other more than ever.

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<sup>78</sup> Francis Fukuyama, 'Shattered Illusions', in *The Australian*, Sydney, 29 June 2004, p. 13.

<sup>79</sup> Timothy Garton-Ash, 'Tear Down those Mind-Walls!', in *The Age*, Melbourne, 13 November 2004, p. 9.

<sup>80</sup> George H. Bush in Patrick Tyler and Jane Perlez, 'World Leaders List Conditions on Cooperation', in *The New York Times*, New York, 19 September 2001, p. A1 (emphasis added).

<sup>81</sup> Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 6. Even Fukuyama acknowledged that the 'US needs like-minded allies to accomplish both the realist and idealist portions of our agenda': Francis Fukuyama, 'Shattered Illusions', p. 13.

<sup>82</sup> Applebaum has highlighted the centrality of Europe in the theatre of the war on terror: 'The cell that plotted the World Trade Center attacks was based largely in Hamburg. The Arabs who assassinated the Afghan leader Ahmed Shah Massoud were carrying Belgian passports. Al Qaeda operatives have been discovered in Spain, France and Britain': Anne Applebaum in Eric Alterman, 'USA Oui! Bush Non!', p. 11.

<sup>83</sup> The war on terrorism 'will not be a short-term military battle but a multi-decade struggle not unlike the Cold War — in which "soft power", diplomacy, legitimacy, allies, intelligence, cooperation and an ability to win hearts and minds throughout the world will be as important as military power': Philip H. Gordon, 'Bridging the Atlantic Divide', p. 81.

<sup>84</sup> Peter Wilson, 'Europe Leaders Lavish with Faint Praise — Bush's Victory', in *The Australian*, Sydney, 5 November 2004, p. 8.

<sup>85</sup> Michael Gawenda, 'The World According to George W is about to Change', in *The Age*, Melbourne, 4 February 2005, p. 11.

### ***The Ties that Bind: Europe and America's Shared Values***

The values that hold American and Europe together are stronger than the differences pulling them apart. Serious differences have divided Europe and America in the past, but they never changed the fact that 'Americans and Europeans were fundamentally on the same side of history'.<sup>86</sup> While their tactics can differ, they broadly share the same Wilsonian aspirations for democratic societies with liberalised markets throughout the world.<sup>87</sup> As the limbs of the EU reach further to the East, Europe is just as committed to democracy and its benefits as America. It is these values, not short-term political bickering, that are the ultimate drivers of long-term policy. Politicians recognise that they have an enduring interest in maintaining the alliance.<sup>88</sup> In the future, 'what worries one of them is almost certainly going to worry the other as well'.<sup>89</sup> Damage more serious than that recently inflicted is required to defeat the shared aspirations of America and Europe, two powers that have more in common with each other than they have with anybody else.

### ***They're Much More Similar than You Think***

The recent damage across the Atlantic is attenuated by the similarities between America and Europe. Generalising popular attitudes has obvious limitations: many Americans prefer international cooperation and peaceful solutions to problems, and many Europeans believe force must play a prominent role in international affairs.<sup>90</sup> A large minority of

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<sup>86</sup> Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 5.

<sup>87</sup> *The Economist* has elaborated on these shared ideals, noting that Europe and America 'both have their roots in the same historical process, which began with the Renaissance and moved on through the Reformation and Enlightenment. They both believe, with minor variations, in democracy for their politics and a free market for their economies. Even when they disagree most sharply, the gap between them is small compared with the ideological gulf that separated the Soviet Union from the West, the cultural incomprehension that still divides the Islamist fanatics of Afghanistan from the modern world, and the obsessive nationalism that might yet lead Russia or China into a clash with the democracies': see 'The View from Abroad', p. 24.

<sup>88</sup> Blair proclaimed that 'democracy is the meeting point for Europe and America'. Peter Fray, 'Chirac Mocks Blair's Faith in the US', p. 12. Bush agrees, observing that 'our ideals and our interests lead in the same direction'. Roy Eccleston, 'Forget Iraq Row, Bush Tells EU', in *The Australian*, Sydney, 22 February 2005, p. 10. Ardent opponent of the Iraq War, Jacques Chirac, insisted that '[o]ur common fight against terrorism and the actions we are leading together to promote liberty and democracy must continue to develop'. Peter Wilson, 'Europe Leaders Lavish with Faint Praise', p. 8. For the former Secretary of State Colin Powell, recent tensions are 'differences among friends. The transatlantic partnership is based so firmly on common interests and values that neither feuding personalities nor occasional divergent perceptions can derail it'. See Colin L. Powell, 'A Strategy of Partnerships', in *Foreign Affairs*, Vol. 83, No. 1, 2004, p. 30.

<sup>89</sup> 'Weathering the Storm', p. 23.

<sup>90</sup> Popular American attitudes are often not reflected in Bush policy. For example, 75 per cent of Americans consider global warming as a 'serious problem'; a clear majority supports ratifying the Kyoto Protocol. Seven in ten Americans support ratifying the treaty creating the International Criminal Court; eight in ten support ratification of the Comprehensive Test Ban Treaty. Most support a multilateral approach to foreign policy problems. Similarly, Europeans were more likely to support the use of force to uphold international law, to help a population struck by famine or to liberate hostages: Philip H. Gordon, 'Bridging the Atlantic Divide', p. 77.

Americans opposed the Iraq War. A large minority of Europeans supported it. Clearly, 'there is a continuum of values across the two continents'.<sup>91</sup> Furthermore, America can seek to solve problems in a 'European' way: the US is addressing the root causes of terrorism after beginning to learn some lessons of nation building in Iraq and Afghanistan.<sup>92</sup> Extending full spectrum peacekeeping forces, stabilisation missions and the training of military police and post-conflict intelligence analysts will facilitate future cooperation with Europe.<sup>93</sup> NATO and America eventually worked together effectively in Kosovo, demonstrating the potential for transatlantic collaboration. Furthermore, Europe is more powerful and seeks more power than Kagan acknowledges: its record of military activity betrays the caricature of an impotent pacifist.<sup>94</sup> Europe financially and militarily supported the UN operation in the first Gulf War, and offered its backing in the recent war in Afghanistan. The forecasts of a dying alliance are based on often-distorted assessments of the differences between Europe and America. They may have deep differences, but their relationship has not been irreversibly damaged.

### *Business as Usual*

The economic dependence binding both sides of the Atlantic is arguably the most steadfast cornerstone of the partnership. In an increasingly globalised world, economic sense often makes political sense. The European market has emerged as America's most important trade and investment partner. As a result, transatlantic economic relations are flourishing like never before. Whilst diplomacy deteriorated in 2003, corporate America pumped \$87 billion in foreign direct investment into Europe, representing a jump of 30.5% from 2002. Europeans accounted for 65% of foreign direct investment that year.<sup>95</sup> Over the last ten years, American firms have invested ten times as much in the Netherlands as China.<sup>96</sup> The American and European economies are the 'twin turbines' of the global economy.<sup>97</sup> This combined economic power is the basis for unparalleled leverage in facing global challenges. It is unlikely that either partner will jeopardise this fruitful relationship.

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<sup>91</sup> Timothy Garton-Ash, 'Tear Down those Mind-Walls!', p. 9.

<sup>92</sup> Bush first indicated that 'we're not into nation-building, We're focussed on justice': David E. Sanger, 'A New, Uneasy Burden' in *The New York Times*, New York, 12 October 2001, p. 1. After the American-led wars against Afghanistan and Iraq, he acknowledged the importance of 'so-called nation-building', which he termed 'the stabilisation of a future government'.

<sup>93</sup> John Peterson, 'America as a European Power', p. 628.

<sup>94</sup> On the question of whether Europe can and will rival American power in the future, see Christopher Layne, 'Iraq and Beyond', p. 48; Christopher Layne, 'America as Hegemon', in *National Interest*, Vol. 72, 2003, p. 17; Christopher Layne, 'The European Counterweight', in *Aspenia*, Vol. 19, 2003, p. 52; Ronald Steel, 'Europe: The Phantom Pillar', in R. Laurence Moore and Maurizio Vaudagna (eds.), *The American Century in Europe*, p. 74.

<sup>95</sup> 'A Creaking Partnership', in *The Economist*, London, 3 June 2004, p. 22.

<sup>96</sup> Ibid. Ironically, Texas is the American state which receives the most European investment.

<sup>97</sup> Together, the American and European economies account for more than half of trade and investment flows in the world. Their business with each other exceeds \$2.5 trillion a year and provides jobs for approximately 12 million workers: William Drozdiak, 'The North Atlantic Drift', p. 89.

## Confronting the Challenges Ahead

Easing the existing tensions requires increased flexibility and a stronger commitment to multilateral cooperation on both sides of the Atlantic. Europe and America need to rediscover the value of diplomacy: a ‘dialogue of the deaf’<sup>98</sup> inflicted serious damage on the alliance when its partners misheard and misrepresented each other. Additionally, some European nations must not automatically oppose all American use of force; this could fuel the unilateralism that many Europeans resent. Enhanced cooperation should strengthen NATO. Whilst it seems unlikely that Bush will rediscover the values of multilateral Republican internationalists,<sup>99</sup> the administration has softened its hard line.<sup>100</sup> There is cause for optimism after what became ‘hug-a-European month for American foreign policy’ after Bush’s visit to Europe in February 2005,<sup>101</sup> which prompted some to conclude that ‘George Bush has learned how to spell EU at the start of his second term’.<sup>102</sup>

The damage is not severe because it is unlikely to impair the critical role the alliance performs. The international community’s ability to confront its most difficult challenges depends on transatlantic unity. As Bush has accurately observed, ‘America and Europe face a moment of consequence and opportunity’.<sup>103</sup> Commanding unparalleled military

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<sup>98</sup> Simon Serfaty, ‘Anti-Europeanism in America and Anti-Americanism in Europe’, p. 17.

<sup>99</sup> The nominations of self-declared neoconservative Paul Wolfowitz to become President of the World Bank, and of John Bolton as American ambassador to the UN, unambiguously reflect the Administration’s opinion of multilateral institutions. Bolton, a ‘conservative’s conservative’, once said that ‘it wouldn’t make a difference if the top ten storeys were lopped off the UN’s skyscraper headquarters in New York’. Bolton has opposed sending UN peacekeepers to conflicts that are not threats to international security and criticised the notion that there is any right of humanitarian intervention to stop ethnic cleansing or genocide: ‘Bolton Wanderer’, in *The Economist*, London, 16 April 2005, p. 30. Parkinson expects Bush’s propensity to unilateralism to continue in his second term: ‘it is inconceivable this President would outsource substantive policy choices to allies who had been troublesome and uncooperative in critical moments of his first term’. Consistent with this forecast, Bush announced immediately after his re-election that he ‘earned capital in the campaign, political capital, and now I intend to spend it. It’s my style’. See Tony Parkinson, ‘Stop the Cheap Shots: Bush is Legit’, in *The Age*, Melbourne, 6 November 2004, p. 9.

