



**CONTEMPORARY STUDIES IN ECONOMIC AND  
FINANCIAL ANALYSIS  
VOLUME 88**

**EUROPEAN RESPONSES TO GLOBALIZATION:  
RESISTANCE, ADAPTATION AND  
ALTERNATIVES**

**JANET LAIBLE  
HENRI J. BARKEY**  
Editors

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EDITED BY

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The Boulevard, Langford Lane, Kidlington, Oxford OX5 1GB, UK  
Radarweg 29, PO Box 211, 1000 AE Amsterdam, The Netherlands  
525 B Street, Suite 1900, San Diego, CA 92101-4495, USA

First edition 2006

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#### British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

ISBN-13: 978-0-7623-1364-8

ISBN-10: 0-7623-1364-1

ISSN: 1569-3759 (Series)

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Printed and bound in The Netherlands

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# ACKNOWLEDGMENTS

This book would not have been envisaged and completed had it not been for the support and persistence of J. Richard Aronson, the Director of the Martindale Center for the Study of Private Enterprise at the Rauch School of Business here at Lehigh University. Richard Aronson provided the institutional and moral support and guidance from the inception of the project to the end.

He is not the only one whose help we are grateful for. Andrea Wuerth, who selflessly helped us bring speakers to campus, corresponded with authors and made sure that we followed a reasonable timetable (which for no fault of Andrea we did not) must also be recognized and thanked.

The Martindale Center Globalization Committee, which included Richard and Andrea, as well as Todd Watkins, Robert Thornton, and Judith McDonald, were extremely supportive with suggestions and ideas for the project.

Martindale staff members, Sharon Bernstein and Rosemary Krauss, were equally generous with their support. Christine Hannon, a very promising International Relations major, worked on the manuscript to make sure it conformed with all the publisher's standards.

Finally, we would like to thank all the contributors for their patience and perseverance. Without them there would be no book.

*Janet Laible*  
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February 28, 2006

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# INTRODUCTION – EUROPE AND GLOBALIZATION: RECASTING THE DYNAMICS OF THE RELATIONSHIP

In the past decade, globalization has moved from the agendas of international trade negotiations and specialized academic conferences to mass-based politics and the campaigns of activists and politicians across the ideological spectrum, in both advanced industrialized and developing countries. The most highly publicized responses to globalization articulated recently by European actors have assumed negative overtones, ranging from wary to hostile, with the French rejection of the constitutional treaty of the European Union (EU) in May 2005 marking the nadir of this sentiment. French political elites now jostle to carve out political space – and electoral opportunities – on the terrain of globalization, with many describing direct threats posed by global capital to the French social model and employment practices. Indeed, the perceived threat of globalization is reframing the traditional cleavages of French politics, generating new forms of intellectual *cohabitation*: former Socialist Prime Minister Lionel Jospin has decried a “new caste” of media, finance and capital that embraces globalization to the detriment of French workers; Interior Minister Dominique de Villepin of the center-right UMP has similarly called for an “economic patriotism” that can reinvigorate the French economy and protect against the capriciousness of multinational capital (Dombey & Thornhill, 2005).

The optimism of other European political leaders about the advantages of embracing globalization and the possibilities for managing its more deleterious effects has received less publicity, but it equally construes a set of challenges from globalization that European states and the European Union must engage. Responding to criticisms that the EU and its agenda for economic liberalization have served only to magnify the effects of globalization, and have in fact undermined the ability of individual EU states to protect their citizens’ interests, EU Commission President José Manuel Barroso has

expressed his confidence that the EU offers Europe's citizens their best chance for building effective responses to globalization. Even as the EU was struggling in the autumn of 2005 with the twin and interrelated challenges of producing its 2007–2013 budget and reaching an agreement over agricultural subsidies in global trade negotiations, Barroso argued, “[W]e need Europe – it is the European level that gives us the leverage globally to go ahead with our program to benefit [EU] citizens ... Europe can win this battle of globalization.” In his role as President of the Council of Ministers, Tony Blair echoed Barroso's sentiments, suggesting that the EU offers unique mechanisms for enabling its member states and citizens to manage globalization. Blair voiced themes that have been motifs of his premiership in the United Kingdom, stating that Europe could provide institutional and financial support for promoting research and development, innovation, education, and other skills that could prepare workers, communities, and economies for the dislocations of globalization.<sup>1</sup>

Yet underlying both the negative and positive rhetoric on globalization are some shared assumptions: globalization is a set of identifiable forces that can be ‘managed’ with appropriate policy interventions; globalization is producing challenges specific to European understandings of politics, economics, and social relations, e.g. to the post-war European social model; and collective responses can successfully mitigate negative effects of globalization and protect the institutional arrangements in which these understandings are embedded. Such responses may take the form of protectionism, ‘economic nationalism’ or efforts to isolate an economy from global integration; or responses may include efforts to ‘manage’ globalization, i.e. to engage it with the intent of reducing its potentially disruptive consequences while simultaneously securing its purported benefits.

Similarly, political rhetoric frequently treats Europe or the EU as an intermediate level of politics between the state and deterritorialized global forces, such as multinational capital and finance, information flows and communication, norms and epistemic communities, immigration, terrorism, and organized crime. For those who ask whether there is a place for the EU “between the world beyond” and the member states (Stevens, 2005), or who, like Barroso and Blair above, identify a ‘European level’ that can ‘win’ against globalization, Europe is understood to be a political and institutional space distinct from the domain of the global.

Contributors to this volume were asked to consider the extent to which globalization is driving policy-making in contemporary Europe, and the extent to which Europe itself is influencing the shape, quality, and velocity of globalization. European actors certainly have sought to engage globalization

with a variety of strategies. Discussions in the following chapters reveal three main strategies adopted by European political actors in their efforts to respond to globalization: resistance, adaptation (and at times mutual adaptation between the European and global environments, in the words of Teresa Rodríguez de las Heras Ballell's chapter), and the production of alternatives to global norms and practices. The question of whether Europe is 'driving or being driven by' globalization remains a primary trope among actors at international, central state, local, and community levels of politics.

However in their analyses, these authors propose significant challenges to our question and to many of the above-described conventional understandings about the nature of globalization, the possible responses from European political actors, and the dynamics of the relationship between Europe and globalization. The contributors to this volume draw on backgrounds in political science, economics, anthropology, and law to offer analyses that recognize Europe and globalization not as exclusive domains, but as mutually constitutive political arenas. While politicians and citizens may call for European 'responses' to globalization, this volume suggests that Europe and globalization already exist in a relationship of reciprocal causality, in which European responses have provoked – and will continue to provoke – transformations of globalized forces, and that such responses feed back intentionally and unintentionally into domestic politics, economics, and culture in Europe. As Rodríguez de las Heras Ballell states, "The EU is not only at the receiving end of globalization but is itself an agent of globalization" and therefore should be understood as simultaneously both a dependent and independent variable. Reframing the relationship between Europe and globalization in this manner suggests that European responses to globalization are produced under conditions of extreme uncertainty: the effects of policy responses may vary to degrees unknowable to their proponents, as these effects spread among the institutions and cultures of the global community, become transformed, and themselves require responses from European actors.

Furthermore, some authors in this volume question the extent to which either Europe or globalization can be envisioned as distinct analytical spheres. Political discussions that frame globalization as a set of vectors acting 'on' Europe, or that assume Europe as a separate 'level' of politics fail to acknowledge the extent to which both of these domains are incoherent, highly contested, and – again – endogenous to each other. While several of the following chapters explore the extent to which globalization is in part produced by Europe's own interventions in the global arena, others suggest that understanding Europe as a distinct 'level' of politics, an intermediate level between states and global forces, may be equally contentious as a

proposition. What ‘produces’ Europe? Are understandings of Europe created in response to globalization with, for example, Europe as an idea about social justice and humanitarian principles, or Europe as a cultural and political location for alternatives to ‘destructive’ aspects of globalization? The meanings of Europe, and European identity, are thus being altered and (re)produced in contexts of globalization.

It is clear from the contributions that for many in Europe, especially in the core countries of the EU, the Union’s twin tasks consist of improving the standard of living for its citizens while protecting them from the vagaries of globalization. Critical to understanding the issue of managing globalization is the European perception – though not all may share this vision – that globalization is externally driven. For most of modern history, it was Europe that drove the varying winds of globalization. However, as far as this iteration of globalization is concerned, it is not indigenous to Europe (it may be American). The problem for Europe is that there is no common broad definition of the “vagaries” that need to be battled against or negative effects to be mitigated. For the moment, opposition to GMOs represents one area in which there is a broad consensus in Europe.

Managing globalization for the EU core does not however necessarily translate into protectionism. Protectionism, or nationalist impulses, is but one form of response.<sup>2</sup> The EU, despite its stand on issues such as agricultural subsidies – a policy driven primarily by the French – is anxious not to let globalization be defined by the United States and/or others. On many issues, it has taken the lead, perhaps in a subtle and indirect fashion, as Dorothee Heisenberg argues in this volume, and at times it has acted in an overt fashion, as the impetus for the Galileo project designed to challenge the U.S.-based GPS system demonstrates. A third variant of European responses to globalization can be seen in the contrasting approaches by the EU and the U.S. to the Kyoto treaty. For the EU getting the Kyoto treaty ratified despite U.S. objections was an important political success, but Kyoto offered the Europeans the means both to act on one of the scourges of modernity and to take the lead in developing a new set of the international norms. If the stand on the Kyoto protocols contributes to positive global effects, the insistence on agricultural subsidies to protect a way of life and to create inefficiencies in this industry represents the opposite.

For the newer members of the Union, in particular the Eastern European countries, the EU is not a defensive mechanism but rather a means to become more global and to participate in globalization. The EU not only opens new markets but provides structural funds that enable them to emerge from their relative isolation. As the former Polish dissident Adam Michnik

argued in a different context, for Poland the European Union represents more than a means of dealing with unemployment and inequality, but also a tool to fight the pathologies of globalization, such as international crime, terrorism, and corruption.<sup>3</sup>

Paradoxically, the EU, first by expanding horizontally and second by attempting to reduce uncertainty along its extended borders, whether through instruments such as the Neighborhood Policy or the Barcelona Process, has acted as a handmaiden to the globalization process. It has tried, perhaps not always successfully, to export both values and institutions designed to help others better manage the winds of globalization. More often than not, this is an externality caused by the EU's policies, which were envisaged to stabilize the European environment and minimize such problems as illegal immigration. Whether in a candidate country such as Turkey or former Soviet-bloc countries, the impact of the EU has been undeniable.

The management of globalization is not unique to Europe. The process of globalization is far too dynamic and unpredictable for any one state to feel comfortable with its consequences. Whether with schemes to retrain workers displaced by globalization or in protecting institutions whose primary purpose is the production of a distinct culture, such as the film industry, states everywhere have had to come up with defensive policies. What the EU enables individual members to do is to benefit from economies of scale as they apply to political bargaining. The European 15 or now 25 projects both the power of a single economically prosperous and populous unit as well as the potential voting bloc of many. As such, most Europeans, including leaders, do realize as Philip Gordon argues that there are clear-cut reasons why the EU can and should manage globalization.

Still, Europe's efforts at managing globalization have come at a price. Europe's defense of the "social" against what some have characterized as Anglo-Saxon methods of societal organization has seen its growth rates stagnate and high unemployment rates stubbornly refuse to budge. Compared to the U.S., which has seen relatively high growth and low unemployment rates (though the U.S. suffers from twin budget and trade deficits), Europe's performance can at best be characterized as lackluster.<sup>4</sup> Is this price worth it? For the time being, Europeans seem to have concluded that this is a price worth paying, especially if it brings social peace. However, the recent riots in France, by mostly disenfranchised youths, if they were to repeat themselves in France and elsewhere, may alter these calculations.

The greatest challenge for Europe in the medium term does not come from a globalization driven by the U.S. but rather from the sheer competitive forces emanating from Asia, specifically China today and India in a



decade. The rude awakening occurred in 2005 when the deregulation of textile imports brought about an avalanche of Chinese textiles at Europe's gates, forcing the latter to ask for more time to adjust. Europe with its declining birth rates and growing social costs will find itself at a mounting disadvantage. Whereas the U.S. because of its inherent flexibility has been the greatest beneficiary of a brain drain, Europe, by contrast, has the unenviable task of having to integrate immigrants who have hitherto not meshed well with "local cultures." Only Germany has gone out of its way to recruit talented individuals from abroad to populate critical industries, such as computer-related ones.

Finally, it is important to note that while Europe by expanding its territory has imposed its own norms and standards on new areas, it has also absorbed a great deal of diversity. This diversity, if properly harnessed, can help Europe shape globalization in a way in which a much more homogeneous culture, such as the U.S.'s, cannot. In an ironic way, what EU expansion has done is to give a second chance to many states that would otherwise have been overwhelmed by the forces of globalization. Although Pam Ballinger in this volume points to other examples to demonstrate her proposition that the EU reterritorializes politics, suffice it to say that for a country like Cyprus, the EU amplifies its international profile and reinforces its political preferences even if these may not be shared by the rest of Europe.

While European politicians may confidently assert their ability to tackle the challenges of globalization with appropriate policy responses, the contributions in this volume suggest that their ability accurately to predict what the consequences of their policies will be – or even to assess the parameters of the global challenges they believe they face – is hampered by an intrinsic property of politics in an era of globalization: uncertainty. All policymakers operate in environments of incomplete information and unintended consequences, but the following chapters suggest that the very act of European intervention 'in response' to globalization alters the properties of globalization and hence the nature of the challenges that Europeans face. European actors may hypothesize a direct relationship between their policy decisions and particular consequences in the global arena, but they may equally be unable to anticipate how their choices will rebound in, and get transformed by, international institutions, domestic policy environments, and transnational interest groups.

The unintended consequences of European efforts to manage globalization are visible in the institutional spaces created by these efforts, which, paradoxically, offer new possibilities for mobilizing opposition to European

policies. Sylvia Ostry's contribution to this volume traces the multiple trajectories of European responses to globalization in successive rounds of GATT, and later WTO, negotiations. Whereas European negotiators in the 1960s and 1970s believed that they had the upper hand in shaping a world trade environment that would be conducive to their constituents' interests, they could not have anticipated the extent to which their efforts would generate new arenas in which opposition to their policies could be articulated (hence inspiring a need for additional responses by Europe). For example, American multinational corporations (MNCs) took the lead in building coalitions with European and Japanese business interests to push services and trade-related intellectual property onto the agenda of the Uruguay Round in the 1980s, cementing a role for MNC lobbies in global trade negotiations, with the EC only later coming to support negotiations in these policy areas. American MNCs captured power in an institutional framework created in part by European interests, forcing European policymakers to respond to a global environment very different from the one they believed they had been creating.

European responses to globalization may also *create* new constituencies, born in response to issues introduced into the global arena by European actors, and seizing the new institutional spaces created by globalization – and by Europeans – to articulate their interests. Since Seattle in 1999, global trade negotiations have been subject to increasing scrutiny and protest by a variety of new transnational social movements, the members of which have appropriated a language of global justice to oppose the neo-liberal policies of MNC lobbies (themselves a response to European efforts to manage globalization) and European, and other, negotiators. While these negotiators may view their task as an ongoing quest to 'manage' globalization, the creation and growth of new transnational movements such as the anarchist *¡Ya Basta!* and the Black Bloc affinity groups ironically suggest that some members of the global public believe that European elites have already succeeded too well in shaping globalization to their own tastes. Anarchist and other transnational movements that seek to recast the terms of debate about the global economy must be understood as the indirect product of Europe's efforts to manage globalization, as well as a component of globalization with which European decision-makers must now contend. Thus, intervening to manage globalization has also *increased* uncertainty for European policymakers, producing a global environment that is more complex and difficult to navigate (or comprehend) than that which they initially sought to influence.

At the same time that Europe has confronted, and simultaneously produced, uncertainty at the level of global politics, its relationship with

globalization has also recast political authority within European states. European responses to globalization have contributed to engendering uncertainty about long-standing hierarchies of power and legitimate authority at the domestic level of politics. This is not to argue that states do not matter; indeed, most of the following chapters confirm the stickiness of states and state institutions as dominant actors in the global political domain. But globalization has also created contexts in which established relationships of political authority get called into question, e.g. among central state, regional, and local levels of representation, and between these levels and individual citizens. In particular, some of the following chapters raise a question about European interactions with the global level of politics that scholars (Hooghe & Marks, 1996; Keating & Hooghe, 1996; Marks, Hooghe, & Blank, 1996) long have been raising about EU member state interactions with the European level: To what extent do states remain the ‘gatekeepers’ to international politics?