<sup>100</sup> The administration has ‘moved significantly from its original position on terror when it argued that terrorists were simply evil and hated everything about America’. Now, the administration believes that terrorism is ‘a response to hopelessness and lack of freedom ... For an administration that labelled everyone who wanted to talk about the causes of terrorism a supporter of terror, this represents a major, and much under-reported, shift’. Michael Gawenda, ‘Rice Charms Europe, but the Middle East may be Tougher’, in *The Age*, Melbourne, 12 February 2005, p. 13.

<sup>101</sup> Gerard Barker, ‘Old Europe can Still Undermine the US’, p. 9. Gone was the ‘divisive rhetoric of punishment, old versus new Europe, and the tone of suspicion, frustration and outright hostility that characterised American relations with much of Europe during debate over the US-led invasion of Iraq’: ‘Bush’s Olive Branch’, in *The Australian*, Sydney, 26 February 2005, p. 23. See also Peter Riddell, ‘Only the Mood has Changed’ in *The Australian*, Sydney, 25 February 2005, p. 9.

<sup>102</sup> See ‘Bush’s Olive Branch’, p. 23.

<sup>103</sup> According to Bush, the transatlantic partners ‘can once again set history on a hopeful course — away from poverty and despair, and toward development and the dignity of self-rule, away from resentment and violence, and toward justice and the peaceful settlement of differences’. Roy

might and significant moral persuasion, ‘no two regions of the world have more in common — or more to lose — if they fail to stand together in an effort to promote common values and interests around the globe’.<sup>104</sup> The partners must fashion a new agenda based on joint action in pursuit of shared goals. America will continue combating terrorism and the proliferation of weapons of mass destruction, but its prospects are largely enhanced by Europe’s involvement.<sup>105</sup> In Iran, the Bush administration should support the European mediation effort.<sup>106</sup> Spurred on by the relatively successful Iraqi election,<sup>107</sup> the partners must continue the Middle East peace project, on which they largely agree.<sup>108</sup> After rejecting the Kyoto Protocol, Bush must identify a new vehicle to achieve meaningful climate protection. Managing the continual transition of China will be delicate, and could be endangered by Europe’s decision to sell arms to China.<sup>109</sup> This has raised Washington’s concern over the rapid modernisation of China’s military.<sup>110</sup> Spreading free trade, arguably vital for the world’s poor, depends on the cooperation of NAFTA and the EU, the two most important trading blocs. Responding to humanitarian crises, such as the Asian tsunami and the genocide in Sudan, must also be enhanced.

## Down, but Not Out

After his re-election, President Bush hailed ‘a new era of transatlantic unity’, and declared that ‘no power on earth will ever divide us’.<sup>111</sup> For Bush, ‘[o]ur strong friendship is essential to peace and prosperity across the globe’.<sup>112</sup> This essay has considered the deep differences of power and perspective that often distinguish America

Eccleston, ‘Forget Iraq Row, Bush Tells EU’, in *The Australian*, Sydney, 22 February 2005, p. 10.

<sup>104</sup> Philip H. Gordon and Jeremy Shapiro, *Allies at War*, p. 16.

<sup>105</sup> The main impact of the war on terrorism on US-European relations has been to promote enhanced policy cooperation. Vastly expanded combined policy efforts, particularly on internal security, have proceeded almost entirely untouched by political conflict at the highest levels. John Peterson, ‘America as a European Power’, p. 628.

<sup>106</sup> The prospects of that mediation effort, led by Britain, France and Germany, are worrying: ‘Return of the Axis of Evil’, in *The Economist*, 14 May 2005, London, p. 9.

<sup>107</sup> One senior official in the Bush administration has said that ‘questions from even the prickliest European governments are no longer about why America fought the war, but how Europe can help rebuild Iraq’: ‘Cultivating New Friends Helps Old Ones Flourish, Too’, in *The Economist*, London, 9 April 2005, p. 27.

<sup>108</sup> ‘Both are spending money on programmes to strengthen “civil society” and preach the virtues of freedom. Both are co-authors of the “road map” to peace. Both advocate an independent Palestine in the West Bank and Gaza after these have been evacuated by Israel’: ‘Mr Bush Goes to Belgium’, in *The Economist*, London, 19 February 2005, p. 11.

<sup>109</sup> See ‘When Javier Met Condi’, in *The Economist*, London, 7 May 2005, p. 31.

<sup>110</sup> Chirac pledged to remove the ‘last remaining obstacle’, in relations with China, despite Bush expressing ‘deep concern’ over the move: ‘Arms Sales’, in *The Australian*, Sydney, 26 February 2005, p. 25; Michael Gawenda, ‘A Looming Rival Tests American Diplomacy’, in *The Age*, 19 April 2005, p. 21.

<sup>111</sup> Roy Eccleston, ‘Forget Iraq Row, Bush Tells EU’, p. 10. The French Foreign Minister, Michel Barnier, was less optimistic: ‘A new stage is starting. It is a very important moment for the world’: Peter Munro, ‘Nations Pledge to Work on Improving Relationship with US’, in *The Age*, Melbourne, 4 November 2004, p. 5.

<sup>112</sup> Roy Eccleston, ‘Forget Iraq Row, Bush Tells EU’, p. 10.

and Europe and foster friction. However, the age of those structural gaps reflects the alliance's ability to manage them. Recently, these differences have been exposed and exploited by the unilateral facets of the Bush administration's foreign policy and the fervent opposition of certain European powers. That conflict inflicted serious damage on the relationship. But the harm suffered by America and Europe's most powerful nations is not irreversibly incurable. It can be overcome if Europe and America join together to pursue their shared agenda. This requires enhanced cooperation and renewed commitment from both sides. Rather than serving as a catalyst for further tension, the recent turbulence should remind America and Europe that together they form the bedrock of international order. They must continue to confront global challenges, enduring the inevitable obstacles on the path to realising their basic, shared vision. Like so many times in its history, the utility of the alliance has recently been contested. Despite its obvious imperfections, the benefits of the alliance and the hope it inspires will triumph once again.

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## THE EUROPEAN UNION AS A PROTECTOR AND PROMOTER OF HUMAN RIGHTS

Florentina Benga  
Macquarie University (Sydney, Australia)  
Winner, CESAA Student Essay Contest 2005, Postgraduate Division

### Introduction

It could be argued that the European Union (EU) is the best promoter of human rights in the entire Europe.<sup>113</sup>

The arguments rely on the advantages of any regional system and, specifically for the EU, in its “power” to constraint the possible/future member states to improve human rights’ protection. Indeed, regions are relatively more homogeneous with respect to culture, language, and tradition and therefore reaching consensus on the scope and content of rights is easier than in an ethnically diverse society<sup>114</sup>. Political consensus is more forthcoming on both texts and any monitoring/enforcement machinery because fewer states are involved<sup>115</sup>. In addition, the first regional human rights developments occurred in Europe under the auspices of the Council of Europe that constitute another advantage for the EU’s human rights system development. Yet, all EU’s member states are members of the Council of Europe and bound by the terms of the European Convention of Human Rights. Conditionality to respect human rights in order to become a member is perhaps the most powerful instrument of the EU. It is probably enough to look at the number of Central and East European Countries (CEECs) that have joined the EU in 2004<sup>116</sup>.

However, there is another side of this argument: despite EU’s advanced system of human rights protection and promotion, the member states have various special interests to promote them. The EU does not “speak” with a single voice because it is not a single body in a treaty, like the United States, but every member state signs treaties. In addition, the implementation of human rights norms depends on every state legal system and bureaucratic apparatus. This paper will try to show why the EU is such an important protector and promoter of human rights and what are the shortcomings of this system. It

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<sup>113</sup> This paper concentrates mostly on the protection and the promotion of human rights in Europe. However, in order to show how the system of promotion of human rights works, there are some examples describing the EU’s relations with other non-European countries.

<sup>114</sup> Walker S. and Poe S.C., ‘Does Cultural Diversity Affect Countries’ Respect for Human Rights?’ in *Human Rights Quarterly*, Vol.24, No.1, 2002, p263

<sup>115</sup> Smith R.K.M., ‘Regional protection of human rights’ in *Textbook on International Human Rights*, 2<sup>nd</sup> ed. (Oxford University Press, New York, 2005), p83-91

<sup>116</sup> In May 2004, EU enlarged from 15 members to 25 members. The CEECs that have joined the EU are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia. This new wave of enlargement also comprised two Mediterranean countries, Cyprus and Malta.

goes to demonstrate that EU human rights policy faces the lack of legitimacy and consistency. In order to argue this proposition there are five points that will be discussed. Firstly, why is the system of human rights protection so developed and how are the human rights defined and classified? Secondly, it will illustrate the reasons that caused human rights policy to be important for the EU. Thirdly, it will present the EU's tools to promote human rights. Fourthly, it will discuss the issue of human rights norms implementation into the domestic legal systems. Finally, it will try to formulate some solutions to improve the EU human rights system.

### **Human Rights Protection: Short History, Definition and Classification**

From the beginning it should be mentioned that in terms of the practice of international relations, the concept that human beings have rights because they are human beings and not because they are citizens of state X or state Y is a relatively new one<sup>117</sup>. The first step in recognizing this right has been made through the adoption of the Universal Declaration of Human Rights on 10 December 1948<sup>118</sup>. The declaration was too wide in terms in order to be applied; hence, for a better definition and promotion of human rights six covenants have been adopted and each of them was monitored by a committee<sup>119</sup>. However, as Smith noted “the committees monitoring their implementation cannot force a state to comply; they can publicize violations, but there is reluctance to do even this”<sup>120</sup>. A step further was taken only few years later in Europe through the adoption of the European Convention on Human Rights in 1953<sup>121</sup>. The Convention sought not only to delineate these rights but also to enforce them. A commission and a human rights court were established to enable individuals to take action against their own governments<sup>122</sup>.

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<sup>117</sup> Evans G. and Newnham J., *The Penguin Dictionary of International Relations* (Penguin Books, London, 1998), p229

<sup>118</sup> In 1946 was established the United Nations Commission on Human Rights.

<sup>119</sup> It is interesting to see the order in which these covenants were developed: 1965-The International Convention on the Elimination of all forms of Racial Discriminations, 1966-The International Covenant on Civil and Political Rights, 1966-The International Covenant on Economic, Social and Cultural Rights, 1979-The International Convention of the Elimination of All forms of Discrimination against Women, 1984-The International Convention against Torture, 1989-The International Convention on the Rights of the Child; source: Zifcak S., *Mr. Ruddock goes to Geneva* (University of New South Wales Press, 2003), p76-78

<sup>120</sup> Smith K.E., ‘Human Rights’ in *European Union Foreign Policy in a Changing World* (Polity Press, Cambridge, 2003), p98

<sup>121</sup> The other international human rights codification are: the American Convention on Human Rights (1978), that is the most important, the Banjul Charter on Human and People’s Rights (Africa, 1981), the Arab Commission on Human Rights (1969). Non-governmental organizations such as Amnesty International and Specialist Organizations such as Minority Rights Group, Anti-Slavery Society and the International Committee of Red Cross play also an important role in the protection of human rights.

<sup>122</sup> Evans G. and Newnham J., p230 & Smith K.E., p99

Therefore, it is not surprising to see that EU<sup>123</sup> has defined the human rights in accordance with the international standards stressing the principles of universality, indivisibility and interdependence of all human rights<sup>124</sup>.

Most human rights textbooks classify human rights into two major categories: one encompasses civil and political rights and the other the economic, social and cultural rights<sup>125</sup>. Civil and political rights are concerned with protecting the individual from the arbitrary exercise of power by the state while economic, social and cultural rights are concerned with the economic, social and cultural well-being of people<sup>126</sup>. Yet, the protection of social rights is a condition of the Generalized System of Preferences (GSP) practiced by the EU<sup>127</sup>. It means, for example, that preferences may be withdrawn if a state uses forced labour<sup>128</sup>. However, in practice the EU does not respect the GSP as the increasing level of trade with China has proven. At present China is the main beneficiary of the EU's GSP scheme<sup>129</sup>.

Due to its "unicity", the EU went further in dividing human rights. Hence, there are two categories: Fundamental Rights within the EU, and Human Rights outside the EU. In the first category beside the Charter of fundamental rights, the following rights are included: dignity, freedoms, equality, solidarity, citizen's rights, and justice. Regarding the human rights outside the EU are mentioned the following: European Initiative for Democracy and Human Rights, Combating the death penalty, Combating the torture, Combating racism, Combating war crimes and genocide, Electoral observation and assistance,

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<sup>123</sup> When the EU has started to develop its own system of human rights protection, it will be discuss in the next part.

<sup>124</sup> For example, the European Commission defined human rights as those included in legal instruments such as the Universal Declaration of Human Rights, the 1969 American Convention on Human Rights, and the African Charter on Human and Peoples' Rights. Source: European Commission, COM (1998)146 p4 cited in Smith K.E., p107

<sup>125</sup> There are more opinions regarding the classification of human rights under UDHR. For example Zifcak classifies them in four different kinds: personal rights, civil and political rights, the rights of individuals in groups and finally the economic and social rights. The personal rights and the rights of individual in groups are included in the civil rights by the other authors like Pritchard, Brownlie, Steiner and Evans.

<sup>126</sup> Pritchard S., 'Civil and political, economic, social and cultural rights' in *Human Rights Defender Manual*, 2001

<sup>127</sup> Through the GSP, the EU allows preference in trade tariffs with developing countries. In practice, the GSP is implemented through Council regulations during a ten years cycle. The current cycle began in 1995 and will expire in 31 December 2005. Council Regulation No.2501/2001 contains the legal provisions for the current GSP scheme. Source: 'Generalised System of Preference' in *Press release*, Brussels, 23 June 2005 available at [http://europa.eu.int/comm/trade/issues/global/gsp/index\\_en.htm](http://europa.eu.int/comm/trade/issues/global/gsp/index_en.htm) [Accessed on 29 June 2005].

<sup>128</sup> Force labour is interpreted according to the International Labour Organization conventions nos.29 and 105; cited in Smith K.E., p108

<sup>129</sup> Since 1978, EU – China trade has increased more than 30-fold and reached around €175 billion in 2004. Source: 'Bilateral Trade Relations: China' in *Press release* available at [http://europa.eu.int/comm/trade/issues/bilateral/countries/china/index\\_en.htm](http://europa.eu.int/comm/trade/issues/bilateral/countries/china/index_en.htm) [Accessed on 20 June 2005].

Indigenous people's rights, Children's rights<sup>130</sup>. In practice, this distinction is not so strict because the rights within the EU are tried to be spread outside the EU borders, especially in the possible/future candidate countries.

The EU's system of human rights does not contain an order to tell us which rights are the most important or which violation would be considered most grave<sup>131</sup>. In addition, other considerations count which are mainly related to the new members' or candidate countries' human rights protection as the following section will try to demonstrate.

### **Reasons to Guarantee Human Rights**

The original focus of the European Communities (EC)<sup>132</sup> was the economic restoration of Europe in the post-war period; hence, human rights were not mentioned in the constituent documents. The European Court of Justice (ECJ)<sup>133</sup> established in 1952 has dealt with disputes and upholds the treaties of the EU. By enlarge its task has been to ensure that the EU law is interpreted and applied uniformly<sup>134</sup>. However, the Rome Treaty (1956) established a few rights of EC citizens, but these relate to their roles as economic 'operators', as workers, business, owners, and so on<sup>135</sup>.

It was only in 1964 when the lack of guarantees regarding fundamental human rights became an issue. In fact, the ECJ set out the doctrine of the supremacy of EC law over the national law. This was resisted by the German and Italian constitutional courts, because EC law, in contrast to their national constitutions, did not protect human rights. The response came in 1969 when the ECJ asserted "its jurisdiction over the review of Community provisions and action for conformity with human rights"<sup>136</sup>.

More emphasis on the importance of human rights was expressed at the prospect of acceptance of Greece, Spain and Portugal in the EC (the "newly democratic countries"). Therefore, in 1978 the European Council (Copenhagen) declared that "respect for and

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<sup>130</sup> A comprehensive guide to European Law, available at [http://europa.eu.int/pol/rights/index\\_en.htm](http://europa.eu.int/pol/rights/index_en.htm) [Accessed on 15 May 2005]

<sup>131</sup> Smith K.E., p108

<sup>132</sup> Prior to the EU founded through Maastricht Treaty in 1993, there were three distinct European Communities (EC): the European Economic Community (now the European Community), the European Coal and Steel Community, and the European Atomic Energy Community.

<sup>133</sup> This is different from the European Court of Human Rights that has been set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the European Convention on Human Rights. Since 1 November 1998 it has sat as a full-time Court composed of an equal number of judges to that of the States party to the Convention. The Court examines the admissibility and merits of applications submitted to it. It sits in Chambers of 7 judges or, in exceptional cases, as a Grand Chamber of 17 judges. The Committee of Ministers of the Council of Europe supervises the execution of the Court's judgments; source: The Court's Internet site is <http://www.echr.coe.int> [Accessed on 10 May 2005].

<sup>134</sup> 'European Court of Justice' in EU institutions and other bodies available at [http://europa.eu.int/institutions/court/index\\_en.htm](http://europa.eu.int/institutions/court/index_en.htm) [Accessed on 10 May 2005].

<sup>135</sup> Smith K.E., p99

<sup>136</sup> Clapham, *Human Rights*, p29, cited in Smith K., p99

maintenance of representative democracy and human rights in each Member State are essential elements of membership to the European Communities”<sup>137</sup>.

In 1988, perhaps because of the strong communist soviet influence, the EC makes political conditionality regarding human rights part of trade and cooperation agreements with the CEECs, later extending it to others.

The most powerful provisions to guarantee the respect of human rights were adopted in 1993 when the Maastricht Treaty came into force. The European Union replaced the CE. The Maastricht Treaty or the Treaty of European Union (TEU) has provided the first explicit acknowledgement of human rights in EU constitutional law: “The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental freedoms” (Article F(2)). Article J(1)(2) refers to the need to develop and consolidate democracy and the rule of law with respect for human rights and fundamental freedoms<sup>138</sup>.

Again, with the prospect of enlargement into CEECs, the “new democracies” after the fall of the communism regime (the end of the Cold War), in 1993, at Council Meeting in Copenhagen, the EU conditioned integration not only based on economic criteria, but also on the respect of human rights and minorities in particular<sup>139</sup>. However, in 1994 the European Initiative for Democracy and Human Rights was allocated a very small budget for the CEECs project<sup>140</sup>. This demonstrated two aspects of the EU human rights policy: firstly, EU emphasis on the civil and political rights, target groups were funded in order to create the civil society, and secondly, geographical distribution of funds illustrates the EU’s emphasis on its European periphery<sup>141</sup>.

Furthermore, in 1997 through the Amsterdam Treaty conditionality to respect human rights in order to become a member of the Union was reaffirmed<sup>142</sup>. Moreover, the Amsterdam Treaty incorporated the Social Chapter which allows for Community decision-making in areas such as improving working conditions, freedom of association and consultation of workers<sup>143</sup>. More importantly, Article 6 declared that “the Union is

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<sup>137</sup> European Council, Copenhagen, ‘Declaration on democracy’, p5-6 cited in Smith K., p99

<sup>138</sup> Smith R.K.M., p110

<sup>139</sup> Kochenov D., ‘Behind the Copenhagen façade. The meaning and structure of the Copenhagen political criterion of democracy and the rule of law’ in *European Integration online Papers (EIoP)*, Vol.8, No.10, 2004

<sup>140</sup> The budget for 1999-2004 was 410 million euros, small comparing with the EU’s external budget and the all budget; source: Smith K.E., p113

<sup>141</sup> Smith K.E., p113

<sup>142</sup> Article 49 stipulates that any European state which respects the fundamental principles laid out in the treaty, including respect for human rights, may apply to become a member of the Union available at [http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002M/htm/C\\_2002325EN.000501.html#anArt59](http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002M/htm/C_2002325EN.000501.html#anArt59) [Accessed on 15 May 2005].