The chapters in this volume engage this question in a European context by approaching it from two contrasting, but not mutually exclusive, perspectives. The first, most clearly articulated by Katalin Fábíán, situates globalization in a similar conceptual framework as liberalization. Fábíán describes globalization as *detrterritorialization*, “which implies the reduction or abolition of government-imposed restrictions between countries, peoples, and ideas.” Her research on the emergence of domestic violence as a category of politics in Eastern Europe portrays the state as losing its dominant role in shaping the discourse of rights on its own territory, as local activists increasingly draw on global human rights norms to support their efforts. In this perspective, the state is not absent or powerless in defining rights, but it must share its prerogatives with local actors, transnational movements, and non-territorialized rights regimes.

Pam Ballinger embraces an alternative to this perspective on globalization in her chapter, viewing it as *reterritorialization*, “a process in which meanings of place ... remain salient (and in some instances become even more pronounced) but are reconfigured.” By examining Croatia’s reengagement with global and regional capital markets, and its efforts to negotiate the accession process for EU membership, Ballinger suggests that understandings of property and ownership in Croatia have been transformed normatively and legally by the country’s relationship with globalization. Reterritorialization allows for an understanding of the state that is similarly transformed by its contact with globalization, and in which sub-state and non-state actors are empowered to interact with the global domain of politics. But in this perspective, territory does not lose its meaning as states

engage globalization; instead, state, domestic, and international actors create new meanings, and new relationships of power, that are firmly rooted in specific territories and communities.

These perspectives do not exhaust the possible approaches for interpreting the impact of globalization on Europe; nor are they embraced explicitly or in their entirety by all of the contributors in the following chapters. Both require us to reassess where the power to negotiate and manage globalization is located, and where the impact of globalization is most disruptive. However, deterritorialization and reterritorialization suggest diverse sets of mechanisms by which the uncertainties generated by globalization, and by Europe's relationship with it, have been projected 'outward' into a postulated global domain of politics, and simultaneously drawn 'inward' into a purportedly domestic domain, blurring the boundaries among what, in a previous era, would have been understood as distinct and nested levels of political authority.

Finally, the uncertainty generated by globalization, and by European responses to it, also takes the form of challenges to the histories and traditions of states, localities, and peoples, i.e. to the identities of Europeans themselves. At this most personal level, the European relationship with globalization has produced what Riva Kastoryano refers to in her chapter as "identity anxiety." Europeanization offers the possibility for individuals to escape the conditions of anxiety generated by globalization, by generating a new transnational space in which identity groups can practice social citizenship. Yet efforts to construct a 'European identity' or a space for European citizenship may paradoxically produce anxieties itself, as these efforts challenge state and local identities and cultures, and pose new questions about what a European identity will resemble, and what European citizenship means.

Furthermore, at its most radical, globalization has even served to reframe the *temporality* of politics, politicizing historical moments that in turn reconfigure the meanings of contemporary political identities. Ballinger describes the reemergence of decades-old Italian property claims in Istria as such a moment, claims long suppressed under communist Yugoslavia and ignored during the Croatian wars of the 1990s. As Croatia reinserts itself into the global political and economic mainstreams, property claims threaten to disrupt Croatians' understandings of their history, identity, and potential roles as global citizens. The uncertainties generated in the context of European responses to globalization are thus not bounded by territory or by the reach of political authority. They threaten to escape the confines of modern European politics to expose the malleability of the past, and the fragility of Europeans' present identities.

The paradoxes and ironies engendered by Europe's relationship with globalization suggest that European politicians may not ultimately succeed in managing globalization in the manner or degree that they intend. Nor can political leaders avoid the need to prepare their citizens to confront, and ultimately live with, the increasing uncertainty generated by globalization and the knowledge that uncertainty is pervading spheres of political, cultural and economic life once thought protected by the state. But this does not therefore imply that Europeans will fail to shape the pathways of globalization in ways that are favorable to their interests. Indeed, many of the contributors to this volume conclude that not only can Europeans successfully project their interests and values in global politics, but that globalization is providing them new means of achieving these ends. Globalization offers European leaders and citizens new opportunities to build coalitions in support of their interests, express these interests in novel institutional environments, and reshape the norms that guide global political behavior. In a final irony, Europeans are positioned to offer alternatives to the most disruptive consequences of globalization, but only if they first embrace globalization.

## NOTES

1. See the transcript of the press conference with Barroso and Blair following the informal summit of the EU heads of state or government at Hampton Court, London, 27 October 2005.

2. One example of individual EU member states' desire for protection from competition is to have certain products branded with the country of origin. For instance, only cheese made in Greece can be called "feta."

3. See Adam Michnik (2003).

4. Martin Wolf (2005) argues that whereas the 2005 U.S. growth rate is likely to be 3.6 percent (this on top of 3.5 percent in 2004), Europe will barely manage to grow by 1.4 percent as compared with 1.7 percent in 2004. Even Japan, the lackluster economy of the past decade seems to be awakening. See "The Surprises and Unexpected Pleasures of the Past Year," *The Financial Times* December 21, 2005, p. 13.

## REFERENCES

- Dombey, D., & Thornhill, J. (2005). France's former Socialist leader hits at backers of globalization. *Financial Times*, October 21.
- Hooghe, L., & Marks, G. (1996). 'Europe with the Regions': Channels of regional representation in the European Union. *Publius*, 26(1), 73-91.

- Keating, M., & Hooghe, L. (1996). By-passing the nation state? Regions and the EU policy process. In: J. J. Richardson (Ed.), *European Union: Power and policymaking*. London: Routledge.
- Marks, G., Hooghe, L., & Blank, K. (1996). European integration from the 1980s: State-centric versus multi-level governance. *Journal of Common Market Studies*, 34(3), 341–378.
- Michnik, A. (2003). What Europe means for Poland. *Journal of Democracy*, 14(4), 128–136.
- Stevens, P. (2005). Europe can be a means to tame the harsh winds of change. *Financial Times*, November 4.
- Wolf, M. (2005). The surprises and unexpected pleasures of the past year. *Financial Times*, December 21.

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# EUROPE'S CAUTIOUS GLOBALIZATION

Philip H. Gordon

## ABSTRACT

*Given the often-heated rhetoric of politicians and the street protest sometimes organized against symbols of American capitalism and culture, a casual observer could be forgiven for concluding that Europeans are deeply opposed to globalization. That impression, however, would be wrong. Many Europeans do worry about the effects of globalization on jobs, economic equality, and culture, but the European anti-globalization movement is actually a small if vocal minority. Most Europeans, in fact, recognize that increasing global economic, political, and cultural exchange is good for them. What they want is not to stop globalization but to manage it, and for this they turn mostly to the European Union (EU). Most Europeans believe that the EU can help to protect them from the downsides of globalization, and this paper argues that they are correct.*

A casual observer of European affairs could be forgiven for concluding that Europe is deeply opposed to globalization. Anti-globalization speeches by a range of politicians; the rise of far-right and far-left movements opposed to economic liberalism; large anti-globalization street protests during meetings of international organizations; and the occasional ransacking of symbols

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**European Responses to Globalization: Resistance, Adaptation and Alternatives**  
**Contemporary Studies in Economic and Financial Analysis, Volume 88, 1–18**  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88001-0



like McDonald's restaurants give the impression of a continent determined to resist the integration of global markets and cultures.

That impression, however, would be wrong, or at least highly misleading. Many Europeans do worry about the effects of globalization on jobs, economic equality, European culture, or Europe's independence vis-à-vis an increasingly powerful United States. But the prominent anti-globalization movement is actually a small if vocal minority. It consists, moreover, of an eclectic coalition of strange bedfellows, from laborers and trade unionists genuinely hurt by economic integration to middle-class idealists worried about economic inequality to well-off citizens resentful of the domination of American culture. Ironically, many of these activists are able to spend their time lobbying against globalization because they live in a European Union (EU) whose economy has benefited fantastically from globalization over the past 50 years.

The majority of Europeans, in fact, both among political leaders and in public opinion, accepts that on balance increasing global economic, political, and cultural exchange enriches both their country and their personal circumstances. What they want is not to stop globalization, but to find ways to harness it. They seek to take advantage of its unparalleled ability to generate prosperity and cultural diversity without undermining other values like job security and stability, economic equality, a strong social safety net and aspects of traditional European ways of life.

Europeans seek to manage globalization in a number of ways, but their primary tool in that effort is the maintenance and development of a strong EU. Ironically, for years – especially in the 1980s – the EU was seen by many Europeans primarily as a *cause* of a form of globalization, forcing them to liberalize their economies and open their borders to foreign goods, services, and influences. By the 1990s, however, a single European market was widely accepted across the continent, and the EU increasingly became the tool with which Europeans shielded themselves from the downsides of global liberalization and integration.

The EU single market, regulated by institutions in which all member states have a say, allows its members to take advantage of many of the benefits of globalization on a more limited scale and among people with relatively similar social values and levels of economic development. The EU also allows Europeans to aggregate individual member-states' power to give the Union as a whole leverage in dealing with the United States and the rest of the world. This allows them a much greater ability to manage and regulate aspects of globalization such as the environment, food safety, financial transactions, and even world politics than would otherwise be the case.

The core argument of this paper is thus that the EU is, and seen in Europe to be, an effective tool for managing globalization. In Section 1, I define what I mean by globalization and show that it actually has many different aspects – political, economic, cultural, and strategic. These are often related but they are nonetheless distinct and the differences must be kept in mind. In Section 2, I discuss why globalization poses particular challenges to Europe and why it is thus more difficult for Europeans to accept than for most Americans. Section 3 returns to the theme of the EU as a tool for managing globalization and shows how, through its trade, monetary, agricultural, and income distribution policies does so. Finally, in Section 4, I discuss the issue of political globalization, again showing how Europeans – though with less success than in the economic domain – have turned to the EU to try to mitigate the strategic effects of an integrated world dominated by a sole superpower, the United States.

## **1. WHAT IS GLOBALIZATION?**

Globalization means different things to different people, but it can best be understood as the increasing speed, ease, and extent with which goods, capital, services, technologies, people, cultures, information, ideas, and threats cross borders all around the world. It is economic and political interdependence on a worldwide scale.

Some have questioned whether there is really anything new about all of this. And they are right to point out both that the globe has been “shrinking” for centuries and that earlier periods – for example, from the 1880s to the 1910s – also saw great increases in international human and economic exchange.<sup>1</sup> But the acceleration of the phenomenon over the past two decades, and in particular since the early 1990s, has been undeniable, as are the differences with earlier such eras.

Economically, as a number of scholars have pointed out, trade and investment as shares of GDP may not be at much higher levels than they were at the end of the nineteenth century for certain countries. But clearly the degree, intensity, speed, volume, and geographic reach of economic globalization today far exceed anything that has come before.<sup>2</sup> International trade flows now amount to nearly \$9 trillion per year, and annual foreign direct investment is about \$600 billion (down from over \$1 trillion in 2000 and 2001).<sup>3</sup> Global mergers and acquisitions over the past several years have averaged over \$700 billion annually, and there are now some 63,000 transnational companies with 690,000 foreign affiliates around the world.<sup>4</sup> In

global currency markets, \$1.5 trillion moves around the world electronically every day. For many global companies that have headquarters, sales offices, manufacturing plants strewn all around the world and whose workforces no longer have a dominant nationality, the very concept of being a national company simply no longer exists.<sup>5</sup>

Culture is also becoming globalized as never before. Satellite television (now widely available even in the developing world), low-cost travel, the diminishing costs of air-freight, and the rapid growth of the Internet all considerably diversify the global offerings of television, cinema, cuisine, art, and language. More than 3 million people per day now cross international borders, taking their local cultures, customs, and languages with them. The Internet is now available to more than 500 million people around the world, opening an immediate and low-cost window to news, culture, music, and information from all over the world.<sup>6</sup> Whatever the measure, it seems clear that the world is more tied together, and societies and economies more open to foreign influences, than it has ever been.

Finally, world politics and strategic affairs are also more globalized than ever. Terrorist networks like Al Qaeda operate in more than 60 countries, transfer weapons and money around the world, and coordinate attacks on a global level. Transnational criminal gangs are now multinational enterprises with production and distribution networks spread around the world. Similarly, weapons proliferation networks, such as the recently discovered A.Q. Khan nuclear ring, have brought together countries as geographically and politically diverse as Pakistan, Iran, North Korea, Malaysia, and Libya. Countries have also been inevitably brought together politically by global environmental issues such as climate change or the spread of diseases like AIDS that do not respect national borders and that require coordinated, global political responses.

Partly as a response to such growing transnational threats, the United States has invested massively and successfully in the ability to influence political decisions and use military force literally anywhere in the world. In 2001 and 2003, it used its military forces to overthrow governments in Central Asia (Afghanistan) and the Middle East (Iraq) and now finds itself leading coalitions of dozens of countries trying to stabilize those countries and others in the region. No military power in world history has ever had the ability the United States has today to intervene almost immediately in any region in the world without the assistance of allies or serious fears of a major counterattack.

Much of this unprecedented globalization, as is often pointed out, is due to technological advances over the past few decades.<sup>7</sup> As a result, the costs

of international shipping, transportation, travel, communication, and financial interaction have all fallen, in some cases dramatically. But, it is important to remember that globalization has also been driven by changes in ideas, and therefore policies. As recently as 20 years ago, much of the world – the Soviet Union, Eastern Europe, China, India, Southeast Asia, Africa, the Middle East, and most of Latin America – was either largely cut off from the international economy or at least highly reluctant to open borders to trade, capital, and information flows. Even in Western Europe, not all governments were yet persuaded of the beneficial effects of free trade, capital, and investment flows. Today, however, while there is still a range of views on the best way to implement modern capitalism, mainstream thinking about international openness is dramatically different. Not only has the EU completed its single market and ended all restrictions on capital flows (no longer opposed even by governments of the Left), but leaders of huge parts of the international economy – China, Southeast Asia, Latin America, Eastern Europe, and Russia – are now convinced that openness to trade and foreign investment are in the best interests of their countries. While there is no guarantee that this trend will go on forever – previous periods of economic openness, after all, have been reversed – there is no doubt that it has already progressed quite a long way, and few signs that it is running out of steam.

It is also important to keep in mind that the many distinct, if related, components of globalization are not all driven by the same forces or proceed (or recede) at the same pace. Robert Keohane and Joseph Nye have pointed out, for example, that economic globalization progressed between 1850 and 1914 but receded between 1914 and 1945, while many aspects of military and social globalization progressed between 1914 and 1945.<sup>8</sup> Similarly, the effects of the different strands of globalization can vary considerably. Economic globalization might force once-protected industries to compete or affect the relative return to labor or capital. Informational globalization (via the Internet, for example) might undermine the control of authoritarian governments. Military globalization (the growing ability to project force around the world) might enhance the global influence of the United States or it may open up the possibility of terrorism on a global scale. And environmental globalization might make populations more vulnerable to disease, pollution, or other environmental issues that originate beyond their own borders.

Most people, of course, do not distinguish among these various elements and often think of globalization as a single phenomenon that cannot be accepted or rejected in part. Indeed, it was interesting to note that the

massive anti-globalization protests of 2000–2002 – at IMF or EU meetings in Prague, Gotenberg or Genoa or at meetings of the World Economic Forum in Davos, for example – significantly diminished during 2003, when much of the anti-globalization movement focused instead on the U.S.-led war against Iraq. Presumably, economic globalization was no less a “threat” in 2003 than it was the previous year, but in 2003 it was another, very different aspect of globalization – American power – that came to the fore. Many of the different strands of globalization are, in fact, related – American political and economic preeminence no doubt helps to spread U.S. culture, for example. So, we need to try to balance the need to disaggregate a complex phenomenon with the need to see globalization as a package of closely related developments that cannot be discussed in isolation from one another.

## **2. HOW GLOBALIZATION CHALLENGES EUROPE**

Europe is hardly the only region in the world where globalization has become a controversial political issue. Trade unions, political and human rights activists, environmentalists, and consumer groups all around the world have brought attention to the dangers of unchecked globalization – such as the undemocratic nature of the trade regime, the social failures of the free market, and the real risks of environmental degradation. From the United States to Japan, from Brazil to India, substantial sections of public opinion and key government leaders are now seriously questioning the effects of globalization and looking for ways to control it. In the 2004 U.S. election campaign, leading Democrats made much of the significant net loss of jobs under the Bush administration, and many identified globalization – free trade agreements like NAFTA and the “outsourcing” of jobs to other markets – as the cause of the problem.<sup>9</sup>

Yet if globalization is now an issue everywhere, it challenges Europe in particular ways, and arguably more than it challenges the United States. First, globalization is a greater challenge to Europe because of the greater role traditionally played by the state in most European countries. Economic globalization obliges the state to significantly relinquish that role and defer to the market. Europeans, of course, have significantly liberalized their economies over the past twenty years, but most of them remain much more state-centric than the United States. In 2003, for example, state spending (total government outlays) in the EU averaged over 48% of GDP compared with only around 36% in the United States. In several EU member states

(Austria, Denmark, Finland, and France), state spending was more than 50% of GDP.<sup>10</sup> The percentage of European workers who are on the state payroll is only marginally greater than the percentage in the United States (17% to 15%) but for certain European countries – such as France – that percentage is significantly higher (25%), making economic liberalism that much more difficult to accept. State social expenditures in the EU average over 25% (nearly 30% in Germany and France) compared with just 15% in the United States.<sup>11</sup> The lack of labor mobility and labor market flexibility also contributes to the challenge – EU citizens are almost six times less likely than Americans to move from one region to another, and workers whose jobs are affected by trade are less likely to accept wage or benefit cuts in order to preserve those jobs.<sup>12</sup> When globalization requires economic adaptations, workers in Europe simply do not adjust as easily as they do in the United States. These factors all make it difficult for Europeans to accept that their economic, social, and cultural fate are controlled less and less by their national capitals – or even by Brussels, where at least they have a say – and more and more by the whims of the global market.

A second (and related) reason why globalization poses a particular challenge to Europe is that Europeans are generally more attached to equality and collective rights than are most Americans. The United States, proud of its tradition of individualism and convinced that anyone given the opportunity can thrive as a “self-made” man or woman, is relatively more comfortable with the chaotic world of globalization. To be sure, Americans – especially in increasingly difficult economic times and after reports of outlandish pay packages for sometimes-corrupt CEOs – also resent inequality at home. But many – especially on the conservative side of the political spectrum – also accept the combination of great successes and inequalities that globalization creates. As Robert Samuelson has written, “On the whole, Americans care less about inequality – the precise gap between the rich and the poor – than about opportunity and achievement: are people getting ahead?”<sup>13</sup> “Even after the Enron and other scandals,” Nathan Glazer adds, “most Americans remain apathetic about inequality: What we have today is outrage against those who do not play fair – not outrage over inequality as such.”<sup>14</sup> Perhaps this helps explain why Americans continue to support tax cuts whose benefits go mostly to the very rich, and why they tolerate CEO pay levels at top companies that are 531 times the average for typical hourly employees, compared with CEO/worker pay ratios of 25 in Britain, 19 in Italy, 16 in France, and only 11 in Germany.<sup>15</sup> Europeans, perhaps in reaction to living for centuries under highly unequal economic systems, perhaps due to a much higher population density that

requires more cooperation within communities, and perhaps due to the generous welfare states they have come to rely on, are more skeptical.

A third reason why globalization may be more difficult for Europe than for the United States is that it is often seen as a threat to local cultures – or at least to all cultures other than that of the United States. The issue of cultural threat is obviously greater for some countries – such as France – with long traditions of resentment of American cultural domination than in others. In Britain, the language is not an issue, and many of the smaller countries long ago abandoned pretensions to playing a major global cultural role or a national cinema industry. Yet all across Europe, there is at least a degree of resentment at the extent to which globalization leads to an invasion of American culture. In fact, in Europe many products of globalization – such as sushi, reality television, and low-priced manufactured goods, mad cow disease – have nothing to do with the United States. Still, because of the size of the U.S. economy and the country’s political presence all around the world, American practices, values, and products are present in the affairs of other countries as never before.

Finally, there is the issue of the way that political and strategic globalization challenges Europe’s ability to manage its own security in an increasingly interdependent and dangerous world. During the Cold War, most European countries more or less abandoned the notion of defending their security interests on their own. They turned to NATO under U.S. leadership to do so, and were mostly comfortable with American management of the Cold War and willingness to respect their particular interests as the leader of the alliance. Today, Europeans are not so certain. They know they are threatened by instability from the Middle East, terrorism, and the proliferation of weapons of mass destruction, but also that they remain highly dependent on the United States for dealing with these problems. And unlike during the Cold War, they are no longer certain that U.S. and European interests and worldviews are sufficiently congruent. Some Europeans worry as much about the consequences of America’s global power as they do about the strategic threats that the United States claims to be using its power to confront.<sup>16</sup>

### **3. USING THE EU TO MANAGE GLOBALIZATION**

As noted earlier, the loud anti-globalization movement sometimes gives the impression that “Europe” opposes the process. In fact, however, both public opinion surveys and the actual policies of Europeans governments strongly

suggest that this is not the case. Most Europeans welcome globalization and believe it can be good for their countries, their companies and their families – so long as the process can be managed. And they believe – for, I will argue below, good reason – that it can and should be managed by a strong EU.

According to public opinion polls taken in October 2003, some 64% of Europeans said that they were “rather in favor” (51%) or “totally in favor” (13%) of globalization, with only 28% saying that they were “rather opposed” (20%) or “totally opposed” (8%).<sup>17</sup> Some 52% said that more globalization would be “more advantageous” for their families compared to 32% who said it would be “less advantageous.” Fifty-six percent said globalization would be “a good opportunity” for businesses in their country, compared with 39% who said it would be a “threat to employment.”<sup>18</sup>

Europeans also seem to cautiously accept the liberalization that globalization entails. Indeed, a solid plurality of Europeans (41%) felt that their country’s economy was “suited to the development of the global economy,” and more felt that if anything their economy was “too closed” (31%) rather than “too open” (20%).<sup>19</sup> Only 26% of Europeans said the EU was “too liberal,” with some 65% saying that it was either “too protectionist” or “neither too protectionist nor too liberal.” Only in Germany and France did more than 30% say that the EU was too “liberal.”

It does seem clear, however, that Europeans oppose unbridled globalization and that they see the EU as a key tool for managing it. As then EU Trade Commissioner Pascal Lamy put it a few years ago, the EU is “the only instrument for harnessing the forces of globalization to make it compatible with our model of society.”<sup>20</sup> A solid majority of Europeans (62%) believe globalization can be “effectively controlled and regulated” compared with just 35% who did not think so.<sup>21</sup> A large majority (73%) also believes that globalization needs more regulation, and 61% has confidence that the EU will guarantee that globalization moves in the right direction, compared to 34% who do not have confidence in the EU.<sup>22</sup> Again, Lamy seems to speak for a majority when he argues that “global markets need global institutions to sustain and regulate them. We should reject the notion that unfettered market forces should dictate our way of life, our culture, and ultimately the nature of our society and our core values.”<sup>23</sup>

The record of the past 25 years certainly provides more evidence of a EU that is adapting to (while managing) rather than resisting globalization. As late as 1980, the major European economies were still highly regulated, capital movements were restricted, and hundreds of non-tariff barriers (physical barriers at borders, immigration controls, licensing requirements, health and safety regulations, and restrictions on trade in services) prevented



true economic integration even within the EU. Other trade distorting measures included heavy state subsidies and obstacles to cross-border mergers and acquisitions. From 1981 to 1983, the French government even experimented with a socialist economic experiment – a massive program of nationalizations and state-led growth that threatened economic integration within the EU and economic openness.

Since that period, however, Europe's economies have liberalized extensively, and economic openness within Europe has progressed greatly. The "1992" program to complete the single European market did away with the non-tariff barriers to trade and capital flows, and governments across the Union proceeded with the privatizations and elimination of trade barriers necessary to open their economies up to world trade. To be sure, much progress remained to be made, but by the early 1990s the EU was far more open to internal movements of goods, capital, services, and people than even a decade before.

In retrospect, the "Europeanization" of the 1980s was the prelude to the "globalization" of the 1990s. Even its opponents were the same – left wing socialists opposed to the workings of the free market and the inequalities it creates, environmental groups concerned about the effects of industrialization, and right-wing nationalists opposed to the erosion of national sovereignty. These groups all fought against the European integration process of the late 1980s and the Maastricht Treaty that, in 1991, consolidated that process. When they lost that debate, the anti-globalization activists turned their energy toward resisting globalization and its manifestations in the late 1990s – the World Trade Organization, the Multilateral Agreement on Investment, the World Economic Forum, and the spread of American culture. In other words, whereas in the 1980s the EU was mainly seen as a force behind globalization and liberalization, by the 1990s it had become a tool for managing those processes. As Denis Kessler, vice president of the French employers association, put it in 2000: "A few years ago, it was Europe that was being presented negatively by a large part of the French political elite: the euro was going to destroy jobs, and the loss of sovereignty would be terrible for the French economy. All of this was false. Today, we are looking for another devil – one who now has the face of globalization."<sup>24</sup>

Europeans look to the EU to protect them from this new devil in a number of different ways. First, by providing a large, single market, the EU allows its member states to take advantage of many of the benefits of globalization (specialization; free circulation of goods, services, money, and people) on a more limited scale and among relatively like-minded countries at similar levels of economic development. Europeans find it easier to accept

European integration than global integration because of the Europeans' similar value systems and common commitment to generous social and environmental provisions. Since most of the trade of individual EU member states takes place within the EU, these provisions reassure Europeans that economic openness will mostly take place in a managed and regulated context. Europeans also count on the EU to protect them from the inequalities that globalization can create. The EU's generous provision of "structural funds" (30 billion euros of economic aid to regions whose GDP per capita is below 75% of the EU average) and a social safety net make the Union safer for globalization.

The EU is also a tool for aggregating the separate member states' strength to give them more leverage in international negotiations – whether on trade, the environment, food safety, international financial reform, foreign policy, cultural issues, or anything else. None of the individual member states could ever hope to stand up to the United States in any of these areas, but the EU – with a collective GDP and population on a par with or greater than those of the United States – has increasingly done so.<sup>25</sup> Trade Commissioner Peter Mandelson, for example, negotiates with U.S. Trade representative Rob Portman as a genuine equal (in a way, for example, that neither EU External Affairs Commissioner Benita Ferrero-Waldner nor EU foreign policy chief Javier Solana does with U.S. Secretary of State Condoleezza Rice). The United States' repeal of steel tariffs, its willingness to eliminate its foreign sales corporation tax scheme, and its agreement not to implement secondary sanctions on European companies that do business with Cuban, Iran, and Libya are all examples of how Europe's collective leverage can win concessions from the United States. Indeed, Europe's ability to act as a single unit on trade questions was itself one of the factors that led the United States to agree to the creation of a World Trade Organization with a binding dispute mechanism.

The creation of the euro in another EU mechanism that has provided Europe some shelter from the vicissitudes of globalization, sheltering more than half of the trade of participating EU countries from intra-European currency fluctuations. Furthermore, if the euro proves to be a success, it may one day allow Europeans to invoice energy imports in their own currency (instead of in dollars) and become a reserve currency rivaling the dollar.

Finally, Europeans turn to the EU to regulate certain sectors of their economies or societies – such as agriculture or culture – that would be dramatically transformed by unregulated globalization. With the EU's Common Agricultural Policy (CAP), for example, globalization would mean the destruction of much of European farming, especially small farms.

From the standpoint of global efficiency and production that would be a good thing. But Europeans (and not, according to opinion polls, only the farmers themselves) apparently would rather pay a significant price – including in the form of higher food prices – in order to maintain this aspect of their traditional culture and way of life. The EU will eventually have to cut back on its agricultural protection, and it is gradually doing so already. But, Europeans expect the EU to be able to manage that process in a way that does not cause the pain they would expect from living in an entirely unregulated world.

In all of these areas, mostly concerning the economic and social aspects of globalization, the EU is seen as – and arguably is – a hugely important tool for promoting globalization while managing some of its potentially negative effects. The EU can also be a tool for managing political and strategic globalization. But in that area, as seen below, it still has a long way to go.

#### 4. THE EU AS A STRATEGIC TOOL

Growing global political and strategic interdependence challenges Europe as much as global economic interdependence does. As the EU itself notes in its official European Security Strategy,

the post Cold War environment is one of increasingly open borders in which the internal and external aspects are indissolubly linked. [...] These developments have ... increased European dependence – and so vulnerability – on an interconnected infrastructure in transport, energy, information and other fields. [...] In an era of globalization, distant threats may be as much a concern as those that are near at hand. Nuclear activities in North Korea, nuclear risks in South Asia, and proliferation in the Middle East are all of concern to Europe.<sup>26</sup>

The document goes on to define the “key threats” Europe faces as terrorism, weapons proliferation, regional conflicts, state failure, and organized crime – all of which are global in nature, with little respect for national frontiers. As a result, the strategy concludes,

as a union of 25 states with over 450 million people ... and with a wide range of instruments at its disposal, the EU is inevitably a global player. [...] Europe should be ready to share in the responsibility for global security and in building a better world.<sup>27</sup>

European attempts to coordinate their foreign and military policies, of course, go back many decades. Indeed, from the very beginning, the process of European integration was designed not only to help to prevent yet another intra-European war or to enhance economic performance, but also

to give the eclipsed nation-states of Western Europe more of a voice on the world stage and the means to stand up to the two superpowers. The end of the Cold War in 1989 gave a further boost to such efforts, as fears grew that the United States would turn inward to deal with its own economic problems, leaving Europeans to deal with security challenges on their own. The 1991 Maastricht Treaty created a “common foreign and security policy” and expressed the aspiration one day to have a common European defense, but that agreement papered over many differences among the key European players, particularly on the issue of how the EU should relate to the United States in foreign affairs.

After initial optimism that the Europeans could be both united and effective in strategic affairs – the Luxembourg Foreign Minister famously announcing in 1991 that the “hour of Europe” had arrived – the crises in the Balkans showed that Europe was in fact still highly dependent on the United States. Internal European divisions prevented effective action. It was only after the United States finally decided to get engaged, leading a NATO military intervention in Bosnia in 1995, that the Europeans were able to overcome their own internal differences and work effectively in the Balkans. The following year, when Greece and Turkey almost went to war over an islet in the eastern Mediterranean, Washington again had to take the lead in crisis resolution. U.S. Assistant Secretary of State Richard Holbrooke complained that Europeans were “literally sleeping through the night” as the Americans mediated between the two sides. Holbrooke’s comments were unfair, but the incident symbolized the degree to which Europe remained dependent on the United States years after the Soviet threat had disappeared. The message for many Europeans was that only a more concerted effort to harmonize their foreign and defense policies could help ensure their security and provide a modicum of autonomy from the United States.

In December 1998, at a bilateral summit in Saint Malo, France, London and Paris joined forces behind an initiative to endow the EU with autonomous military forces. Blair had been appalled at Europe’s lack of unity and lack of capability in facing the mounting Kosovo crisis that year and he wanted to give the EU options in cases when the United States or NATO chose not to be engaged. The Saint Malo proposals quickly won the support of other Europeans and at the Helsinki summit the following year EU leaders agreed to create a EU rapid reaction force that would be capable of deploying 60,000 troops within 60 days and sustaining them for up to a year.<sup>28</sup> More than four years later, however, efforts to build this deployment capability are still lagging, as Europeans have proved unwilling to increase military budgets in a difficult economic climate.

The arrival of the Bush administration made Europeans even more determined to build up their capacity for collective and unified global action. Bush's response to global strategic challenges was for the United States to lead decisively, unencumbered by international institutions and alliances. Thus, during his first year in office, Bush repealed, unsigned or refused to support a number of international agreements designed to manage various transnational issues – the International Criminal Court; the Kyoto Protocol on Climate Change; the Anti-Ballistic Missile Treaty; the verification mechanism of the Biological Weapons Convention; the Comprehensive Nuclear Test Ban Treaty and others. The message to Europe, again, was that so long as America was powerful and united and Europe was not, it would have little influence over international affairs. On trade, a powerful EU Commissioner representing a united Union could oblige the United States to take its interests into account; on strategic affairs Washington could act almost as if European views did not exist.