<sup>143</sup> The Social Chapter started life as the Charter of Fundamental Social Rights, a declaration of 11 member states (bar the UK) in December 1989; it was appended to the Maastricht Treaty as a protocol because the UK blocked its incorporation into the treaty. The Labour government dropped

founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principle which are common to the Member States”. In the case of a “serious and persistent breach” of these principles, a member state’s rights could be suspended (Article 7)<sup>144</sup>. These provisions were introduced in lieu of a decision to allow the EC to accede the ECHR<sup>145</sup>. A significant step for the respect of human rights was the attachment to the Amsterdam Treaty of a Declaration concerning the abolition of the death penalty in all member states<sup>146</sup>, which was a direct reference to Protocol 6 of the European Convention of Human Rights<sup>147</sup>.

The importance of the protection of human rights was reinforced in 1998 when the promotion of human rights and good governance has become a cross pillar foreign policy objective.

Specific human rights were codified and more legitimacy was given to the institutions when the Charter of Fundamental Rights of the European Union was adopted in the Nice summit in December 2000<sup>148</sup>. Indeed the Charter codified the existing rights enjoyed by the European Citizens<sup>149</sup>. Also, Article 51 stipulated that the rights enshrined in the Charter are to be recognized and applied by the institutions of the Community and by the members states when implementing Community law. Therefore, as Smith concluded, the Charter is most likely to be used by institutions of the Union, in particular the Court of Justice, when determining if their practice is in conformity with the general principles of law recognized and applied throughout the Union<sup>150</sup>. Yet, does the EU really have the instruments to promote and enforce human rights?

### **The Instruments Used by the EU to Protect Human Rights**

There are three main instruments that can be identified as being used by the EU to promote human rights objectives: conditionality, diplomatic instruments and the aid for human rights<sup>151</sup>.

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the objections during the Amsterdam negotiations. In Smith K., footnote 10, ch.5, p229-230

144 The first country that was subject to such deregulation was Austria. However, only diplomatic sanctions were imposed between February and September 2000. Ulteriorly, through the Nice Treaty conditions to suspend the membership were modified; source Smith K.E., p100

145 In 1996 the ECJ ruled that the EC could accede to the ECHR only by amending the EC treaty; source: Opinion 2/94, 28 March 1996. The 2003-2004 IGC will consider the ECHR accession issue again. Cited in Smith K., footnote 11, ch.5, p230

146 On 3 May 2002, Ireland, Malta, and Switzerland ratified protocol No.13 to the ECHR concerning the abolition of death penalties in all circumstances; source: Busuttill J.J., ‘Introduction’ in *Human Rights Case Digest*, Vol.13, No.5/6, May 2002, p439

147 Smith.R.K.M., p110

148 OJC 364/1, 18/12/200

149 European Citizen is a term introduced by the Treaty of European Union which covers every person holding the nationality of a member State of the EU – art.17; Smith R.K.M., p110

150 Smith R.K.M., p110

151 Smith K.E., p110-116

Conditionality is probably the most powerful one. Countries have to respect human rights in order to rely, join or entertain relations with the EU. Conditionality can be political concept meaning that countries can obtain rewards such as preferential trading agreement, aid or other forms of assistance in exchange for improvements in human rights policy. Also, conditionality can be applied to economies and is concerned with linking rewards to the adoption and promotion of specific macroeconomic policies such as structural adjustment programmes, liberalization and free trade areas. Hence, conditionality can be applied as positive measures (benefits for future desired actions) or negative measures (punitive sanctions)<sup>152</sup>. Positive measures are the preferred ones - as European Commission concluded<sup>153</sup>. The reason is that positive measures seem to “challenge sovereignty less than sanctions do”<sup>154</sup>. However, other authors<sup>155</sup> argue that the avoidance of negative measures leads to inconsistencies in the EU’s external human rights policy. This is obviously true because member countries have different interests in the way they tailor their foreign relationship with the EU. The political conditionality applies generally to poorer countries that cannot or are too slow in implementing the market policies established by the EU. The main EU reasons behind this are in principal to do with benefits from more investment and more trade - in other words, to gain more market. This relationship is comparable to the so-called “help” that some other more developed countries offer to less developed or developing countries.

Other instruments, as it shown above, are the diplomatic instruments. It is interesting how the EU encourages the abolition of death penalty throughout the world. However, their diplomatic instruments are applied differentially as it is the case of China.

The aid for human rights also, as it has been also show above, is allocated differentially. Moreover, the EU often let the governments to manage “their slice”, which often does not reach its originally designed targets. In addition, there is no procedure on how to implement the human rights norms.

### **Issues Regarding the Implementation of Human Rights Norms into the Domestic Legal Systems**

As discussed earlier, various human rights norms have been adopted. However, there is no procedure in place as to how to implement them. In principle, the implementation of the rights, like for the *acquis communautaire*<sup>156</sup>, is conducted by the national constitutional courts. The rights provided to the other countries however mean very little if they are not accompanied by enabling measures that would create social mobilisation and learning in support of European rights. These measures would ensure that the access

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<sup>152</sup> Holland M., ‘Complementarity and Conditionality: Evaluating Good Governance’ in *The European Union and the Third World* (Palgrave, London, 2002), p119-120

<sup>153</sup> European Commission, COM (94) 42, p11 cited in Smith K.E., p110

<sup>154</sup> Marantis, ‘Human rights, democracy, and development’, p12-16, cited in Smith K.E., p110

<sup>155</sup> Picken M., ‘Ethical foreign policies and human rights’, p100, cited in Smith K.E., p110

<sup>156</sup> The *acquis communautaire* is the name of the EU’s law contained in 80,000 pages. Every candidate country should adopt the *acquis communautaire* in order to join the EU.

to justice is designed in such a way that it closes the gap between appearance and reality. However, each country has a different context and tradition in the administrative and legal culture which is significantly defended by an elite group (individuals that have power to decide over the human rights protection). The recognition of rights is dependent on the willingness of these countries' elites to cooperate, comply and facilitate such a social mobilisation and learning. The implementation also requires a capacity (resources, personnel, structures but also skills, training and trust) of the country to take up human rights change. The loyalty of the leaders of these countries to this change may prove unpopular nationally which raises the danger of partial implementation with only cosmetic constitutional provisions<sup>157</sup>.

So, for all the above considerations could we propose some solutions?

**Possible Solutions:**

In order to formulate some solutions probably the starting point should be to identify the causes of the issues. As it can be noticed, members of the EU do not often reach a consensus. Moreover, legally the EU does not speak with a single voice in terms of treaties. In order to protect human rights there is a need for bilateral/multilateral treaties and often they are missing. Even when the treaties are in force, some “national interests” of the member states could prevail. So, what can be done?

***Reform the institutional procedure? More effective enforcement of human rights?***

The EU has certainly developed an institutional system, but there is a lot of bureaucracy that delays the decision-making process to formulate strategies to promote human rights. Political consensus is not easy to achieve especially when different EU member states have various interests in other countries.

Perhaps, what can be done, is to strengthen the links between ECJ and ECHR. There are still discussions regarding this issue<sup>158</sup>.

***Spreading responsibility? Greater popular awareness?***

EU recorded some success in this matter especially in the CEECs. The “newly democratic” countries recorded an improvement in the protection of human rights. However, whether this comes from the influence of the EU or from their own development is questionable. The difficulties rise also from measuring the degree of people responsibility or awareness because the criteria imposed by the EU do not necessarily reflect the reality. Perhaps, a better monitoring of human rights by the ECHR

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<sup>157</sup> Aziz M., ‘Introduction’ in *The Impact of European Rights on National Legal Cultures* (Hart Publishing, Oxford, 2004), p12-16

<sup>158</sup> In 1996 the ECJ ruled that the EC could accede to the ECHR only by amending the EC treaty; source: Opinion 2/94, 28 March 1996. The 2003-2004 IGC will consider the ECHR accession issue again. Cited in Smith K. E., footnote 11, ch.5, p230

and ECJ together could help in formulating propositions for some affected groups. More education and training programs may also be efficient.

### ***More human rights regulations?***

Human rights regulations are well defined in every state but it is not always easy to abide by them. Cooperation between states is paramount in order to have better results. Probably the empirical research over the behaviour of national and administrative courts could cure the problem of lack of human rights implementation due to the characteristics of every legal system and cultures of every state.

After considering these questions some conclusions can be drawn.

### **Conclusion**

Despite its economic origins, the EU has developed into the regional authority on human rights enforcing its policies over the work of other regional/international organizations. Human rights have achieved greatest ever prominence in the EU as the adoption of the Charter demonstrates. It seems that the lawyers have played their role, drafting norms of rights, however it is now for the politicians and the governments of the states, to transform the theory into reality. Moreover, it is in the national interest of some EU members to have better human rights implementation in their strategic partner countries to which they are bound by individual treaties. These treaties create further difficulties in reaching further agreements with the EU on how to promote human rights. Therefore, it can be said that the EU policy to protect human rights is characterized by the lack of legitimacy, and by inconsistency.

Human rights are promoted for their own sake, they are enforced for the benefit of all and therefore education and training must be achieved. Also, probably a better cooperation between ECJ and ECHR can help. However, the EU establishes its own priorities as the aid for human rights demonstrated.

The implementation of human rights in every state faces difficulties due to the culture and legal system of every state. It is for the local authorities to decide on how to implement the human rights, and not the EU. On a better note, there is measurable improvement in the implementation of human rights throughout Europe and there are still efforts made to continue this trend.

All of these considerations lead to the conclusion that the promotion of human rights in Europe is presently “only a fashionable rhetoric”.

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FEATURE ARTICLE

BACKSTAGE ACTORS OF THE EUROPEAN UNION?  
ASSESSING THE ROLE OF THE EUROPARTIES IN THE EMERGENCE OF A EUROPEAN PUBLIC  
SPHERE

Selen Ayirtman  
Australian National University, Political Science Program  
And  
Christine Pütz  
University of Mannheim, Mannheim Centre for European Social Research

**Abstract\***

*Discussions of the democratic deficit within the European Union widely acknowledge that European integration must be accompanied by the development of a European public sphere that encourages both the participation of Europe's citizens and the Europeanization of public communication. This paper explores the role of transnational networks in the emergence of a European public sphere by examining the potential of Europe's transnational political parties to help achieve this end. In doing so, we argue that the model of deliberative democracy provides a conducive framework for understanding this potential, for, among other things, deliberative democracy defines the public sphere not necessarily as a fixed identifiable space, but as a communication network. Proceeding from this definition, this paper analyses the Europarties with regard to the institutional conditions that enable them to assume a "mediating role" between civil society and formal decision-making processes. Our findings show that the Europarties do indeed fulfil some of the institutional prerequisites for assuming this role; nonetheless, their contribution to the emergence of a European public sphere remains limited. Research also indicates that the Europarties' contribution to the emergence of an open and inclusive public sphere differs among the four parties examined –the European People's Party, and the Party of European Socialists, the European Liberal Democratic and Reform Party, the European Federation of Green Parties – depending on their ideological affiliations and the attitude their national member parties take towards European integration.*

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\* This article was realised as part of "Parties and Democracy in the European Union: Are the Europarties a New Means of Mediation in the EU?", a research project located at the Mannheim Centre for European Social Research (University of Mannheim) and supported by the German Research Foundation. We would like to thank our colleagues from Jan van Deth's colloquium, Kutay Kesim, Barbara Finke and Volker Weichsel for their helpful comments on earlier drafts of this article.