The September 11 terrorist attacks also reminded Europeans how vulnerable they, along with the United States, now were to transnational terrorist threats. Even the most powerful country in the world could be struck a devastating blow, and Europeans knew that even if they might not be the number one target they could easily be subject to attack as well. The anthrax attacks on the east coast of the United States in the month following 9/11 – which killed five people and nearly shut down the U.S. postal service – were also a sharp reminder, were also a good reminder of the dangers of the spread of weapons of mass destruction. No one could doubt that if members of a global terrorist network like al Qaeda got its hands on anthrax – or something worse – they would be prepared to use it. Moreover, the extensive al Qaeda network in Germany that was used by some of the 9/11 hijackers, the discovery in a London apartment of the poison ricin (known to be of interest to terrorists as a possible weapon of mass destruction), the London-based “shoe-bomber” Richard Reid who tried to blow up an airplane on its way from Europe to the United States, thwarted terrorist plots to blow up buildings in Rome, and the recent threats to airliners scheduled to fly from Paris to Washington are all also reminders that transnational terrorism and weapons proliferation are hardly issues for the United States alone.

As a response to such threats, Europeans have sought to strengthen the EU as a tool for improving common security. Since 9/11, the EU had adopted a common search and arrest warrant so that police forces in one-member state do not need to wait for lengthy extradition procedures to pursue suspected criminals or terrorists elsewhere in the EU; improved intelligence cooperation; expanded the ability of “Europol,” the EU police

agency, to demand instantaneous information from EU member states and to coordinate arrests; and passed directives giving the Commission greater ability to freeze terrorist assets and control money laundering. The EU is also considering the use of more majority voting to better coordinate immigration policies and other aspects of Justice and Home affairs. But as on defense, many national obstacles to greater integration remain, and internal counter-terrorist cooperation has a long way to go.<sup>29</sup>

The European Constitutional Convention that met during 2003 to draft a new EU constitution also made considerable efforts to strengthen the EU's common foreign and security policy and to give the Union a greater voice in managing global affairs. The Convention proposed the creation of a new post of EU "President," someone who could replace the old system of a rotating presidency with more continuity but also have the stature to meet as more of an equal with the President of the United States and other world leaders. The new plan would also create a EU "foreign minister," who would take on the responsibilities that are currently divided between EU foreign affairs representative Solana and External Affairs Commissioner Ferrero-Waldner. If these measures were ever to come into force they would provide at least a modest improvement in the EU's ability to make and articulate a unified foreign policy. Other recent agreements – for a common EU armaments agency, an operational planning cell for EU military operations, and a common defense clause for the EU – should also help foster solidarity and promote more effective EU defense and security policies.

But even after these changes the EU as a decisive and capable global actor would still be a long way off. Indeed, the 2003 Iraq war and its difficult aftermath have shown how far Europe still remains from having a common policy to deal with global security threats. In fact, European views on the war were quite similar across the continent – the vast majority of European public and elite opinion preferred deterrence and containment to regime change by military force, and they wanted to see the UN Security Council play a key role. The difference, however, was that certain European governments – France, Germany, Belgium, and Luxembourg – chose to stand up to the United States on the issue, whereas most others did not believe the Iraq issue was worth a crisis with the United States. The result was a deeply divided EU throughout 2002–2003. France, Germany, Belgium, and Luxembourg refused to support the war (and even to approve defense planning for a NATO member, Turkey, in case of war), while the other EU and NATO members backed the United States, many even sending troops to Iraq.

Iraq was no doubt a particularly difficult case, and the intra-European divisions it produced should not obscure the significant progress the EU has made even in the area of foreign policy. European interests and solidarity have converged over the years, and the EU is gradually becoming a global player better able to meet a wide range of transnational threats. Even in the military area where it is furthest behind it is making progress – the EU *as the EU*-conducted military operations last year in the Democratic Republic of Congo and Macedonia and it is about to take over from NATO in Bosnia. National European forces, meanwhile, are operating in Afghanistan, Iraq, Haiti, Africa, and elsewhere around the globe. The Union is thus still a long way behind the United States when it comes to handling the political and strategic aspects of globalization, but even in this area it is making progress.

## 5. CONCLUSION

Many Europeans will, no doubt, continue to protest against globalization – and sometimes for good reason. Growing international interdependence does challenge many basic aspects of traditional European political and economic systems, it threatens aspects of national European cultures, and it leaves Europe vulnerable to new and unprecedented threats. But, globalization also brings many great benefits including prosperity, development, and cultural diversity. Much of it, in any case is inevitable. In the EU, Europeans have found a tool to help them manage these processes, taking advantage of their many benefits while protecting EU citizens from some of globalization's less positive effects. The EU remains an imperfect tool for managing globalization, but it is also an indispensable one.

## NOTES

1. See, for example, Kenneth N. Waltz, "Globalization and American Power," *National Interest* 59 (Spring, 2000), pp. 46–56; Michael D. Bordo, Barry Eichengreen, and Douglas A. Irwin, "Is Globalization Today Really Different from Globalization a Hundred Years Ago?" in Susan M. Collins and Robert Z. Lawrence, eds., *Brookings Trade Forum 1999* (Brookings, 1999), pp. 1–72; and Ellen L. Frost, "Globalization and National Security: A Strategic Agenda," in Richard L. Kugler and Ellen L. Frosts, eds., *The Global Century: Globalization and National Security* (Washington: National Defense University Press, 2001), pp. 35–74.

2. See Thomas L. Friedman, *The Lexus and the Olive Tree: Understanding Globalization* (Farrar, Straus and Giroux, 1999), pp. xiii–xvi. For other comparisons among eras, see Dani Rodrik, “Has Globalization Gone too Far?” *California Management Review* 39 (Spring, 1997), pp. 34–36; Jeffrey Frankel, “Globalization of the Economy,” in Joseph S. Nye Jr. and John D. Donahue, eds., *Governance in a Globalizing World* (Brookings, 2000), pp. 45–50; John Micklethwait and Wooldridge (2000); and Bordo, Eichengreen, and Irwin, “Is Globalization Today Really Different from Globalization a Hundred Years Ago?”

3. See International Monetary Fund, *World Economic Outlook 2003* (September 2003), Table 22; and United Nations, *World Investment Report 2003*, Annex Table B.2.

4. See United Nations, *World Investment Report 2003*, Annex Table B.7.

5. For other statistical indicators of globalization, see John Micklethwait and Wooldridge (2000), p. xxi.

6. On Internet availability, see World Bank, 2003 *World Development Indicators*, Table 5.1. The Information Age.

7. See, for example, Jeffrey Frankel, “Globalization of the Economy,” pp. 45–46.

8. See Robert O. Keohane and Joseph S. Nye Jr., “Introduction,” in Nye and Donahue, *Governance in a Globalizing World*, p. 2.

9. See, for example, Charles Schumer and Roberts (2004); and Jonathan Weisman (2004).

10. See OECD (n.d.) Table 26.

11. OECD (1998) figures from [www.oecd.org](http://www.oecd.org).

12. In 1999, 1.2% of the EU population moved from one region to another, compared with 5.9% of the population that moved from one county to another in the United States. In 2000, only 0.1% of the EU population moved from one EU country to another. Also in 2000, only 16.4% of EU workers had been with their employer for less than a year, compared with 30% in the United States, and only 0.1% of the EU population moved from one EU country to another. See European Commission, Employment and European Social Fund, Employment and Social Affairs, [www.publications.eu.int](http://www.publications.eu.int).

13. See Robert J. Samuelson (2001, p. 45).

14. See Nathan Glazer (2003), pp. 49–65. Glazer also cites polls showing that 71% of Americans, but only 40% of Europeans, believe that the poor have a chance to escape from poverty.

15. On the CEO/worker pay differentials, see Eric Wahlgren (2001). On the support for the unequal tax cuts, see Larry M. Bartels, “Homer Gets a Tax Cut: Inequality and Public Policy in the American Mind,” Paper prepared for presentation at the Annual Meeting of the American Political Science Association, Philadelphia, PA, August 2003, available at [www.brookings.edu](http://www.brookings.edu). Bartels, however, argues that Americans support the tax cuts not because they are indifferent to inequality, but because they do not connect inequality and public policy.

16. See, for example, the EU opinion poll in late 2003 that showed that Europeans considered the United States – along with Iran, North Korea, and Israel – to be among the greatest threats to world peace. See Richard Wolffe (2003).

17. See European Commission (2003), p. 15. In this survey, globalization was defined as “the general opening-up of all economies, which leads to the creation of a truly world-wide market.” The strongest support for globalization (total in favor



above 70%) was found in the Netherlands, Germany and Ireland while the greatest opposition (total opposed above 40% was in Greece and Austria. Greece was the only EU country that showed a larger proportion of opponents than supporters, but even that difference was narrow 51%–47%.

18. *Eurobarometer*, pp. 19, 24.
19. See *Eurobarometer*, Globalization, p. 8.
20. See Pascal Lamy (2001).
21. *Eurobarometer*, Globalization, p. 29.
22. *Eurobarometer*, Globalization, p. 47.
23. Pascal Lamy (2002).
24. See Denis Kessler (2000).
25. See the discussion in Sophie Meunier (2000, p. 103).
26. See European Union (2003).
27. EU, *European Security Strategy*, p. 4.
28. For background, see Gilles Andréani, Bertram, and Grant (2001).
29. See Heather Grabbe (2004).

## REFERENCES

- Andréani, G., Bertram, C., & Grant, C. (2001). *Europe's military revolution*. London: Centre for European Reform.
- European Commission. (2003). *Eurobarometer, flash barometer 151b "globalization."* October.
- European Union. (2003). *European security strategy: A secure Europe for a better world*. Brussels.
- Glazer, N. (2003). On Americans & inequality. *Daedalus*, 132(3), 111–115.
- Grabbe, H. (2004). *The impact of September 11th 2001 on justice and home affairs in the European Union*. Warsaw: Institute of Public Affairs.
- Kessler, D. (2000). Les Français aiment le risque mais l'Etat les endort. *L'Expansion*, February 17–March 1.
- Lamy, P. (2001). *The European Union: Between globalization and enlargement*. Freie Universität Berlin, February 8. ([http://europa.eu.int/comm/trade/speeches\\_articles/spla46\\_en.htm](http://europa.eu.int/comm/trade/speeches_articles/spla46_en.htm)).
- Lamy, P. (2002). *Facing the challenge of globalisation: Regional integration or multilateral rules*. Buenos Aires, March 1.
- Meunier, S. (2000). What single voice? European institutions and EU–U.S. Trade negotiations. *International Organization*, 54(1), 103–135.
- Micklethwait, J., & Wooldridge, A. (2000). *A future perfect: The challenge and hidden promise of globalization*. New York: Crown.
- OECD. (1998). Public social expenditure. [www.oecd.org](http://www.oecd.org), Programme: 90.
- OECD. (n.d.). General government total outlays. [www.oecd.org](http://www.oecd.org).
- Samuelson, R. J. (2001). Indifferent to inequality? *Newsweek*, May 7.
- Schumer, C., & Roberts, P. C. (2004). Second thoughts on free trade. *Washington Post*, January 6.
- Wahlgren, E. (2001). Spreading the Yankee way of pay. *Business Week*, April 18.
- Weisman, J. (2004). Bush adviser assailed for stance on 'offshoring' jobs'. *Washington Post*, February 11.
- Wolffe, R. (2003). Diplomatic diary: Not just name calling. *Newsweek*, November 5.
- World Bank. (2003). World development indicators, Table 5.1 *The Information Age*.

# CAN THE EUROPEAN UNION CONTROL THE AGENDA OF GLOBALIZATION?

Dorothee Heisenberg

## ABSTRACT

*This chapter argues that the European Union has been highly effective in creating an economic environment that buffers necessary macroeconomic change while at the same time protecting different domestic economic systems and institutions. Moreover, the EU, through its size and decision-making mechanisms, has prevented “race to the bottom” or “beggar thy neighbor” policies, forcing global companies to compete on the EU’s terms. Finally, the chapter argues that the EU has succeeded in shaping aspects of globalization by, for example, making its product standards the international standards and resisting the US’s policies on genetically modified organisms or data protection.*

In June 2004, the European Union (EU) leaders reached a compromise on a new Constitutional Treaty, which essentially codified the status quo.<sup>1</sup> During the ratification of that Constitutional Treaty, the French voted against it in part because it was too economically neo-liberal,<sup>2</sup> while the British politicians criticized the Treaty as being too economically interventionist and over-regulated.<sup>3</sup> These apparently contradictory views of the EU’s economic

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 19–39  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88002-2

policies are the basis of this chapter. At issue is whether the EU has forced the (now) 25 Member States to implement more neo-liberal policies than they might have without the EU, thus reinforcing globalization's neo-liberal economic demands, or whether the EU has actually shielded its Member States from the pressures of globalization, allowing them to pursue different economic policies.

The European Union,<sup>4</sup> a diverse collection of 25 states, was founded on the ideal of making war impossible by integrating the economies of its states to such an extent that armed conflict would be too costly for all sides. The idea of using economic means to achieve broader political goals is therefore not foreign to the EU. Over time, the economic integration between EU states has increased dramatically, and with each EU enlargement, new countries have redirected their trade towards EU Member States and, in effect, made the EU more self-reliant. As the size of the EU and the member state economic independence increased, however, the economic policies of the Commission also became more neo-liberal and strict in their attempts to promote free trade throughout the common market (Pollack, 2000).

Because globalization is a word used in many different contexts, it is important to define globalization as used in this chapter. The term refers here only to the increasing economic interdependence (trade and investment ties) between non-contiguous countries. Keohane and Nye (2000) refer to these increasing ties as “thickening” globalization – more trade, more capital flows, more cross-border investment. Looking at statistics (see Table 1) it is hard to dispute the conclusion that there has been increased globalization and that the EU has been at the vanguard of these increasing economic flows. The larger and more difficult question is how globalization affects different states' abilities to have distinct economic policies and priorities. There is an implicit hypothesis in much of the globalization literature that globalization forces harmonization of economic policies and thus states have lost their ability to run economic policy to markets. Broadly stated the question of this chapter becomes: has the EU enabled or prevented European states to continue to have their own distinct economic policies or to provide benefits above those set by a global market place?

This question is really a counterfactual one: would the individual Member States have been as successful in retaining idiosyncratic institutions and economic policies had the EU not existed? Or, alternatively, did the EU protect the ability of Member States by creating a common market large enough to support economies of scale production for the individual Member States and to attract foreign companies' investment despite highly regulated labor and product markets?<sup>5</sup>

**Table 1.** Comparing the EU and the US.

|  | European Union |               | United States |
|--|----------------|---------------|---------------|
| Population   | EU-27:         | 486 million   | 288 million   |
| Real GDP (2003)  | EU-25          | €9.8 trillion | €9.7 trillion |
| Share of World   | EU-27:         | 20.1%         | 17.7%         |
| Trade in Goods<br>(2003)   |                |               |               |
| Share of World   | EU-27:         | 28.4%         | 18.7%         |
| Trade in Services<br>(2003)  |                |               |               |
| Inward FDI flows as<br>percent of world<br>(2001-3)<br>(excluding intra-<br>EU flows)  | EU-27:         | 30.3%         | 19.9%         |
| Outward FDI flows<br>as percent of<br>world (2001-3)<br>(excluding intra-<br>EU flows) | EU-27:         | 42.3%         | 31.8%         |

Source: European Commission, External Trade. Available at <http://europa.eu.int/comm/trade/issues/bilateral/data.htm>

This chapter argues that the process of deeper European integration and successive enlargements resulted in greater participation in global economic governance and more European policy autonomy. This outcome was the serendipitous consequence of closer political and economic ties. The logic of European integration and enlargement was always *sui generis*, with countries cooperating in order to achieve pareto optimal results, and definitely not a response to globalization or a conscious effort to play a more significant role internationally. Positive externalities of European integration and enlargement were created, however. These externalities manifested themselves in the EU's ability to incorporate its preferences in global institutions to a much greater extent and to shield its Member States from some of the effects of the global marketplace deemed negative by a majority of their electorates.

This argument rejects claims (e.g. Blyth, 2002; Moss, 1998a, 1998b; McNamara, 1998) that the EU became the agent of globalization in Europe. According to this line of logic, the EU facilitated deregulation and a lowering of social protection in Europe by establishing the Single European Act (SEA, 1986), the Stability and Growth Pact (1997) and Economic and

Monetary Union (EMU, 1999) without commensurate progress in European social policies. Thus, a neo-liberal Europe, with emphasis on low inflation, low budget deficits, rejection of state subsidies for large employers, and tax competition among Member States was created. This chapter will examine the merits of this view, but conclude that, rather than facilitating a “race to the bottom”, the EU saved social democracy from some of its most untenable economic policies and created a critical mass that preserved some of the essential social elements of each Member State’s economic preferences.

Many of the arguments made by critics of the EU are based on macroeconomic policies agreed to by the Member States of the EU. Thus, the macroeconomic consequences of policies like the European Monetary System (EMS) and the Economic and Monetary Union (EMU) are the lynchpin of the argument that the EU did globalization’s dirty work. However, it must be borne in mind that all states disinflated in the 1980s, whether or not they were in the EMS and the budget constraints posed by EMUs convergence criteria or the Stability and Growth Pact were *de facto* in place by currency markets and rating agencies (Boix, 1998; Mosely, 2000; Sinclair, 1994) and not significantly different than those of non-EU economies (see Table 2). Moreover, one of the explicit aims of the single currency – to the extent that the euro was created in reference to global economic problems, which I argue was fairly limited – was to create an international reserve currency that would reduce the constraints of international capital flows on

**Table 2.** Cyclically adjusted general government balances Surplus (+) or deficit (–) as a per cent of potential GDP.

|                | 1986  | 1990  | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|----------------|-------|-------|------|------|------|------|------|------|------|------|
| Australia      | –0.5  | –1.1  | –3.5 | –2.0 | –0.3 | 0.4  | 1.4  | 0.3  | –0.2 | 1.0  |
| Canada         | –7.1  | –6.5  | –4.8 | –1.8 | 0.9  | 0.6  | 1.4  | 2.2  | 1.2  | 0.5  |
| France         | –1.6  | –2.8  | –4.5 | –2.6 | –1.4 | –1.6 | –1.2 | –1.6 | –1.7 | –3.0 |
| Germany        | –1.6  | –4.5  | –2.8 | –2.5 | –1.7 | –1.4 | –0.9 | –1.4 | –2.6 | –2.6 |
| Iceland        | –4.3  | –3.3  | –0.6 | –0.5 | 0.2  | –0.1 | 1.5  | 0.8  | –1.2 | –1.5 |
| Italy          | –11.3 | –12.4 | –7.1 | –6.3 | –2.2 | –2.7 | –1.3 | –2.1 | –2.9 | –2.1 |
| New Zealand    | –8.4  | –2.8  | 2.4  | 2.1  | 1.7  | 1.6  | 1.2  | 1.3  | 1.7  | 2.1  |
| Norway         | 0.6   | –0.9  | –2.1 | –2.0 | –1.5 | –2.6 | –1.5 | –0.1 | –0.3 | –1.3 |
| United Kingdom | –2.4  | –3.0  | –4.9 | –3.4 | –1.9 | 0.1  | 1.1  | 0.9  | 0.5  | –1.3 |
| United States  | –5.0  | –4.5  | –2.9 | –2.2 | –1.2 | –0.2 | 0.1  | 0.9  | –0.2 | –3.0 |
| European Union | –4.1  | –5.5  | –4.5 | –3.3 | –1.7 | –1.3 | –0.7 | –1.0 | –1.3 | –1.7 |

Source: OECD. Available at <http://www.oecd.org/dataoecd/5/51/2483816.xls>

the Member States as it had done for the United States (Emerson et al., 1992). Indeed, by 2005, the euro had so significantly reduced the borrowing costs of some state debts that banking analysts worried that the bond markets had not priced accurately the default risks of the Italian euro bonds, which were trading near the German euro bond price!<sup>6</sup>

In contrast to the emphasis on neo-liberal macroeconomic policies, however, this chapter will focus on the EU's role in microeconomics and regulation. The role the EU plays in the area of regulation is extremely important in structuring product competition within the EU, and its effects are largely to the benefit of EU-based companies, and, by extension, EU Member States. Through a regulatory strategy of forcing environmental and labor standards and regulations to the highest quality rather than deregulating (Vogel, 1997b), the EU structured business competition to the benefit of EU companies (and forced new Member States like Spain and Poland to abandon hopes of competing on a "lowest-common-denominator" basis<sup>7</sup>). Thus environmental and labor standards were maintained and even increased as the EU grew in member state numbers and diversity. The overarching aim of the EU was to create a single, unified market which did not discriminate against any Member State's producers but forced all to a higher social and environmental standard than the deregulatory market created in the United States.

Why did the Member States allow the deregulation of product standards through the single European act, but continued to structure the European regulatory environment? By the 1980s, it had become apparent to most EU Member States that the economic basis for state action in social areas in the long-run depended on revenues derived from successful businesses within its territory. This political realization led to a consensus about establishing a competitive internal market by breaking down non-tariff barriers. At that point, creating the conditions for EU businesses to compete successfully in international product markets became the leading strategy that the EU adopted. At the same time, however, the EU did not prevent the Member States from demanding the social engagement of corporations in their territory. Forcing Member States to regulate corporate practices such as the maximum working time, gender equity, and health and safety issues was a quid pro quo for selling on a larger EU market. Thus the EU prevented some of the most reviled US corporate practices and the kind of globalization that many Europeans feared. Rather than allowing "race to the bottom" competition, the EU's regulatory regime required a "race to the top" (Vogel, 1997b) in terms of environmental, labor and technology standards from businesses.

The chapter is organized in four parts: the first section examines the EU's economic policies of the mid-1980s to the present. The second part shows that although the effects of these liberalizing policies were thought to create economic harmonization in the Member States' economies, significant variation continues to be the norm, blunting the argument that globalization creates 'race-to-the-bottom' harmonization. The third section examines the EU acting as a global economic actor in international forums. The paper concludes with an analysis of how the EU is able to control globalization to prevent the emergence of international institutions that would significantly challenge its social systems and values.

## 1. A BRIEF HISTORY OF ECONOMIC POLICIES OF THE EU

It is essential to remember that both political and economic motives were at work in the founding of the EU. The idea of making war impossible between countries by integrating industrial bases was an essential element of the European strategy to create the EU. These ideas provided a rhetorical appeal and ideological justification for European integration that economic calculations alone would not have had. Indeed, except for the creation of a free trade zone (albeit with many non-tariff barriers) and an (inefficient) common agricultural policy, by the mid-1980s the EU had very little to show for its almost 30-year history. Without the political purpose that motivated its members to continue to push greater integration, it might never have become the economic power it is today.

This all changed in the mid-1980s, in part because some long-standing intra-EU disputes were finally settled, and partly because the external economic environment created incentives for Member States to cooperate on economic matters. On the political side, the Member States agreed to a rebate for Britain, which had held up almost all other business until it achieved a compromise on its EU contributions (Dinan, 1999). With Margaret Thatcher appeased, the Member States could finally negotiate some of the other business that had accumulated over the past decade. Specifically, the increasing market share of Japanese consumer electronics and auto makers became the catalyst for greater interest in making Europe's internal market more competitive (Sandholz & Zysman, 1989). There was wide-spread agreement that Europe was not going to be subordinate to the Japanese as well as the Americans, and hesitant governments agreed to cautiously deregulate the European market as part of a larger bargain that included institutional

reforms. The Single European Act (SEA), signed in February 1986, established 297 specific proposals that could break down non-tariff barriers that were preventing trade between Member States. Using a 1979 *Cassis de Dijon* ruling of the ECJ, the SEA committed Member States to accepting products of any standard from any other Member States to be sold within their own (albeit with significant exemptions for health and safety considerations). This had the effect of removing non-tariff barriers, and opened up the internal market to competition within its borders. There were widespread fears that the SEA would create a “Fortress Europe”, advantaging European products over US or Japanese competitors’, but these fears were ultimately diffused over time by the absence of anti-US or Japan discrimination. The net effect of greater US and Japanese investment into the EU, however, was productivity growth and innovation such that in the late 1980s and early 1990s the EU grew at a faster pace than the US (Turner, 2001, p. 139).

In the context of this chapter, the question must be asked: did the EU deregulate its product market in response to globalization’s pressures? Moravcsik’s (1991) analysis of the SEA argued against such an interpretation: he examines the role of transnational business groups and technocrats, but ultimately found that various country-specific motivations produced a set of bargains that all Member States could agree on. For example, although French President Mitterrand was not interested in market deregulation, he shared Germany’s interest in institutional reform. Britain’s Thatcher, however, was uninterested in institutional change but was willing to countenance the deregulatory proposals that had been drawn up by (British) Internal Market Commissioner Cockfield. This compromise between the two positions, coupled with side payments to Ireland and others made possible the SEA. The pressures of globalization *per se* were insufficient to get a consensus for EU deregulation. Ultimately, however, the SEA gave European companies a leg up on their non-EU competition in the form of a cohesive internal market that continued to grow with each enlargement.<sup>8</sup>

A similar case of domestic preferences creating EU bargains resulted in Economic and Monetary Union. Germany’s Bundesbank had run the monetary policy of most of the EU Member States in the 1980s as a result of the European Monetary System.<sup>9</sup> France and other Member States had been promised that “further institutional development” of the EMS would occur within two years of 1979, but the Bundesbank continued to thwart any progress towards a Europeanization of its functions. The French government was loath to institutionalize a Germanesque, monetarist order at the EU level, but by 1988 it preferred having a seat at the monetary-policy-making table to continuing to react to solely German monetary policies.



EMU came about in part because German politicians were not in charge of Germany's monetary policy (which was in the hands of the Bundesbank) and were thus less jealous of keeping their policy-making prerogatives.<sup>10</sup> Moreover, Chancellor Kohl and Foreign Minister Genscher were interested in EMU not for economic reasons but for political reasons – furthering European integration. Using the frame of “Germany's duty to Europeanize” as the *leitmotiv* of his arguments in favor of EMU (against highly skeptical German citizens and business interests<sup>11</sup>), Kohl effectively blunted criticisms of EMU. Thus, when the French asked to negotiate the EMU, the sole constraint on Kohl was the Bundesbank, which could not veto EMU unless the new institution did not guarantee German stability. The neo-liberal character of the European Central Bank's mandate and the existence of a Stability and Growth Pact<sup>12</sup> are direct outcomes of the institutional configuration in Germany, not an EU-wide consensus about best economic practice or a reaction to the exigencies of globalization. Again, the essential point is that domestic politics created EMU, not external, international economic forces.

## 2. ECONOMIC DIVERGENCES PERSIST

By the late 1990s, the EU had become the largest single market and its policies had worked to stabilize economic production in the Member States. There had been product harmonization and the levels of intra-EU trade increased. At the same time, however, there was a surprising absence of harmonization of Member State practices in organizing capitalism. Whereas some early analysts of the EU<sup>13</sup> had projected that increased integration would likely lead to a convergence of economic and legal systems of the Member States, by the 1990s, a new wave of scholarship<sup>14</sup> subjected these claims to greater empirical scrutiny and discovered that distinct systems continued to persist within the EU. This observed heterogeneity of systems within the EU is an important part of the argument that the EU has shielded its Member States from globalization.

Many conceptions of globalization incorporate a homogenizing mechanism that minimizes states' authority. Most often macroeconomic constraints are the causal mechanism. Strange (1996) posits that the tremendous advances in technology and finance challenge the traditional power of states and disseminate authority to non-state actors. “Power over outcomes is exercised impersonally by markets and often unintentionally by those who buy and sell and deal in markets” (Strange, 1996, p. 13). The role of the state

is diminished. Boyer (1996) describes the mechanisms by which one might assume globalization creates convergence without the assent of states: economic forces driving non-conformists out of business (convergence occurs through best practices, institutional copying), multinational corporations (MNCs) requiring a set of rules of the game (favorable to themselves), or supranational regulatory convergence whereby organizations like the WTO or the EU eliminate non-tariff barriers, regulatory restraints and divergent production processes. It is clear that although finance and technology have been fully integrated in the EU and non-EU MNCs have a sizable presence in the EU market, the Member States retain a good deal of leeway to organize their economies and retain different policies and institutions. This aspect of the EU deserves closer attention. Why have these different forms of capitalist production persisted?

One of the central themes of the “varieties of capitalism” literature (Berger & Dore, 1996; Hollingsworth & Boyer, 1997; Kitschelt, Lange, Marks, & Stephens, 1999; Hall & Soskice, 2001) is that distinct historical institutions may provide comparative advantage in product markets that countries can utilize in international competition. Prominent examples of these differing institutions, or “social systems of production” as Hall and Soskice termed them (2001, p. 3) are industrial relations, vocational training and education, inter-firm relations, corporate governance and firm-employee relations (*ibid.*). In each of these domains, scholars note the advantages of certain institutions (taken as a whole) to producing for global markets. Two key insights emerge from the case studies in these volumes that challenge significant assumptions of globalization: (1) on balance these systems are equally good and stable, and (2) many, if not most, of the systems are indivisible, meaning that it is difficult to import parts of one system to graft onto another set of institutions and obtain the same benefits.

The first statement reflects a more realistic approach to global competition: although firms may be competing for customers and the nature of that competition is zero-sum, the same cannot be said for states. As Turner (2001) argues, competition between states is hardly zero-sum, since the success of one state does not require the failure of another state. Thus two economic systems that are distinct may coexist indefinitely without one eventually driving the other one “out of business” – or forcing it to adapt. Further, as Boyer (1996, p. 51) notes, even if one takes a leaf from evolutionary biology, the lessons there are not only survival of the fittest, but also the long-run coexistence of various species. The EU is responsible for providing a reasonably hospitable environment for different economic and institutional systems to coexist. By establishing a single market, which is

allowed to the Member States' different institutional systems to coexist, the EU did not force one system, or even significant elements of one system, on the others. Thus, the EU embraced Anglo-Saxon capitalism, Swedish corporatism, German corporatism, and French planning without structuring the market competition to the detriment of one system.

How did the EU enable Member States to retain different corporate governance systems, tax systems, production systems, and financial systems, among others, while still functioning as a single market? A part of the answer is structural: the creation of the EU itself. By creating a market large enough to allow European companies the economies of scale that heretofore only US companies enjoyed (after the May 1, 2004 enlargement, the 25 Member States comprise 455 million consumers compared to the US's 288 million), the EU leveled part of the global playing field. The large EU market also includes most industries, sectors and classes of goods, minimizing the costs from redirection of trade.<sup>15</sup>

The EU is also less open in the sense of trade dependency (exports plus imports as a percentage of GDP was 8% in 2004) than it was in the 1980s, and has a similar level of openness as Canada and the US together (8%).<sup>16</sup> This fact is important in light of scholarship that links the size of trade openness to the size of government spending (Cameron, 1978; Ruggie, 1983; Katzenstein, 1985). The underlying argument about trade openness and government spending was that a political bargain was struck in countries that were very exposed to trade, which compensated the risks of trade openness with welfare payments. Thus Katzenstein (1985) studied small open European economies and found well-developed mechanisms to guarantee employment or income that did not exist in countries less exposed to trade. The correlation between well-developed welfare states and trade openness is robust, but, as Burgoon (2001) points out, these studies "skirted the longitudinal question of whether changes in openness inspired changes in welfare" (Burgoon, 2001, p. 511). If one assumes that the risk of global trade to the Europeans is lower now than it was 30 years ago because 90% of each member state's trade is within the union, then any observed reduction of welfare transfer payments in the EU states should not necessarily be perceived as an EU response to globalization, but rather may be due to declining risks of openness.<sup>17</sup>

In point of fact, for all the deregulatory policies manifest in the SEA (for example), the EU by and large has allowed the essentials of each states' economic systems to remain, by use of policies like mutual recognition and the extensive use of directives rather than regulations. Directives are broad policy guidelines, which each Member States must write into national law

and thus be consonant with its own institutions. The use of these mechanisms is not accidental: it is important to recall that the Member States are represented in the Council of Ministers and must approve all legislation in the EU. Although technically most commercial legislation has only to obtain a qualified majority of the votes in the council (a weighted vote of approximately 74%), in fact these countries decide by consensus more than 80% of the time, a practice which means that intensely held preferences will rarely be outvoted (Heisenberg, 2005a). The relevance of this practice is that when issues come before the Council that potentially undermine one of the foundations of a national system, the other members defer to the affected state and reject or alter the legislation to make it compatible with the preferences of the affected state. A case in point has been the slow progress of the Financial Services Action Plan (Commission, 1999), a set of 43 legislative acts that the Commission drafted to break down barriers to a great European capital market and more financial services integration. Where these barriers involved a significant challenge to one of the elements of a Member States' financial systems, little or no progress could be made,<sup>18</sup> despite the rhetorical support of Member States for the goal of a unified financial market. Thus significant institutional variation continues to exist in the EU, and under the existing norms of procedure the EU has been reluctant to force fundamental change on a member state. As Schmidt (2002) concludes:

European countries have not only followed different pathways to [economic] adjustment, they are likely to maintain these differences into the future. National policies are not the same even when they are patterned on EU rules and regulations; national practices remain differentiable into at least three varieties of capitalism despite similar policies and common economic challenges; and national discourses remain distinct even when they seemingly use the same language (Schmidt, 2002, p. 303).