## Introduction

In recent years, the debate on the democratic legitimacy of political decisions made at the European level has been moving into the centre of controversies surrounding European integration. The prevailing consensus holds that the EU suffers from a democratic deficit. When measured by the standards of nation states, there is indeed no constitution, no European citizenry (*demos*), no common language and consequently no public sphere limited to an identifiable territory. While some scholars argue that an emerging European public sphere is impossible because there is no “community of communication” (Kielmannsegg 1996; Grimm 1995), others go deeper in their analyses and question whether the tools offered by national parliamentary democracies are sufficient at all for understanding and curing the Union’s democratic deficit (Van de Steeg 2002; Eder 2000; Eriksen 2005).

Among this second group of scholars, the advocates of deliberative democracy in particular (such as Dryzek 1999, Eriksen and Fossum 2000, Habermas 1999) seem to offer promising insights with respect to the problem of democracy deficit. In doing so, they shift the source of democratic legitimation beyond the premises of the nation state and redefine the conditions of democracy. Instead of searching for a fixed collective identity, these scholars make the deliberative quality of political communication and its institutional conditions the source of democratic legitimation (Dryzek 1999: 44, Habermas 1996: 298). Accordingly, the conditions and procedures for discussion, argument and deliberation require particular attention, especially for the emergence of a European public sphere. Contrary to conventional theories of democracy, the advocates of the deliberative democracy define the public sphere neither as an institution, nor as an identifiable space, but as a “communication network” (Habermas 1998: 436; Eriksen 2005: 345). Applied to the EU, the emergence of a public sphere as a network requires the existence of a *transnational* communication infrastructure. (Habermas 2001a: 18). In this context, the existence of both vertical and horizontal communication flows mediated by transnational actors becomes crucially important for the emergence of a European-wide public sphere.

Among these actors are the Europarties, which, in the wake of the first direct elections to the European Parliament (EP) in the 1970s, have emerged parallel to the EP parliamentary groups as extra-parliamentary party federations and organised themselves into party families. With the formation of these transnational parties, national parties have begun promoting more activity at the European level. In addition to the national delegations to the European Parliament and the national governments represented in the European Council, the national parties also take part in formulating political demands and objectives and making decisions. These forums of transnational cooperation have created a new communication infrastructure at the European level, which so far has not been examined in terms of its contribution to the emergence of a European public sphere.

The present paper aims to understand and assess the potential of Europarties as seen

from the point of view of deliberative democracy. Inasmuch as the Europarties do provide the necessary institutional prerequisites for creating a vertical and horizontal communication network, we ask whether and to what extent the Europarties thus contribute to the emergence of a European public sphere. In this context, it will be asked whether and to what extent the Europarties have put down roots in civil society and can contribute to the public articulation of socially relevant issues at the EU level. This is one aspect of the mediating functions assigned parties in political systems (e.g. von Beyme 1982). For an empirical examination of the role Europarties fulfil within the framework of deliberative democracy, we will focus on four Europarties: the European People's Party (EPP), the Party of European Socialists (PES), the European Federation of Green Parties (EFGP) and the European Liberal, Democrat and Reform Party (ELDR).

### **The Europarties' Mediating Role: The *Normative* Conditions**

Even though the existence of European party families goes back to 1970s and their official recognition (in the Treaty of Maastricht) to 1992, these actors are still rarely regarded as active players in political life on the European level. This is due to two reasons. The first has to do with the way these party federations have usually been conceptualised. That is to say, the standards by which they have been measured, implicitly or explicitly, have been taken from the premises of parliamentary democracy and classical party functions. (e.g. Hix/Lord 1997, Ladrech 1999) The simplified conclusion of such analysis is that the Europarties are indeed backstage actors and will remain such, at least in the near future, because they fail to fulfil classical party functions such as mobilising voters and members, recruiting elites and forming policy.

The second reason for the tendency to ignore the Europarties is the dominant presence of the national parties in the multi-level system of the EU. The national parties organise European Parliament elections, control the selection of candidates and the mobilisation of the electorate as well as the drafting of election platforms and the selection of issues for the campaign, and are led overwhelmingly by national considerations (Reif and Schmitt 1980; Schmitt 2005, Smith 1999). Even the political representation and the shaping of policy of the European Council and the European Parliament emanates from the national parties. Inasmuch as policy in united Europe is determined by party politics, national parties dominate the shaping of public opinion and the formation of political demands and objectives by means of the European Council, the European Commission and even the European Parliament.

In light of this situation, the role of the Europarties in the EU's multi-level system can hardly be grasped in detail in terms of party democracy, for the Europarties can hardly be understood through the logic of national parties (Poguntke and Pütz 2006). This is not to suggest that the premises of classical party functions are to be discarded in examining the Europarties' role and potential. On the contrary, we suggest that the focus should remain on national parties, yet with a slightly different

emphasis. Rather than searching for the similarities between the national parties and the Europarties, attention should turn to the question of what separates the Europarties from their national counterparts (Magnette 2004:72).

Instead of fulfilling classical party functions, the Europarties take on several specific tasks, above all the *coordination* of functions between their national member parties and also between them and the EP parliamentary group (Poguntke and Pütz 2006: 21). This provides the starting point for a broader focus, in which the investigation of the Europarties is considered from the point of view of deliberative democracy. Before moving on to the particular functions this model ascribes to intermediary organisations, let us highlight the key features of the deliberative model of democracy and its relevance for the EU.

To start with, deliberative democracy is a normative theory that has been developed to criticize and “update” liberal democracy under “post-national conditions” (Habermas 2001*b*). Although the theorists of deliberative democracy differ in the extent of their criticism of liberal democracy, they often conceive of deliberative democracy not as an alternative, but as an expansion of liberal representative democracy (e.g. Chamber 2003:308). While traditional tools of decision making remain essential, the source of democratic legitimation shifts: Instead of making decisions on the basis of a majority or the existence of fixed collective identity, the institutional conditions enabling *open* and *inclusive* public deliberation become central to legitimising collective decisions. With that, deliberative democracy offers a conducive framework for understanding and improving the democratic quality of EU governance (e.g. Eriksen and Fossum 2000, Eriksen 2005). Here, the conditions enabling the emergence of a democratic public sphere in particular require special consideration, for scholars of deliberative democracy agree that “[t]here will be no remedy for the legitimation deficit... without a European-wide public sphere” (Habermas 2001*a*:17).

Starting from this basis, the European-public sphere is conceptualised neither in national, nor in supranational terms, but, in accordance with the EU’s multi-level character, on transnational terms. Accordingly, the emergence of a European public sphere implies the Europeanization of the various national public spheres rather than the creation of a single public sphere on the European level. The public sphere is not an identifiable space, but a “communication network” that “gives citizens from all member states an equal opportunity to take part in an encompassing process of focused political communication” (Habermas 2001*a*: 17). For the creation of a European-wide public sphere, this model ascribes particular functions to institutionalised intermediary organisations, in particular to political parties: Only with a “party system tailored to European arenas” moored in civil society can a “European-wide public sphere” emerge. Parties should mediate “between fields of informal public communication on the one hand and institutionalised consultative and decision-making processes on the other” (Habermas 1999: 190). They can only assume this function if they influence the intergovernmental and supranational decision-making process and remain at the same time rooted in European and

national civil society.

If the Europarties succeed in fulfilling the mediating function between the European political system and European and national civil society, they can indeed make an essential contribution in the formation of a European awareness and the emergence of a European public sphere. They can provide the “missing link” between institutionalized debates and general public debate, if they “turn relevant societal problems into topics of concern, and... allow the general public to relate, at the same time, to the same topics” (Habermas 2001a: 18)

In order to be considered as communication networks mediating between the general public and the formal decision-making process, the Europarties should embody certain institutional prerequisites. First, they should be *open* and *inclusive* with respect to rights of access and participation. Second, they should provide both *vertical* and *horizontal* linkages between institutionalised and non-institutionalised actors within the European Union. As mentioned above, from the perspective of deliberative democracy, the source of democratic legitimation is not necessarily connected with the fulfilment of classical party functions, but with the existence of a particular institutional setting that allows “the general accessibility of a deliberative process” (Habermas 2001b: 110). One of the central aims of the deliberative concept is therefore “to specify the institutional preconditions for deliberative decision-making” (Cohen 1989: 26). On the basis of the normative requirements ascribed to the institutional setting, we define below the indicators to be used in assessing the role of the Europarties in the emergence of a European public sphere.

The formal procedures defining, first, access and rights of participation *in* the Europarties and, second, the possibilities for influencing the decision-making process *via* Europarties constitute the basis of the following empirical examination of whether the Europarties fulfil the mediating function ascribed to them in the model of deliberative democracy. Here, rules of procedure can be either fixed in the party statutes or informal institutionalised norms.<sup>159</sup>

As a systematic examination of the differences between the Europarties with regard to access and participation rights lies beyond the scope of this paper, we address below primarily the similarities in organisational structures among the four Europarties. Refer to Table 1, which can be found on the next page.

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<sup>159</sup> The data for this analysis was provided by the statutes of the Europarties as well as oral interviews with representatives of the Europarties and national member parties.

**Table 1: Normative requirements for the emergence of a European public sphere via intermediary organisations**

Normative requirements	Indicators applied to Europarties
<p><b>Rights of access and participation in the intermediary organisation</b></p> <p><i>Open and inclusive organisational structure</i></p>	<ul style="list-style-type: none"> <li>- Access rights for all participants (<i>membership</i>)</li> <li>- Inclusion in the consultative and decision-making process (<i>right to vote, right to speak</i>)</li> <li>- Access to information for all participants (<i>transparency</i>)</li> </ul>
<p><b>Possibilities of influence by the intermediary organisation</b></p> <p><i>Horizontal and vertical communication links</i></p>	<ul style="list-style-type: none"> <li>- Formulation of election and party programmes</li> <li>- Formulation of common positions on current issues</li> </ul>

In order to adequately understand the role played by intermediary organisations, in addition to their institutional setting, it is important to take into account the multi-level nature of governance within the EU. Reductionist analyses focusing solely on the European level or on the member states tend to ignore the role of the political organizations that cross these levels and function as links and networks (Johansson 2004: 18).<sup>160</sup> Therefore, before analysing the institutional setting of the Europarties in detail, let us briefly elaborate on the merits and limits of the Europarties with respect to the multi-level system of the EU.

### **The Europarties in the EU: The *Real* Conditions**

As transnational European party federations, the Europarties have indeed the potential to meet the basic institutional prerequisites for assuming a mediating function between the general public and the formal decision making process. National parties from the same party family join together in large federations to create a European platform for articulating political ideas. The Europarties see political articulation as their essential task fixed in their statutes, i.e. “to promote, coordinate, and organise European activities of their members” and thus to produce a “European entity for action” on behalf of a party family and create a “unified position on all important EU questions”, especially those concerning the EU’s

<sup>160</sup> Rudolf Hrbek (1988: 457) comments on the significance of the links between political parties in Europe as follows: “If one sees the EC as a multi-level system... and if one understands integration as a process during which mutual links between these levels grow, then the existence and activities of transnational party organisations are important for the integration process. They help to establish and maintain between different levels; they are a component of the socio-political infrastructure of the EC system, which can be regarded as an emerging political system.”

shape.<sup>161</sup> Furthermore, the Europarties have officially been given a mediating role within the EU integration process. As the oft quoted Article 138a (now 191) of the Maastricht Treaty states: “Political parties at the European level are important as factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.” In order to fulfil these functions, Europarties have a formal “EU party statute” and receive, since 2005, (moderate) public financing from the EU.

As umbrella organisations, the role and the impact of the Europarties within the EU depend on the attitudes and actions of their members towards European integration. As far as putting down roots in civil society or their mediating role in the public sphere is concerned, it must be kept in mind that the Europarties represent transnational “parties of parties”, and their members are primarily national parties. If national parties are already regularly accused of lacking roots and commitment, the problem is all the more urgent for the Europarties as federations of national parties. Additionally, it is a fact that the Europarties are still relatively unknown to the general public (cf. also Piepenschneider 2004).

Seen in terms of structure, however, a mediating role in society is nonetheless made possible by the establishment of multiple channels that connect the general public with the formal decision making process. The European parties can offer the possibility of participation both to individual citizens and associations from civil society.<sup>162</sup> Accordingly, by holding public debates and formulating positions and programmes on European issues, the Europarties could live up to their function of articulating and communicating socially relevant issues.

### **Assessing the Europarties’ Mediating Role: The Institutional Pre-Requisites**

#### ***Right of Access and Participation within the Europarties***

For transnational networks that are to be understood as “organisations of (national) organisations”, rights of open access and participation are a means of achieving greater social openness and establishing roots. It also applies to the Europarties that putting down roots – especially via open access – reaches not only national parties but also individual citizens and organisations of civil society. This kind of open access promotes the integration of all participants and, consequently, can contribute to the creation of a European public sphere.

- *Access and Participation Rights for National Parties*

Since the Europarties understand themselves as organisations made up of members, national parties must formally submit a membership application for acceptance into

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<sup>161</sup> Statutes of the EPP (1976), Par. 3; Statutes of the EPP (1990), Par. 2, and Statutes of the ELDR (1976), Par. 2.

<sup>162</sup> The extent to which a Europarty can establish roots in society depends on the traditions of each party family. This article cannot systematically explore the structural differences between the Europarties.

the transnational federation of a Europarty. Acceptance<sup>163</sup>, which brings with it certain rights, is only granted if the applicant party agrees to fulfil certain duties (in particular, pay membership dues). Member parties can also be expelled.<sup>164</sup>

A key condition for acceptance as a full member is recognition of a Europarty's principles as formulated in its political programme and statutes. Another condition for acceptance to most Europarties is that the applicant be recognised as a party in an EU member state. As a rule, interested parties from countries outside the EU receive the status of an associated member (accession countries) or observer, according to the country of origin.

Member parties' rights of participation depend on status. Full members enjoy equal rights and obligations in all questions and are represented in all decision-making organs (in the executive, according to the principle of equality, and in larger bodies, such as the party congress, according to the principle of proportionality). Observers have the right to take part in party gatherings and to receive information. Associated members are as a rule also granted the right to speak and, in individual cases, the right to initiate proposals, which allows them to submit motions and bring them to a vote. The right to vote, however, is withheld from associated and observer members.

The formal conditions for joining the Europarties involve restrictions, but these are generally relatively lax. The recognition of a Europarty's political principles by each applicant party reflects the Europarty's aspirations to maintain as much programmatic coherence as possible and create the ability to act and decide on the one hand and – by integrating as many member parties as possible – to pursue the goal of forming a political majority and allowing greater plurality on the other. In light of the relatively open conditions for party access, the Europarties produce the institutional prerequisites for integrating a widely defined family of parties.

The extent to which these institutional prerequisites for openness are met in practice can be seen by determining whether the search for consensus stands at the forefront of the Europarties. Given their understanding of themselves as party federations, member parties recognise one another as autonomous national parties that, on the basis of their national background, can take up different positions on political issues (even against the majority opinion of the Europarty). This is necessary, because a European federation of parties from up to 25 countries reveals a considerably higher programmatic plurality than is the case of a national party. Therefore, expulsion from a party for divergent programmatic positions almost never occurs.

In the wake of EU eastern enlargement, it was revealed that different Europarties are open to varying extents (cf. Day 2004, Pečínka 2005). Essential differences

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<sup>163</sup> As a rule, applications are decided by party conferences (with a qualified majority) and, in advance, by an executive organ (the executive or council).

<sup>164</sup> Expulsion follows in the rule from the highest executive organ (by means of a qualified majority or consensus). Specific reasons for justifying expulsion are not given in the statutes.

were revealed between Europarties that pursue an approach “close to the state” and Europarties that represent an approach “close to the people”. Those Europarties close to the state understood themselves as “institutions” within the EU state system and limited the scope of their action to EU member states. Accordingly, they granted parties from the accession countries only the status of associated member. The European Green Party assumed a much more expansive definition of Europe and opened up the possibility of participation very broadly (to Turkey and Ukraine); unlike the other parties, the European Greens treated all new members according to the principle of equality and granted them the status of full members with equal rights and obligations.<sup>165</sup>

While the European People’s Party, the European Liberal Democratic and Reform Party, and the Party of European Socialists made full membership dependent on the results of official policy – the status accorded by EU states to a country interested in association or integration – the European Greens made a European self-understanding of social forces the standard of acceptance for each party candidating for a membership in the Europarty. The aims of greater social mooring and closeness to citizens, which were reflected in this move, were however modified so as to satisfy the “EU statute on parties” decided in the context of a public financing of Europarties. The European Greens in 2004 adopted a statute stating that only parties from EU member states could vote on issues that directly concerned EU institutions (platforms for elections to the European Parliament, relations with the EP parliamentary group). Recognition by the EU party statute and public financing for the Europarties has led the European Greens, in institutional terms, to conform more strongly to the EU as an organisation of states.

- *Access and Participation Rights for Individual Citizens*

From the point of view of deliberative democracy, individual membership is especially conducive to facilitating the Europarties’ ability to establish roots in society. Not only do they network national party leaderships, they take into consideration and integrate party members from the grassroots. Therefore, conditions of open access and institutionalised rights of participation in the processes of articulation and discussions are a prerequisite for the Europarties’ ability to integrate and mobilise citizens.

Most Europarties have anticipated such a possibility by adopting corresponding rights of access and participation.<sup>166</sup> Access as due-paying individual members is open in principle to all EU citizens as long as they agree with the principles of the Europarty in question or already belong to a national member party of the given Europarty. However, the respective “responsible” national party has to approve each individual applicant – even if the applicant is not a member of the corresponding national party. As a rule, rights of participation concern the right to

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<sup>165</sup> EFGP Statutes (1993), Par. 4.

<sup>166</sup> Of the four large party families, this applies to the EPP (since 1990), the ELDR (since 2001) and most recently to the EGP (since 2004). Only the PES is the exception, but it is also thinking about introducing individual membership (PES Reform Proposal for a stronger PES, Vienna 2005).

information and the right to attend a party convention. Only the European Green Party grants the right to speak.<sup>167</sup> Individual members do not have voting rights in any of the Europarties.

Despite limited rights of participation, the possibility of individual membership establishes the institutional prerequisites for binding individual citizens or party members to a European party family and connecting with citizens. It creates the prerequisites for vertical communication with individual party members, who are provided with information regularly. Even keeping in mind that this information has so far run in one direction (from top to bottom), the right of individual members to receive information and observe can contribute to the creation of communication structures, which, if used, can serve to form a European public sphere where information flows vertically. However, it must be guaranteed that relevant information is communicated by the Europarty (e.g. decisions of the party bodies, protocols of meetings). This has taken place only to a limited extent.

So far in practice, individual membership therefore has more of a symbolic character. For the existing institutional prerequisites to grow stronger, individual members have to be integrated more closely in the processes of articulation and communication. Above all, there need to be more individual members.<sup>168</sup> The problem is, for one, that the Europarties have yet to establish themselves in a broad segment of the public consciousness. The Europarties are also not known to many members of national parties. For another, the possibility of individual membership is not really propagated and promoted by the national parties. Mass membership involving real rights of participation is not a priority at present, because it contradicts the idea of Europarties as federations of parties: National parties fear that this would transfer inner-party competition to the European level, and that this form of opinion pluralism would damage the party.<sup>169</sup>

- *Access and Participation Rights for Organisations from Civil Society*

The relationship between the Europarties and European and national actors from civil society is another important indicator whether the Europarties can act as mediators between the European political system and mainly nationally structured social basis and so contribute to the establishment of a vertically and horizontally permeable European public sphere. Conditions of open access and institutionally enshrined rights of participation – especially the right to speak – are the main prerequisites actors from civil society need in order to find a suitable platform for articulating socially relevant issues in the Europarties.

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<sup>167</sup> In the EPP, individual members have no right to speak, but the chairman of the party conference can give them the floor (EPP Order of Procedure 2002, B. 2).

<sup>168</sup> Individual membership has rarely been used; at present, it is essence limited to individual cases, and the total number of individual members runs for each party between 100 and 200 persons.