These different institutional structures serve the purpose of lessening the head-to-head firm competition within the EU, making the trade and investment relationships within the EU more stable. Where the EU has had an impact on intra-EU trade is in restraining "race-to-the-bottom" competition between Member States by limiting tax incentives and increasing the environmental and labor standards in the states without a strong tradition in those fields. EU regulation is therefore often characterized by "trading up" to a higher standard rather than "trading down" to a minimum, a fact made possible by the size and attractiveness of the European market (Vogel, 1997). Thus, although further study is needed, it might be argued that the risks of trade openness have been reduced within the EU and that any

reduction in government welfare spending is a reasonable response to this phenomenon.

### 3. THE EU EXPLICITLY SHAPING GLOBALIZATION

The previous section highlighted the mechanism by which the EU allowed Member States to continue to have distinct European economies without forcing a convergence on production methods or institutions (Hall & Soskice, 2001) despite globalization and its imputed standardization drive. In this section, the claim that the EU was beneficial in shielding the European economies is elaborated EU-outward: the European Union allowed the Europeans to set the world market standards, and thereby shape globalization. Especially in the 1990s and early 2000, the EU has been consciously proactive in shaping international competition and institutions. Although it continues to suffer from a “representation” problem – the fact that the EU’s external representation is not cohesive or consistent makes it difficult for other world leaders to recognize the EU as an economic whole – the EU has been able to incorporate its preferences in international regimes and to shape global competition to be consistent with the preferences of its firms. Krasner (1991) points out that international cooperation while being pareto optimizing can still advantage one country over the others by forcing the costs of adjustment onto the others. Krasner’s focus is telecommunications regimes, but other examples might be international product standards, which although they provide a benefit to consumers in that their products are interoperable, also create costs to manufacturers to switch to one standard.

Mattli and Bütte (2003) examined the process of making international standards at the International Standards Organization (ISO), and discovered that the EU, with its longstanding history of setting product standards within the EU had a structural advantage over the US and has had greater success in setting the standards than the US. According to the authors, as much as 80% of world trade is affected by standards or other technical regulations, and failure to use the technical specifications can be considered an “unnecessary obstacle to trade” in the WTO. This makes standards setting extremely important in setting the parameters of global product competition, and if the Europeans can set their standards more frequently than the Americans (or the Japanese), European firms will have a leg up in the global product competition. As Mattli and Bütte (2003, p. 47) conclude, “European firms are involved much more frequently in international standardization institutions than US firms and therefore able to capture more of

the gains from coordination.” The success of EU firms in this international setting, according to the authors, is due to the fact that existing domestic structures in several EU Member States, which increased firm/government coordination and information relay have been transposed to the EU as a whole. The experience of arbitrating between different standards within the EU has been instructive in formulating a unified position and presenting it at the international level, leading to its adoption more frequently. As more and more products incorporate technology based on Europe-originating standards, path dependencies will be established, benefiting European firms.

Among decision-makers in Europe, there is a consensus that because of its size, the EU should rightly take its place on the world stage and influence events and policies outside the EU’s borders. A section of the 2001 Commission White Paper on European Governance, titled “The EU’s Contribution to Global Governance” explicitly endorsed an enhanced EU role in transnational governance:

The objectives of peace, growth, employment and social justice pursued within the Union must also be promoted outside for them to be effectively attained at both European and global level. This responds to citizens’ expectations for a powerful Union on a world stage. Successful international action reinforces European identity and the importance of shared values within the Union ... To achieve these objectives, the Union needs to speak more with a single voice. It should strengthen its representation in international and regional fora, including in relation to economic and financial governance, the environment, development and competition policy (Commission, 2001a, pp. 26–27).

One example of the EU shaping globalization is the US-EU cooperation on mergers and acquisitions (M&A) oversight. In Europe, one of the few areas in which the Commission has complete autonomy from the Member States is Competition (antitrust) policy, which includes the approval of M&A deals. As globalization began to change the parameters of competition, the EU altered its approach to which deals it should review to include foreign companies. Backed by the European Court of Justice, the Commission decided in 1972 that it should have extraterritorial jurisdiction to review mergers that involved no EU firms but which would have an impact on the EU market. “Extraterritoriality dictates that the EU cannot be denied the right, on the basis of public international law, to take the necessary steps to safeguard its measures against conduct distorting competition within the EU’s market, even if those responsible for the conduct reside in non-Member States.”<sup>19</sup>

With the expansion of the single market in 1980s, the Competition Commissioners became more active in reviewing mergers, even though the actual

numbers of mergers denied was very small.<sup>20</sup> Of that small number of mergers critically reviewed, however, were two deals involving only US companies: the Boeing–McDonnell Douglas merger of 1997 and the proposed General Electric–Honeywell merger of 2000. In both cases, the merger had already cleared the US anti-trust agencies without controversy and there was an expectation on the US businesses' side that the EU's merger review was a formality. Although the merger review criteria used in the US and the EU were roughly similar, the different review procedures could create different outcomes (Venit and Kolasky 2000). When the Commission threatened to block the Boeing–McDonnell Douglas merger, the issue was raised at the highest levels of the US government, with Vice President Gore stating that the US would take whatever action is appropriate to prevent the EU from blocking the merger.<sup>21</sup> The Commission ultimately passed the merger, but stipulated that Boeing comply with certain conditions such as not enforcing the exclusivity provisions in its airplane sales agreements. More controversially, the EU blocked the GE–Honeywell transaction in 2001 after GE–Honeywell refused to make the changes to the transaction that the Commission deemed necessary. Although the US government did not take an active role pressuring the EU to approve the GE–Honeywell deal, after the collapse of the transaction, there was renewed interest in some sort of cooperation on international merger oversight. The idea of a bilateral regime to investigate merger transactions became accepted in the US even as the Bush administration disengaged from other international constraints. In October 2002, the EU and the US agreed to a set of “best practices on cooperation in merger investigation”<sup>22</sup> which sought to increase the communication between EU and US regulators and to allow joint EU/US interviews of the companies concerned. Despite the voluntary nature of the framework, the EU had an impact on the previously sovereign elements of government regulations.

Another example suffices to demonstrate that the EU has shaped the behavior of other states and hence influenced globalization to an important degree. The EU's resistance to Genetically Modified Organisms (GMOs) and its attempts to compel the US to label any GMO products sold in Europe's market have been a source of conflict between the EU and the US for almost a decade. In the Spring of 1996, the EU approved the sale of GM soybeans but one year later, reacting to a backlash of consumers and food retailers, the European Parliament approved legislation requiring the labeling of the GM crops, including those it had already approved. The measure was backed by a majority of the EU population: 85% of European consumers told pollsters they would prefer not to eat GM foods (Vogel, 1997a,

p. 26). The European Commission's decision to require mandatory labeling under the circumstances was considered to be a somewhat pro-trade position, given that four EU Member States had already banned the sale of GMOs outright. The Commission announced "interim measures" for GMO approvals in July 2000, and anticipated that labeling and other controversial items would be worked out among the divided Member States. By 2004, there still had been no progress on GMO labeling standards, and the EU had failed to approve any new GMOs for the European market.<sup>23</sup> However, in August 2003, the US (the world's largest producer of GMOs), Canada and Argentina sued the EU for not moving forward on its GMO approvals. The US did not claim that the authorization procedures, or the tracing and labeling regimes per se were flawed, but simply that the EU had not acted in a timely way to create new legislation that would preempt Member State bans on GMO foods or get the approvals going again. The US had been prompted to act by the fact that not only had GMOs effectively been banned in most of the EU market, but also other parts of the world had been influenced by the EU's decision. Specifically, in 2002, the governments of several developing countries refused GMO crops. African countries refused food aid donated by the US that contained GMOs, causing the US to blame the EU for creating famine in Africa with its Luddite agricultural policies. For the purpose of this chapter, it suffices to point out that the EU was able to resist the US's global food export regime and to carve out a niche for its own preferences that established the opportunity for other, less powerful countries to adhere to as well. As such it can be considered an example of the EU shaping globalization.

#### **4. CONCLUSIONS ABOUT THE EU AND GLOBALIZATION**

There is no real dispute about the fact that in international relations, size matters. Thus, although the EU is not a cohesive, large sovereign state in international affairs, it is one in commercial and economic matters, and it has become a powerful actor in international economics because of it. The EU has become a model for other regional associations for precisely that reason: a large market commands more power in the international sphere than many small or medium sized states. Although the EU has developed that power now, its success in creating the cooperation among sovereign Member States was due to its political agenda. A certain degree of trust and willingness to forego short term gains for long term benefits was an essential



part of the EU's ability to create this economic power (and it is this element that continues to elude other regional organizations that focus exclusively on creating a common economic market).

This chapter examined the ways in which the EU deregulated the internal market to create business opportunities for EU (and other) companies on the one hand while on the other systematically resisting pressure to change idiosyncratic production systems. With different law systems and labor relations and financing of businesses, the EU has been able to harmonize those elements that are not essential to advantaging one system over another, while leaving in place those elements that create national synergies. As such, the role of the EU is much closer to a gentlemen's club where economic compromises are made (a liberal intergovernmentalist approach) than a powerful supranational institution that can ride roughshod over the wishes of its Member States in economic matters (a supranational or neo-functional approach wherein the institutions develop their distinct preferences). There is an established norm that decisions with distributional consequences will be either deferred or, if enacted, that side payments be transmitted to ease the transition. Contrary to critics of the EU, there is no neo-liberal *directoire* governing the decisions made by the various institutions of the EU.

It is important to examine the implicit hypothesis of those who argue that the EU is the agent of globalization. According to critics of the EU Constitution (including politicians like French Socialist Laurent Fabius), the individual Member States would not have had to make cuts to their welfare spending, liberalize their capital accounts, or cease protecting and subsidizing their industries had the EU not forced them. This counterfactual claim is difficult to make in light of counterexamples of similar non-EU countries that show these countries did not resist globalization any better than EU Member States. The tighter fiscal policies of Norway, Iceland, Australia or Canada suggest that the EU – through mechanisms like the Maastricht convergence criteria or the Stability and Growth Pact – were not responsible for the budget balancing accommodations EU countries made. By and large, the non-EU countries had lower budget deficits or even surpluses (see [Table 2](#)), indicating that even without the EU these countries did not run huge deficits. Neo-liberal (financial) economic policies<sup>24</sup> were transmitted to similar countries through mechanisms such as learning and a change in payoffs for each strategy, according to [Simmons and Elkins \(2004\)](#). It is unlikely that EU Member States, even large ones like Germany would have been better off without the EU.

It is also important to note that many of the neo-liberal policies that the EU supports rhetorically are often stymied in the agreement or even

implementation phases of legislation by the Member States that would lose disproportionately from the legislation. Thus, when the EU proclaimed that it aspired to become “the most competitive, knowledge-based economy in the World by 2010” (including through labor deregulatory mechanisms) at the Lisbon summit in 2000, some observers hoped that finally the EU had turned its back on inefficient social protections that stood in the way of faster economic growth. Four years later, however, a report card on Lisbon prepared by the Center for Economic Reform concluded that “even the most enthusiastic proponent of the Lisbon agenda can only describe the EU’s performance over the last 12 months as mediocre ... After a second consecutive year of disappointing economic growth, it is already apparent that the EU will miss some of its key targets”.<sup>25</sup>

Similarly, even formally established policies, such as the Stability and Growth Pact, are not enforced when a state’s economic viability is threatened. This was the case when Ecofin refused to sanction Germany and France in December 2003 because enough states felt that greater budget cuts would be counterproductive. The informal nature of the EU permits flexibility beyond the formal reading of the rules suggested by many critics. In the case of the Stability and Growth Pact, the Member States simply voted to stop the clock on sanctions. Although the Commission decided to challenge the legality of holding up the excessive deficit procedure before the ECJ, and its position prevailed (on the narrow question of whether suspending the Stability and Growth Pact had been legal), its win was less than complete because the ruling also confirmed that the Council of Ministers, not the Commission, was in control of the procedure. This is but one example where informal practices prevail because the inherent flexibility of the system is preserved with Member States accommodating each others’ strongly held preferences. The fact that a significant consensus on the need for economic reform must exist before the EU acts prevents short term or localized responses to economic developments at the global level.

In the final analysis, the EU has been a model for many different regions of the world because it has developed economic and hence political clout with the development of its internal market. Most of the regions that aspire to become like the EU (e.g. Mercosur, or ASEAN) deliberately eschew the political integration and focus on the economic benefits exclusively. In the words of [Jorgensen and Rosamond \(2001\)](#):

It is quite clear [...] that the model of institutionalised integration represented by the EU has been deliberately avoided by designers of regional orders elsewhere. Even if European integration has been a stimulus to other collective endeavours both during the

1960s and in the present period [...], there has been little inclination globally to either (a) go beyond the construction of free trade zones or (b) create active supranational institutions. The Community method has not been a successful European export to the global polity, but it remains a significant reference point for more or less any discussion about regional integration (if only in a negative sense).

The hope of other regions to become the next EU without the troublesome political squabbling reflects the widespread perception that EU integration has helped the EU to overcome some of the constraints of globalization. If the EU cannot outright prevent necessary macroeconomic adjustments, it can provide a buffer to ease the costs of adjustment. Similarly, it can raise standards so that regulatory competition occurs in a “race to the top” fashion more than vice versa, and this fact can also disadvantage foreign competitors that may not have the ability to compete effectively in quality or green terms. Finally, for historical reasons, the EU has institutionalized mechanisms for reaching agreement that are more well-developed than in other countries. To the extent that creating regimes at the international level is the next step in globalizing governance and setting the parameters of economic competition, the EU is in a position to shape those decisions effectively.

## NOTES

1. For more on the Constitutional Treaty, see Norman (2005).
2. In the French referendum held May 29, 2005, 55% of voters voted against the Treaty.
3. A typical view was expressed in the Conservative Party manifesto on Europe: The Constitution would mean greater centralisation, more regulation and less flexibility ... . The Constitution gives the EU powers to impose costly new regulations on businesses in Britain. Gordon Brown admits that over 50% of regulations imposed on British business already come from Brussels. “Putting Britain First, the Conservative Party European Manifesto”, p. 4 (2004). Available at <http://www.conservatives.com/tile.do?def=policy.topic.page&tabID=7>
4. Throughout this paper, the name “European Union” will be used instead of the various appellations that existed at different times, including European Economic Community and European Communities.
5. Garrett (1998) and earlier corporatist literature argue that businesses welcomed the regulated labor markets because they brought predictability to the production and wage setting processes.
6. *The Financial Times*, May 25, 2005.
7. Corporate taxation is perhaps the last exception to this statement. However, harmonizing taxes has been on the EU agenda for a very long time, and blocked by a group of countries led by the UK. Moreover, there is a possibility that a core of interested member states may create a zone of tax harmonization under the

provisions for enhanced cooperation, that might be a back door to general tax harmonization in the EU (see Heisenberg, 2005b).

8. Each country joining the EU must agree to the *acquis communautaire*, the set of treaty obligations, regulations and directives existing at the time of entry.

9. The EMS has been cited as another case of globalization creating neoliberal European institutions but a careful reading of the history shows that the EMS was never meant to be as anti-inflationary as it became. France thought it had negotiated a regime significantly more hospitable to its pro-growth policies than the EMS ultimately was, and in any case expected a European central bank-like institution with joint decision-making power and credit facilities by 1983 (Heisenberg, 1999, Chapter 3).

10. For a longer exposition of the domestic bargains that led to EMU, see Heisenberg (1999) or Dyson and Featherstone (1999).

11. Contrary to Moravcsik, Germany business interests were at best ambivalent, but mostly hostile, to EMU (see Heisenberg, 2005c).

12. The existence of a Stability and Growth Pact was due to the German government, which understood that the both houses of the German parliament would need to approve the entry of the DM into the euro and that some assurances of post-EMU behavior would be needed to get the parties' assent. See Heisenberg (1999) for more detail.

13. This perspective could be read into the work of Mitrany or Haas and other functionalists.

14. Berger and Dore (1996), Hollingsworth and Boyer (1997), Kitschelt et al. (1999), Hall and Soskice (2001).

15. Redirection of trade occurs when a tariff wall is established and the tariffs cut off a more efficient supplier outside the trade union in favor of a less efficient supplier inside the union. OECD (2000) states that after the second enlargement, no diversion of trade effects were seen.

16. The North American trade openness measure in 2000 was approximately 8% (OECD, 2000, p. 61) to the EU's almost 10% (*ibid.*).

17. A policy with perhaps a hint of economic coercion to encourage job seekers to move within the to where the jobs are.

18. For example, the EU Takeover Directive was so significantly watered down by the Council that the Commission was ready to abandon it. *The Economist*, "Lowest Common Denominator: Too much compromise over the EU's Draft Takeover Directive," November 23, 2003.

19. *Common Market Law Reports* (1972), cited in Davison, Fitzpatrick, and Johnson, 1995, Davison et al. 1995p. 111.

20. Of the 2,235 mergers reviewed since 1990, the Competition directorate blocked only 18.

21. Cited in Boeder (2000, p. 143; Evenett, Lehmann, & Steil, 2000).

22. Available at [http://europa.eu.int/comm/competition/mergers/others/eu\\_us.pdf](http://europa.eu.int/comm/competition/mergers/others/eu_us.pdf).

23. Commission (2004). Available at [http://europa.eu.int/comm/food/food/biotechnology/gmfood/gmo\\_comm\\_en.pdf](http://europa.eu.int/comm/food/food/biotechnology/gmfood/gmo_comm_en.pdf).

24. Defined in this paper as current and capital account liberalization, as well as exchange rate convertibility.

25. Quoted in *EU Observer*, March 9, 2004.

## REFERENCES

- Berger, S., & Dore, R. (Eds) (1996). *National diversity and global capitalism*. Ithaca, NY: Cornell University Press.
- Blyth, M. (2002). *Great transformations: Economic ideas and institutional change in the twentieth century*. Cambridge: Cambridge University Press.
- Boeder, T. (2000). The Boeing-McDonnell Douglass Merger. In: S. J. Evenett, A. Lehmann & B. Steil (Eds), *Antitrust goes global: what future for transatlantic cooperation?*
- Boyer, R. (1996). The convergence hypothesis revisited: Globalization but still the century of nations? *National Diversity and Global Capitalism*.
- Boix, C. (1998). *Political parties, growth and equality: Conservative and social democratic economic strategies in the world economy*. Cambridge: Cambridge University Press.
- Burgoon, B. (2001). Globalization and welfare compensation: Untangling the ties that bind. *International Organization*, 55, 509–551.
- Cameron, D. (1978). The expansion of the public economy. *American Political Science Review*, 72, 1243–1261.
- Commission of the European Communities. (1999). Financial services: Implementing the framework for financial services: Action plan. Available at [http://europa.eu.int/comm/internal\\_market/en/finances/general/actionen.pdf](http://europa.eu.int/comm/internal_market/en/finances/general/actionen.pdf).
- Davison, L., Fitzpatrick, E., & Johnson, D. (1995). *The European competitive environment: Text and cases*. London: Butterworths.
- Dinan, D. (1999). *Ever closer union?* Boulder, CO: Lynne Rienner Publishers.
- Emerson, M., Gros, D., Italianer, A., Pisani-Ferry, J., & Reichenbach, H. (1992). *One market, one money: An evaluation of the potential benefits and costs of forming an economic and monetary union*. Oxford: Oxford University Press.
- Evenett, S. J., Lehmann, A., & Steil, B. (Eds) (2000). *Antitrust goes global: What future for transatlantic cooperation?* Washington, DC: Brookings Institution Press.
- Garrett, G. (1998). *Partisan politics in the global economy*. Cambridge: Cambridge University Press.
- Hall, P., & Soskice, D. (Eds) (2001). *Varieties of capitalism: The institutional foundations of comparative advantage*. Oxford: Oxford University Press.
- Heisenberg, D. (1999). *The mark of the Bundesbank: Germany's role in European monetary cooperation*. Boulder, CO: Lynne Rienner Publishers.
- Heisenberg, D. (2005a). The institution of 'Consensus' in the EU: Formal versus informal decision-making in the council. *European Journal of Political Research*, 41, 65–90.
- Heisenberg, D. (2005b). Data Protection conflicts between the European Union and the United States. *Negotiating privacy: The European union, the United States, and personal data protection*.
- Heisenberg, D. (2005c). Taking a second look at Germany's motivation to establish economic and monetary union: A critique of 'Economic interests' claims. *German Politics*, 14, 95–109.
- Hollingsworth, J. R., & Boyer, R. (Eds) (1997). *Contemporary capitalism: The embeddedness of institutions*. Cambridge: Cambridge University Press.
- Jørgensen, K., & Rosamond, B. (2001). *Europe: Regional laboratory for a global polity*. CSGR Working Paper No. 71/01.
- Katzenstein, P. (1985). *Small states in world markets*. Ithaca, NY: Cornell University Press.

- Keohane, R., & Nye, J. (2000). Introduction. In: J. Nye & J. D. Donahue (Eds), *Governance in a globalizing world*. Washington, DC: Brookings Institution Press.
- Kitschelt, H., Lange, P., Marks, G., & Stephens, J. (Eds) (1999). *Continuity and change in contemporary capitalism*. Cambridge: Cambridge University Press.
- Krasner, S. (1991). Global communications and national power: Life on the Pareto Frontier. *World Politics*, 43, 336–356.
- Mattli, W., & Büthe, T. (2003). Standards setting. *World Politics*, 56, 1–42.
- McNamara, K. (1998). *The currency of ideas: Monetary politics and the European Union*. Ithaca, NY: Cornell University Press.
- Moravcsik, A. (1991). Negotiating the single European Act: National interests and conventional statecraft in the European Community. *International Organization*, 45, 651–688.
- Mosely, L. (2000). Room to move: International financial markets and national welfare states. *International organization*, 54, 737–773.
- Moss, B. (1998a). Is the European community politically neutral? The free market agenda. In: B. Moss & J. Michie (Eds), *The single European currency in national perspective*. Houndmills: Macmillan.
- Moss, B. (1998b). The single European currency in national perspective: A community in crisis? In: B. Moss & J. Michie (Eds), *The single European currency in national perspective*. Houndmills: Macmillan.
- Norman, P. (2005). *Accidental constitution: The making of Europe's constitutional treaty*. London: EuroComment.
- OECD. (2000). *The European Union's trade policies and their economic effects*. Paris: OECD.
- Pollack, M. A. (2000). A Blairite Treaty: Neoliberalism and regulated capitalism in the Treaty of Amsterdam. In: K. Neureither & A. Wiener (Eds), *European integration after Amsterdam*. Oxford: Oxford University Press.
- Ruggie, J. (1983). International regimes, transactions and change: Embedded liberalism in the postwar economic order. In: S. Krasner (Ed.), *International regimes*. Ithaca, NY: Cornell University Press.
- Sandholz, W., & Zysman, J. (1989). 1992: Recasting the European bargain. *World Politics*, 42(1), 95–128.
- Schmidt, V. A. (2002). *The futures of European capitalism*. Oxford: Oxford University Press.
- Simmons, B., & Elkins, Z. (2004). The globalization of liberalization: Policy diffusion in the international political economy. *American Political Science Review*, 98, 171–189.
- Strange, S. (1996). *The retreat of the state: The diffusion of power in the world economy*. Cambridge: Cambridge University Press.
- Turner, A. (2001). *Just capital: The liberal economy*. London: Macmillan Publishers.
- Vogel, D. (1997a). *Barriers or benefits?: Regulation in transatlantic trade*. Washington, DC: Brookings Institution Press.
- Vogel, D. (1997b). *Trading up: Consumer and environmental regulation in a global economy*. Cambridge, MA: Harvard University Press.

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# WHO STEERS THE FIELD OF CONSUMER PROTECTION AND ENVIRONMENTAL REGULATIONS? AN AMERICAN–EUROPEAN COMPARISON

Paulette Kurzer

## ABSTRACT

*This chapter examines whether the European Union or the United States set the parameters in the field of consumer protection and environmental regulations. The analysis points out that there is no straightforward answer because leadership rotates or fluctuates depending on the extent to which societies and decision makers feel strongly about a particular issue. Examples are tobacco control and regulations with regards to genetically modified crops and food. The US identified the risks related to the wide availability of cigarettes before the EU, while the EU highlighted the risks related to the introduction of GM crops/products in the absence of similar American concerns. Both cultural and institutional developments account for this divergence. A unique combination of factors heightened the salience of anti-smoking measures in the US, while an equally distinctive matrix of developments highlighted the social, economic, health, and safety challenges of genetically modified organism (GMO). However, in spite of*

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**European Responses to Globalization: Resistance, Adaptation and Alternatives**  
**Contemporary Studies in Economic and Financial Analysis, Volume 88, 41–63**  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88003-4



*different constellations of institutional and cultural factors, the EU has embraced tobacco control and the American private sector is slightly more cautious about pushing GM crops onto the market.*

How is Europe affected by emerging global concepts related to environmental and consumer protection? Can we make the claim that Europe is a trend setter and is thus in a position to shape the contours of the international debate and policy agenda especially in light of America's retrenchment in this area? Or would it be more accurate to describe the EU as a passive observer of trends in environmental and consumer protection and thus more of reactive agent responding to new models of regulation and scientific risk assessment?

The analysis in this chapter provides no straight answer and will point to conflicting evidence. However, it seems important to note that the real differences are between advanced industrialized countries and the developing world. As political architects of the global trading system, both the US and EU have strenuously pushed for international agreements on sanitary and phytosanitary measures, something that exporters, private business, and NGOs in the developed world welcome.

Beyond the general agreement on visible protective regulations in the fields of environment, safety, and health, the US and EU differ on which areas deserve exemption from liberal trade rules (Wiener, 2004). The examples here are legislative measures to regulate tobacco and genetic engineering. With regards to tobacco control, European authorities and consumers have slowly and grudgingly responded to the global consensus about the health, financial, and psychological costs of the smoking epidemic. Although at present, most European countries have instituted various measures (excise taxes, smoke-free public spaces, ban on advertising, graphic warning labels, or smoking cessation programs), many European countries joined the anti-smoking campaign years after the US, in alliance with the global community of cancer researchers and public health experts, declared war on tobacco. Presently, it is widely recognized that smoking pushes up health care spending and thus contributes to the growing burden of caring for an aging population in a shrinking labor force. Only a few countries in the EU-15 continue to pretend as if tobacco does not pose a serious public health risk.

By comparison, the story is quite different for food products containing genetically modified organism.<sup>1</sup> Here, European nongovernmental organizations mobilized consumers and put pressure on competent authorities to restrict or ban the spread of GM food or plants (Commission of the European

Communities, 2002). Yet in the US, resistance to genetically modified organism (GMO) is nonexistent and the same body of scientific evidence that provokes apprehension and concern in the EU is dismissed or ignored in the US. Compared to tobacco control, the EU has taken the lead in framing the potential risks of agricultural biotechnology and has identified a host of issues that require monitoring, supervision, and intervention.

In short, EU institutions and policies mold as well as respond to global pressures depending on the particular issue. In the case of tobacco, the member states and national actors felt ambivalent about the idea of restricting a legal activity with established social practices integrated in daily life and popular culture. The American war against tobacco was observed from a distant and with a heavy dose of derision as Europeans scoffed at the puritan zeal displayed by American public health groups to free society off tobacco. Eventually, under the prodding and lobbying of the Commission, and in particular, the directorate general of consumer protection and health, European national governments came around to the idea that the costs of smoking far outweighed any fiscal benefits or unquantifiable pleasure quotient. Nevertheless, though formal measures are in place to curb smoking, European popular opinion is more tolerant of smoking and smokers are less stigmatized. There continues to be a residue of resistance in disparaging a legitimate activity and a legal product that has brought enjoyment to millions and whose risks are widely known. Until recently, both the European left and the right quietly agreed that comprehensive tobacco control measures infringed on the autonomy of the individual to make its own consumption decisions.

The question now is why the US identified the risks related to the wide availability of cigarettes before the EU, while the EU fastened on the risks related to the introduction of GM crops/products in the absence of similar American concerns.

Two different explanations are supplied to account for the contrast in political and regulatory salience of tobacco and genetic engineering. The first layer of explanation draws from an ideational or cultural interpretation. It seems obvious that every social movement or organization, which seeks to push a health, environmental, or consumer protection agenda must construct risks or dangers in such a fashion that the public recognizes them as a genuine threat to the fabric of society. Although competent authorities speak for and against health risks, this does not guarantee that their message is heard and understood. For example, in the US, health voluntaries (American Cancer Society; American Lung Association) and medical experts were able to paint a credible risk scenario by inserting the risk of smoking in a familiar context that subsequently found a receptive audience (Brandt, 1997; Engs, 2000;

Gusfield, 1998). Likewise, in Europe, opponents of GM matter had to identify a discourse that painted a basic picture of the potential risks posed by genetic engineering for the environment, health, and farming in a language that was widely understood. The same language and imagery transposed onto American sensibilities found no resonance and failed to stir emotions.

In the US, there is a long tradition of public health movements, which manage to delegitimize personal activities that are considered harmful to the individual and society. A powerful example is the prohibition movement and its brief success in banning alcohol. Smoking (and alcohol) are part of this legacy of forcing individuals to discard habits that harm 'innocent bystanders' such as the unborn, children, and loyal hardworking citizens (Engs, 2000; Kersh & Morone, 2002; LeBesco, 2004; Morone, 2003).

While smoking involves a premeditated risk, GM foods touches upon a whole different range of risks, which are impossible to grasp and control and thus are involuntary and random. Society assesses risk factors differently whether they are controlled by the individual or 'manufactured' and unpredictable and uncontrollable. People are more tolerant of harms they control and are extremely risk averse with regard to harms that seem beyond the influence of the individual.

Nevertheless, it seems obvious that the European hostility to agricultural genetic engineering cannot be blamed on the type of risks associated with the introduction of novel technological innovations, since the American public also dislikes and fears unknown risks. But it is fair to say that Europeans are more intolerant of tinkering with farming or food production than Americans. Green biotechnology evokes opposition because it conflicts with European conceptions of agriculture and food production. According to European sensibilities, farmers conserve and protect the environment and guard the natural landscape and access to leisure activities. In reality, commercial agriculture has been ruinous for the European countryside, something that civic associations and public opinion have only begun to recognize during the last 15 years. Biotechnology is viewed as another blight at odds with the desire for environmental conservation, habitat preservation, and sound farming practices (Jones & Clark, 2001; Hennis, 2005; Huylenbroeck & Durand, 2003).