<sup>169</sup> This idea is also partially reflected in the classification of individual members: The ELDR calls it “electronic membership”, the EGP “individual supporter”, the PES “activists”.

Rights of access and participation for representatives of organisations from civil society are not established in all Europarties.<sup>170</sup> Where they are enshrined in statutes, they are restricted to a small circle of organisations: Only those organisations affiliated with a given Europarty as a kind of sub-organisation have access rights to the Europarties. As in the case of similar organisations affiliated with national parties, these organisations, which have their own statutes, organs and political programmes, represent specific interest groups within the party: youth, senior citizens, or women.<sup>171</sup> These groups in particular have the potential to identify, articulate and convey European issues from certain segments of society to the formal decision making process. Correspondingly, they are of particular interest for the Europarties' ability to put down roots in civil society and for the mediating function ascribed to parties in deliberative model of democracy.

Other actors from civil society that could articulate socially relevant issues in various fields of policy, such as non-governmental organisations, are not mentioned in the statutes of the Europarties and as a result have no institutionalised rights of access. Only in isolated cases have Europarties foreseen the possibility of inviting other associations (as in the case of parties or persons) as “guests” to meetings of party organs.<sup>172</sup>

Unlike these “guests”, recognised affiliate organisations enjoy all formal rights of participation. They are represented in the most important organs of the Europarty in question (executive and party conference) and have as a rule the right to vote. As a result, they are full members just like the national member parties: They have a right to representation in the party organs as well as the right to submit motions, speak, and vote. With that, the institutional prerequisites for integrating these actors and their political activities are met.

However, the conditions of access for actors from civil society are on the whole rather limited. Here, too, the European Greens in particular stand out from the other parties. As a rule, the European Greens invite not only representatives of Green parties from all over Europe (and beyond) to their party congress, but also “guests” from organisations of civil society and other parties – primarily in the fields of environment and human rights. These “guests” enjoy right to speak, but this is not an institutionalised right, i.e. one enshrined in statutes.

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<sup>170</sup> In the EPP Statutes (2004), Par. 17, and in the PES Statutes (2004), Par. 4-5, integration is enshrined as a normative goal; in the statutes of the ELDR and the EGP integration is not even mentioned.

<sup>171</sup> Recognised associations of the EPP are the Young European People's Party, EPP-Women, European Union of Christian Democratic Workers, the European Middle-Class and Economic Association, the European Communal and Regional Political Association, the European Senior Citizens' Union and the EPP Students. Recognised associations of the SPE include the Permanent Women's Committee and ECOSY, a youth organisation.

<sup>172</sup> PES Statutes (2004), Par. 11, 17 and 23; EPP Statutes (2004), Par. 14.

- *Rights of Information for a larger public*

As stated in the Europarties' statutes, the general public has right to information such as resolutions and decisions taken by the party bodies (such as the party council or the congress). Such documents are usually made public on the official Web sites of the various Europarties.<sup>173</sup> The executive committee of a given Europarty decides whether the proceedings of a party congress are to be published in part or in full.<sup>174</sup>

***Possibilities of Exerting Influence via Europarties***

Next to open access to the Europarties are the questions whether and to what extent the forums for articulating politically relevant issues and positions mobilise their potential to contribute to the emergence of a European public sphere. The Europarties' primary means for influencing the EU's political agenda are, first, by formulating long-term party and election programmes and, second, by taking positions on current issues. By this way, Europarties could contribute to harmonise national public spheres that are primarily based on national party programmes and to create a common European sphere.

- *Formulation of Election and Party Programmes*

The Europarties realise their role in formulating policy by drawing up election programmes before each European election and (at varying intervals) party programmes and action plans. Because the Europarties' statutes lack detailed written instructions regarding the decision process, informal norms have institutionalised themselves more or less to the same extent in all of the Europarties. The election and party programmes are formally discussed and approved by the party congress,<sup>175</sup> but a lengthy process precedes this decision. At the start of this process, a working group is formed from representatives of all or a part of the member parties and recognised affiliated organisations and given the task of drawing up a draft text. It can also happen that the president or general secretary of a Europarty makes the first draft. The draft is then presented to all of the member parties and affiliate organisations, which then respond in writing and file amendments. These amendments are then processed by previously or newly constituted working groups. All of the petitions are considered, discussed and either adopted or rejected. Discussions take place in consultation with the member parties that submit amendments. As a rule, decisions are made in the working groups according to the principle of consensus. The proposed amendments not accepted are discussed again at the party congress, whereby the party that made the proposals has the right to speak. Accordingly, an exchange follows, after which a

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<sup>173</sup> EFGP Statutes (2003), Par. 10.

<sup>174</sup> ELDR Statutes (2004) Par.14.

<sup>175</sup> PES Statutes (2004), Par. 8; EFGP Statutes (2003), Par. 11; ELDR Statutes (2004), Par. 10; EPP Statutes (2004), Par. 8.

final vote is taken.<sup>176</sup>

With this extraordinarily integrated and consensus-oriented process of articulation and communication, which leads to the formation of election and party programmes, the prerequisites are created for involving all participants as equal partners in making decisions so that a large number of different positions are articulated. This principle is determined by the Europarties' federative character: The national member parties mutually recognise one another as autonomous national parties able to represent different political positions and points of emphasis based on their respective national background.

Most problematic, however, is how the participating national member parties judge the result of these processes of articulation and communication, i.e. the programmes. The process of communication, which is prolonged from the point of view of the national member parties, is looked down upon as inefficient, and the end product is seen as "the lowest common denominator", lacking meaning and worth little, because the formulation process and the result are being measured by the standards of national parties and their decision processes.

As a result, mediation of the common programme to the party basis and a larger occurs to a very limited extent. The national parties are hardly willing to distribute something they hold in low esteem, such as the electoral and party programmes of the Europarties, which are in any event largely unknown to their grass roots and the electorate. National parties are more likely to come up with their own European election and party programmes. As a result, Europarty programme texts are hardly used in election campaigns. Because the Europarties are not well-known, party programmes and the communication process in which such programmes are formulated find little resonance in national mass media, which serves to exacerbate the problem of recognition.

- *Taking Positions on Current Political Issues*

Alongside long-term programmatic work, an additional way of influencing the political EU decision making process is for the Europarties to take positions on specific issues or on current political issues.

In addition to the process of taking common positions, there are the party leader meetings, which usually bring together the party leader (government leaders or opposition leaders) twice a year on the eve of European summits. This presents an opportunity for taking positions on short-notice. Since this meeting of party leaders takes place before an intergovernmental event shaped by national interests, it serves no more than a consultative function. Binding decisions are not made at these meetings. Should it come to an agreement, then this usually rests on a consensus

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<sup>176</sup> In the PES and EGP, a qualified majority of two-thirds is required at the party congress, in the ELDR and EPP a simple majority.

among all present that already existed before a date for the meeting was even set (cf. Leinen and Schönau 2003).

If such agreements are unofficial or even secret, it makes no difference whether they inform negotiations between the statesmen at the ensuing summit: They provide no impetus to the emergence of a European public sphere. Only if such agreements are published in the form of resolutions (public political statements) do the meetings of the party and government leaders of the Europarties have any kind of impact on the media and transport positions from the party families to the public sphere. Media reception, however, does not take place in all countries concerned to the same extent: Above all, resolutions have an effect on the public and are picked up by national media mainly when the head of government or another important national party leader has participated at a party leader meeting and held up a press conference. On the whole, these meetings may help create a European media public in some limited way, but they are ill-suited for conveying ideas and positions to civil society.

## **Conclusion**

This paper aimed to understand the role of the Europarties in the emergence of a European public sphere from the perspective of deliberative democracy. We argued that by going beyond the premises of nation state, this model of democracy can indeed suggest a conducive framework for understanding and overcoming the EU's legitimation deficit of the EU. As in the model of parliamentary democracy, the existence of a public sphere is seen here as the precondition for realising popular sovereignty. However, unlike conventional democracy theories, deliberative democracy requires neither a fixed collective identity nor an identifiable territory for the emergence of a public sphere. On the basis of this framework, this examined the Europarties' institutional prerequisites and asked whether these actors can fulfil a mediating function attributed them by the deliberative democracy.

Research shows that the Europarties do – even though in limited measure – meet the institutional prerequisites to mediate between national civil societies and the state-dominated European political system and to contribute to the emergence of a European public sphere. Due to their network character and federative principles, the Europarties, as party federations, do provide on the one hand a sound foundation for making such a contribution. On the other hand, as actors in a multi-level system of the EU, they come up against limits to their ability to put down roots in society and carry out work that has makes some kind of impact on the public.

The Europarties understand themselves as organisations made up of national parties, as “parties of parties”. The integration of individual members and actors from civil society is extremely limited. Only recognised affiliate organisations that have formed within a Europarty on the basis of criteria such as age or gender and

understand themselves primarily as a part of a Europarty (or a sub-organisation) enjoy far-reaching rights of participation. As a result, the Europarties' ability to put down roots within society is mediated almost exclusively by the national member parties. So far, the Europarties have not shown a more directly autonomous, more far-reaching ability to put down roots in civil society. For the most part, a few Europe experts from the national parties network the Europarties among themselves and monopolise the structures of communication. Nonetheless, attempts to integrate and mobilise the party basis by means of individual membership can be recognised.

As far as Europarties ability to mediate political ideas between public sphere and the formal decision making process of the EU is concerned, the Europarties may pursue their tasks of working out common programmes and positions and considering a broad range of various positions, but mediating these programmes and resolutions to the formal decision-making bodies place only in a limited sense. For one, there are the national parties, which do not promote the distribution of approved programmes and resolutions. For another, the Europarties and the forums where they formulate their programmes and positions find little resonance in the mass media due to the lack of public awareness about these parties. The key exception here is the meetings of the party leaders and heads of government, who can be deployed effectively for media purposes, if they, the heads of government, in fact participate in the relevant meeting. This, however, has nothing in common with a public mediated by means of civil society as promoted by the concept of deliberative democracy. This shortcoming is exacerbated by the fact that media reception does not take place in all countries to the same extent so as to allow a "partial public" mediated by the media to emerge.

With a view to the normative demands made on the mediating role of parties by the model of deliberative democracy, it can be summarised that the Europarties may articulate their political positions in programmes and resolutions, but these are only conditionally fed back to civil society and find only limited resonance in general public. The Europarties may meet important institutional prerequisites for contributing to the formation of a European public, but their contribution so far can only be assessed as positive to a limited extent.

Although a systematic comparison between the Europarties could not be made, differences have already been alluded to. The European Green Party in particular with its style of politics that strives for "closeness to citizens" stands out among the large party families, which instead tend to work toward "closeness to the state". The Greens' approach leads to a higher degree of rooting in society and a greater interest in contributing to the networks of Europarties and European and national civil societies.

Altogether Europarties, in comparison to national parties, meet a series of institutional prerequisites that – if properly equipped – could strengthen their mediating role between the European political system and civil society. The Europarties must conform to the networking logic of the EU.

For the national parties, the pressure to conform does not exist to the same extent, but they can exert influence on the multi-level system of the EU by circumventing their respective national governments and the relatively de-coupled delegations in the European Parliament, a classic approach to wielding influence. The national (member) parties thus remain classical actors of parliamentary democracy after all. They function from the logic of party competition: Demands for efficiency and strong leadership limits inner-party plurality.

At the same time, the national parties are unwilling in the present multi-level system of the EU to give up their autonomy for the sake of more efficient decision making, something that could only be realised by strengthening majority voting in the Europarties. Ultimately – and this presents only a limited contradiction – it is exactly the network and arena character of the Europarties that representatives of the national parties value; it offers them regular contact and communication structures with their European sister parties. Thus the national parties understand their Europarties more as a forum of articulation and communication and less as a “party on the European level”. It is just this function that offers Europarties a better chance for strengthening their role of mediating role between the European political system and European civil society.

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## BOOK REVIEWS

## 1.

**AUSTRALIA AND THE EUROPEAN SUPERPOWER**

**Philomena Murray**  
**Melbourne University Press**

As the author points out, this is the first book on Australia and the European Union since John Miller's from the 1970s. It is long overdue for someone to examine the relationship between Australia and its largest trading partner and Philomena Murray, Director of CERC and Jean Monnet Chair at the University of Melbourne, is well placed to undertake this task. The book is the fruit of many years of research and is rich in detail. The book begins by exploring the "burden of memory": there is plenty of baggage in the relationship from Australia's colonial ties to Britain to the longtime (and understandable) Australian preoccupation with the Common Agricultural Policy. There are also strong links between Australia and various member states, but these do not necessarily assist relations with the EU.

The book sets out a script of the dialogue of the deaf that has passed for Australia-EU dialogue for the best part of the 33 years since Britain joined the Common Market in 1973. As Murray points out, Australia does not loom large on the European radar and while many Europeans would also like to reform the CAP, they know this is not easy. On a happier note, Murray points out that Australia is neither at war with the EU or dependent on it for aid. It is not a major trading partner for the EU, so it is difficult to get sufficient attention. Conversely, despite its economic importance for Australia, the EU does not loom large in the Australian imagination either. The Australia-EU relationship is often seen in Australia through the prism of Britain, which is both accurate in that Britain is the most significant member state to Australia, and distorting as Britain has a rather sceptical view of the EU. The Australia-Britain relationship has been the subject of many books and so does not need extensive exploration by Murray except as it affects relations with the EU.

The relationship began to broaden in the 1980s but Australia's gaze was firmly towards Asia. The EU too was looking this way, but rather than work together, each tried to shut the other out: the EU through the Asia-Europe Meeting, Australia through APEC.

The EU-Australia Wine Agreement of 1994 was symbolic of a more productive relationship, but the refusal of the Australian government to allow a human rights clause prevented a framework treaty from being signed. Instead, there was a Joint Declaration. While much seems to have been achieved under this, we are left wondering how much more could have been achieved with a treaty.

Chapter 2 concentrates on the EU as a new kind of superpower and Australian encounters with it. This entails much analysis of the EU and its evolving international role. Much of

this will be familiar to specialists, but it will be useful for readers approaching the EU for the first time.

Indeed, putting on my specialist hat, I would take issue with Murray's assertion at p54 that "the EU is first and foremost a legal entity". One of the foremost difficulties of describing the EU is that it is not a legal entity at all. It covers the European Community which is most definitely a legal entity, and having to distinguish between the two is one of the most vexing aspects of working in the area, but it is necessary. The book was written without knowing whether the Constitutional Treaty, which would have unified the two, would be ratified, but as it is yet to be, the distinction continues. It is understandable to try to save the reader from this problem, but I think they must be told!

Murray has adopted Khanna's idea of the EU as a "metrosexual superpower". I would have liked some more unpacking of this idea. Is there ruthless self-interest behind that sensitive face? There is then a sophisticated analysis of multiple levels of interaction between the EU and Australia. Here Murray's knowledge of both diplomacy and theory work well.

Chapter 3 gets into the nitty gritty of agriculture. Murray's comment that EU cows receive more subsidy than many people in the world have to live on puts the CAP in perspective. There is of course a lot more to say and Murray gives a full and fair account of the CAP and Australia's long term hostility to it, which has dominated the relationship. She also tracks reform of the CAP and Australia's response. She also covers sectoral issues such as food safety, sugar and wine, and notes the ongoing attempts by the EU to extend its intellectual property protection to other food groups.

Chapter 4 then explores two other major areas which have caused pain in the relationship: the Framework Agreement and Kyoto. Australia's refusal to allow a human rights clause in a framework trade and co-operation agreement with the EU led to it being watered down to a Joint Declaration. While 2007 will enable celebration of ten years of the Joint Declaration and much has been achieved under it, it still seems shocking that Australia would take such a stand on human rights. One would have to concede that the Howard government has maintained a consistent attitude in the following ten years so the prospect of upgrading to a treaty does not look promising. Murray provides a thorough analysis of the negotiations and the results. She then analyses the Kyoto Protocol on Climate Change to which the EU agreed along with many other states. Australia, despite being granted an increase in its greenhouse gas emissions, has refused to ratify the Protocol. Murray describes Australia and the EU's relations over Kyoto as like a Cold War, but perhaps it is an increasingly warm one!

Chapter 5 "Colliding Continents: Mutual Misunderstandings" captures the difficulty of understanding the EU. If this is problem for its own citizens, how much more is it a problem in Australia! Murray asks: "Who understands Europe?" While Australians may not understand the EU, we still seem reasonably well disposed to it. Britain tends to be at the front of the picture, distorting it. Australian commentators have both dismissed the EU and feared a fortress Europe or a superstate. There seems an unwillingness to look at

the reality. It is to be hoped that many Australian opinion leaders read this book. Murray exposes the political code inherent in much Australian commentary on the EU: right wingers portray it as regulation and bureaucracy gone mad. Fortunately, there is evidence that despite the rhetoric, senior Australian officials have quite a good understanding of the EU. Since the UK joined the Common Market, Australia's focus has shifted to Asia or the "Asia-Pacific" but this does not mean that Europe can or should be ignored. ASEM has proved that the EU and Asia did not need Australia as a bridge. APEC, effectively Australia's attempt to tie up the USA and East Asia, excluding the EU, has made bold proposals, but has not matched them with substance. The Australia-USA FTA excludes many important Australian products. Perhaps it is time to see what can be gained from closer relations with the EU! As Murray points out, the EU could do more, but Australia needs to remove its blinkers.

Chapter 6 "New Agendas for Dialogue" explores the many possibilities: counterterrorism, globalisation, development, education. These dialogues can be both bilateral and multilateral, involve both government and civil society. There is an Australia-EU Agenda for Co-operation helpfully set out in an Appendix along with other key documents such as the Joint Declaration. Murray returns to the "metrosexual" theme, exploring the EU's efforts to spread its values around the world. Here we confront the EU's efforts both to foster global peace and prosperity and to pursue its own gain. Rifkin's "European Dream" has a lot of appeal, but does the EU have the will to make it a reality?

One area where the EU and Australia could either be rivals or collaborators is in the Pacific. Current European overseas territories and former European colonies need aid and are open for exploitation. There is some mutual suspicion between Australia and the EU in the Pacific, but also increased dialogue. . Murray gives a helpful chronology of Australia-EU dialogues. There is an emphasis on security and counterterrorism reflecting the current importance of this area. There is even a dialogue on migration and asylum issues in which it is to be hoped that the EU does not seek to emulate all Australia's policies. Finally, Murray explores education co-operation, an area where there has been a heartening expansion of opportunity through programs such as Erasmus Mundus. The EU has also extended funding to Australia, something Murray can speak of with great authority as the holder of a Jean Monnet Chair and Director of a Jean Monnet Centre of Excellence. She explores some of the difficulties of co-operation such as distance and language, but also the possible gains.

Chapter 7 "The Future Seeking Engagement or Shadow boxing?" looks forward. This builds extensively on points already made. Some useful suggestions are made. It is to be hoped that this book reaches government, business and the academy beyond European Studies. It is both a sourcebook and a laboriously constructed argument. All those working in the area will find it a valuable reference.

By: Matt Harvey, Faculty of Law, Monash University

2.

**RESEARCH, QUALITY, COMPETITIVENESS - EUROPEAN TECHNOLOGY POLICY FOR THE  
INFORMATION SOCIETY**

**Attilio Stajano  
Springer Press, 2006**

This book addresses the Holy Grail of the western industrialised world: remaining competitive. In Australia, the government seems willing to leave it to the market: protection has been virtually eliminated, state-funded scientific research curtailed, universities forced to seek funding from private sources, students forced to regard their degrees as an investment for a better paying job rather than the state's contribution to them becoming productive factors in the economy and society.

The EU has taken a different path, and while success does not seem assured, it is interesting to explore an alternative approach.

The book is divided into three sections: an introduction to the structure of the EU, a review of EU competitiveness, and an analysis of research and technology policy in the EU. The author is a former Commission official and an Italian. The book was originally written in Italian and there is still an Italian emphasis.

The introduction to the EU is a largely redundant to students of the EU but may be useful to extract as an introduction for newcomers. It will also be useful for those coming to the book from a background in technology or business but with no knowledge of the EU. It is a complex body with which to get to grips. The review of competitiveness is interesting and well structured. The analysis of EU initiatives and the comparison with successful innovation around the world is informative. The conclusion, that the solution to continued competitiveness is investment in education, training, lifelong learning, improved infrastructure, and diffusion of technology throughout society is a welcome one to those of us working in the education sector.

The use of a CD-Rom to provide an extensive bibliography and full copies of some materials is itself quite innovative, but perhaps a web address would have been even better.

By: Matt Harvey, Faculty of Law, Monash University



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The Contemporary European Studies Association of Australia was launched as an independent body on 16 March 1991 in Melbourne.

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