In the US, mass produced food is taken for granted and farming plays no special role in the American collective imagination. In Northern Europe, farming equals preservation of man-made landscapes settled by early communities centuries ago. Farmers supply both foodstuff and access to public goods in terms of rural leisure space. In Southern Europe, farming is said to represent the recent history of the nation when most people lived in the countryside, close to nature, and were more or less self-sufficient. Farmers

and villages supply quality foodstuff but hark back to a previous era when the distance between consumers and producers was less wide.

Regardless of whether these discursive meanings of farming are accurate portrayals of postwar food production regimes or not, Europeans have a different relationship to food and with agriculture than Americans. In the 1990s, this relationship was under attack with the disclosures of scores of unsafe and unhygienic food practices and intensive degradation of water, soil, and air due to industry-like production methods. Biotechnology is an abnormal farming innovation though smoking is a normal consumer habit. The risks of tobacco are well known and thus 'self-inflicted'; the risk of GM plants/products are unknown and may contribute to the further erosion of rural space and environmentally sustainable farming. Europeans have reacted strongly to genetic engineering because it contradicts the image they hold of farmers or modern agriculture as conservationists of rural landscape and culinary traditions. But smoking did not provoke strong reactions because it meshed with the image of the self-directed individual with autonomous decision-making powers.

Aside from cultural/normative differences, institutions and political organizations also matter. The American regulatory machinery is considered effective and Americans trust public agencies to protect the food supply from contamination. The American biotechnology industry is a dynamic and thriving sector and convinced regulatory agency to impose relatively few barriers to the commercialization of genetic engineering when research in GM crops was at its infancy (Krimsky & Murphy, 2002). In the EU, public confidence in food safety regulatory agencies collapsed after revelations of widespread failures to protect the public against contaminated beef, chickens, blood, soda drinks, and so forth. Moreover, the European biotechnology sector was less advanced and fragmented across multiple jurisdictions. Anti-GMO forces were not held in check by a vigorous coalition of pro-GMO actors.

Institutional variables also account for the divergent paths of tobacco control movement. Everywhere, tobacco companies were extremely influential lobbyists and able defenders of their economic interests. Ties between various government officials or agencies and tobacco companies were close and mutually beneficial, and the industry could count on scores of other reliable allies in the sport/music/leisure industry, the media, and retail sector (in countries/markets where retailers need to obtain special tobacco licenses). In the US, the united front of the tobacco industry was broken, thanks to tort litigation. Class action suits brought to light the manipulations and deceptions practiced by the industry and induced state governments in need of funds to cover rising medical expenses to press for huge monetary settlements

to finance ‘future allocations to treat tobacco-related diseases.’ In Europe, it has been much harder, if not impossible, to blame the tobacco industry for smoking-related diseases/mortality and financial settlements are rare.

Each of these points will be further elaborated below. First, I examine the travails of the tobacco advertising ban directive proposed by the European Commission in 1989 to demonstrate the resistance to global/American strategies to deal with the greatest public health challenge of the 21st century. Next, I focus on the GMO controversy and show that global/American encouragements of transgenic crops and GM food did not go over well in Europe. In the conclusion, I revisit some of the obvious differences between the US and Europe to account for divergent reaction to tobacco and transgenic food, while I will also point out that in spite of real existing cultural, political, and institutional differences converging trends are nonetheless discernible.

## 1. SMOKING AND TOBACCO CONTROL

Not too long ago, smoking was associated with glamour and sophistication (Gately, 2001). But ongoing research has drastically altered people’s views of smoking as an innocent and harmless activity that enriches one’s life experience. Already in the 1950s, the first English-language reports demonstrated a strong link between smoking and lung cancer. Since those first reports, many more have been published; all of them showing that smoking can lead to premature death and chronic illness. In the US, much of the debate has centered on the impact of cigarette smoke on ‘innocent bystanders’ and a health/lifestyle movement emerged to push for curbs on smoking, to restrict the marketing activities of tobacco companies, and to educate the public about the dangers of tobacco (Bayer & Colgrove, 2004).

European Union officials as well expressed growing concerns about tobacco and the health of European citizens in the 1980s. Although health authorities can employ a whole range of policy instruments (taxation, public information/education, subsidization of smoking cessation programs, restrictions on tobacco marketing/advertising) to curb smoking, the Commission in the late 1980s had to settle for regulating the ingredients and packaging of cigarettes by stipulating the levels of tar and nicotine, by suggesting shocking warning labels, and by outlawing the sale of packs of less than 20 cigarettes. But it also settled on a more ambitious and therefore controversial proposal consisting of a Community-wide prohibition on direct and indirect tobacco advertising (TAD1-98/43/EC).

Although tobacco kills 500,000 Europeans per year, the Commission encountered strong resistance when it attempted to pass meaningful restrictions on the marketing of tobacco products (Mackay & Eriksen, 2002). The tobacco advertising directive suggested a comprehensive ban on tobacco advertising (radio, Internet, print media as well as cinema, posters, ashtrays, brand stretching, and tobacco industry sponsorship of events in the EC), but it stalled for years owing to the stubborn opposition of a minority of member states (Denmark, Germany, the Netherlands, and the UK) (Bitton, Neuman, & Glantz, 2002).

Germany, Denmark, and the Netherlands were the staunchest opponents of an advertising ban in spite of their stellar record in environmental protection and comprehensive welfare programs. The UK and Greece also opposed the directive. In all the four countries (excluding Greece), private tobacco companies dominated the cigarette market and overall smoking rates were high because social norms were tolerant of smoking and gender disparities in smoking rates were negligible. All four countries also shared a strong attachment to the concept of the self-governing individual and state agencies spurned the role of ‘nanny’ or of shaping the lifestyle habits of consumers. In the same set of four countries – Denmark, Germany, the Netherlands, and UK – industry self-regulation was the norm and tobacco companies signed ‘gentlemen’s agreements’ promising to abstain from targeting minors, to issue health warnings, and to abide by existing marketing restrictions (Albæk, 2004; Berridge, 2003; Cooper & Kurzer, 2003; Duina & Kurzer, 2004; Read, 1996).

The opposition of the Netherlands and UK waned in 1997, partly because the left had come to power. In addition, three new member states had joined the EU in 1995 and two of them were strong supporters of tobacco control: Finland and Sweden. When it came to the final vote, therefore, in December 1997 only Austria and Germany (with Denmark abstaining) opposed TAD1.

As soon as the directive passed, the German Federal government asked the European Court of Justice (ECJ) to annul it. The position of the German government is neatly summarized by the ECJ’s own rendition in its judgment document (C-376/98). The German government claimed that TAD1 lacked constitutional grounds because it did not promote trade in advertising media for tobacco products and instead the directive almost entirely negated those freedoms (Section 24 of C-376/98). The ECJ agreed. It noted that the Treaty of EU states that public health should be a consideration when measures for improving the single market are being taken (Section 78 of C-376/98). The ECJ thus annulled the TAD1 in October 2000 (Hervey, 2001; Tridimas

& Tridimas, 2002). The Commission went back to work and drafted a new directive, taking into account the objections of the ECJ. The TAD2 (COD 2001/0119) was published in May 2001 and differed from the TAD1 in one important way: it banned only direct tobacco advertising (Watson, 2002).<sup>2</sup> In November 2002, the European Parliament passed the watered-down TAD2 and the 15 ministers of health reached an agreement on December 2, 2002 to have the TAD2 come into effect in summer 2005.

At long last, therefore, the advertising ban would go into effect. What firmed the determination of ministers of health to pass the directive was fresh thinking about the social, fiscal, and psychological costs of smoking, while at the same time popular interest in health casts doubt on many previous lifestyle habits (Omar, Dolwick, & Guindon, 2003). Smoking rates declined from postwar high regardless of the attitudes and measures of public authorities. In fact, after 2002, some EU member states went further than the Commission and introduced a ban on smoking in catering venues. Ireland and Italy prohibit smoking in restaurants as well as public areas. British officials are now raising the possibilities of banning smoking in workplaces and establishments where food is being served across England by the end of 2008. Swedish parliament approved a law to make all facilities, like restaurants, cafes, and bars completely smoke-free, except for enclosed smoking rooms in July 2005. Finland banned smoking in health care, educational and government facilities, indoor workplaces and offices, and theaters and cinemas. By mid-2008, restaurants will be smoke-free. Not surprisingly, Brussels is thinking of banning smoking in public spaces right across the EU.

Nevertheless, it is important to note that although restrictions on the marketing of cigarettes are finally in place and a ban on smoking in public places is now acceptable, smoking itself has not been 'denormalized' (Studlar, 2004). Whereas Europeans have become more health conscious as more consumers join health clubs and people count calories, smoking prevalence rates have not dropped as much as in the US. Partly, this is because of the inconsistent adoption of tobacco control programs and varying commitments to address smoking-related disease and death (Joossens, 2004). Partly, it is because environmental tobacco smoke is not widely accepted as a health hazard. Most of the studies were done in the US and the evidence is less straightforward and open to interpretation than the link between cigarette ingredients and various forms of cancer (Gilmore & McKee, 2004, pp. 242–243). While smoking in the US has fallen to historic level from 22.8% of the population in 2001 from 25% in 1993, in Europe they are rising – to 39.4% in 2002, compared with 33.9% in 1995 (European Opinion Research Group, 2003; The Wall Street

*Journal*, 2004). Compared to the 1960s, smoking is less popular, but the delay in implementing stringent measures and outlawing smoking in public spaces has hindered a dramatic fall in smoking.

Moreover, although new laws adopted recently by various European countries appear to be stricter than American legislation – France, Ireland, Italy, and Finland and Sweden – enforcement is frequently laxer because of a lack of moral pressures to obey and implement the new rules. By contrast, in the US, there are high levels of individual moral expectations, which exercise palpable pressures to comply with anti-smoking regulations.

Thus, while the public health consequences of tobacco are widely accepted, approaches and commitment to stamp out smoking vary. This discrepancy can be traced to two cultural factors and one institutional difference. First, Americans tend to worry more about cancer than Europeans. In 1937, Congress established a separate cancer institute (NCI) to pour resources into research at a time when coronary heart disease killed twice as many people as cancer. After 1945, the ‘war against cancer’ dominated the popular medical debate as postwar affluence shaped new demands for good health and gave rise to fears of premature death. In Europe, war reconstruction delayed the arrival of prosperity, while many European officials did not single out a specific disease for special government intervention (Patterson, 1987).

American anti-tobacco forces were able to construct a credible risk partly because smoking could be linked to cancer. The US is one of the few OECD countries that evolved a separate body of risk assessment to regulate carcinogens in food, air, waterways, workplaces, and drinking water. By one account, since the early 1970s, there are 21 different laws that identify carcinogens for special treatment (Nathanson, 1999; Vogel, 2001). American obsession with cancer, in turn, can be traced to the fact that the American discourse calls on individuals to be responsible and maintain good health. Considering that individuals are supposed to make appropriate choices, it seems especially relevant to have an environment in which people can make career and life plans without having to accept unreasonable risks due to possible deadly contaminants (Cranor, 1993; EPA, 1992; Harrison & Hoberg, 1994). Cigarettes pose unacceptable risks to bystanders and therefore detract from the genuine efforts made by individuals to avoid unhealthy activities (Petersen & Lupton, 1996; Valverde, 1998).

Aside from the cancer link, the anti-tobacco forces had another cultural advantage over similar kinds of movements in Europe. American society is tolerant, for want of a better term, of state paternalism and public moralizing. Historically, the US has had quite a few health-related social movements, which aimed to alter individual behavior. American society is in this



sense susceptible to movements in which health risks and individual behavior are linked (Morone, 2003; Nathanson, 1999). The American rhetoric on smoking emphasizes both the victimization of the smoker by Big Tobacco and the rights of the nonsmoker to expect clean air. Over time, the thrust of the discourse shifted to the rights of the nonsmoker and smoking turned into a vice or an indicator of moral feebleness. Because nicotine is addictive, activists have a ready defense against the allegation that consumers should be free to make their own decisions; most consumers do not 'choose' to smoke and would prefer to quit. Furthermore, according to tobacco control activists, the right of the self-governing individual should never be at the expense of the health of others. Passive smoke is said to harm others, especially innocent bystanders such as the unborn, children, and spouses.<sup>3</sup>

Passive smoking has gained enormous attention in the US precisely because it is an answer to the nettlesome question of how to balance the risks versus the pleasures of cigarettes. The nonsmoking (not just anti-smoking) movement orders people to abstain from smoking because of the harm it may cause to others. This message has put enormous psychological pressures on the smoker to remain invisible and considerate of the needs of others. Many European governments have taken a more nuanced position and question the validity of the studies on secondhand smoke, most of which were done in the US. Moreover, the European approach to public health involves communal or environmental perspectives and is less ready to single out individuals for bad behavior or irresponsible decisions. Whereas the European public may in fact prefer smoke-free bars and restaurants especially since a minority (of a solid third) of the adult population smokes, there is greater hesitancy in forcing the service industry and the workplace to go smoke-free. Medical experts and advocacy groups in many EU member states refused to speak up against smoking for fear of sounding too stiff and joyless while acting like a nanny. Especially, national cultures with an attachment to individual autonomy and free will such as Germany, Denmark, the Netherlands, and the UK was considered unseemly to tell people not to smoke (Economist, 2005; Hood, Rothstein, & Baldwin, 2001; Brandt, 2004; Sweeney, 2004).

At the same time, it is important to remember that American political structures generate unique dynamics that are not replicable across the European context. The battle against Big Tobacco was long and drawn-out, and throughout this period the Federal government and especially Congress were receptive to the interests of cigarette companies. The anti-tobacco movement had to find alternate venues to pursue its policy agenda. They focused their resources on state governments and forged alliances with state

officials staffing public health agencies and with local health voluntaries (American Lung Association, American Cancer Society, etc). Many of the first laws against smoking in public were passed in states such as Minnesota and California (Bayer & Colman, 2004; Studlar, 2002; Wolfson, 2001). Fragmented political structures were both a liability and advantage to the tobacco control movement. The permeability of the political system, especially at the federal level, gave tobacco companies access to legislators and kept anti-smoking activists out of the legislative loop. But state governments outside the belt of tobacco-growing states were open to experimental measures to bring down smoking prevalence and subsequently introduced higher taxes, smoke-free public spaces, youth education programs, anti-smoking programs, and restrictions on tobacco availability and sales, and public campaigns.

However, innovative anti-tobacco measures at the state level did not directly challenge the tobacco industry. Rather, again because of the peculiarities of the American political system, activists employed a second strategy by fighting tobacco interests in court (Derthick, 2002). Absurdly, American lawyers, not public health officials or physicians won the anti-tobacco war. The American regulatory style is open, adversarial, formal, and legalistic. Public interests have the opportunity to challenge federal agencies or Congressional decisions in courts and can rely on extensive tort litigation to hold the private sector accountable for harms caused by the use of a product. Over the decades, legal suits filed against the tobacco industry were decided in favor of the industry. But in the mid-1990s, trial lawyers adopted a new strategy based on aggregation of cases and filed private class action tort and state health care reimbursement suits. The anti-tobacco camp won the cases owing to the release of damaging documents and change in public opinion (Parker-Pope, 2001; Pertschuk, 2001; Rabin, 2001).

The tort litigation option has been widely studied in other countries but not widely emulated (Derthick, 2002; Studlar, 2002). Tobacco control activists in Europe cannot use the court system as a backup strategy if they fail to make progress through the normal political channels. However, the developments in the US have certainly provoked interest and reflection in Europe. As thinking about smoking have perceptibly shifted, it has become acceptable to discuss the costs of treating smoking-related illnesses in public. In France, a local public insurance agency sued four tobacco companies to recoup funds it spent to treat sick smokers to no avail (Alvarez, 2003). Altadis, the successor company of the state-owned Spanish and French tobacco firms, was absolved in the 13 individual tobacco-related lawsuits

filed against it in Spain and France (Altadis News, 2004). Tort litigation is much harder in Europe and public opinion does not castigate tobacco companies as the ‘bad guys’ who need to compensate either public authorities or individuals for the harm they have caused. Tobacco control is a part of the public health agenda of every advanced industrialized country, but its scope and effectiveness vary depending on whether society accepts certain premises about the moral status of smoking.

## 2. GM CONTROVERSY IN EUROPE

Until very recently, smoking and tobacco have not prompted great health and environmental concerns in the EU. In contrast, the European public and nongovernmental organizations have agonized about and mobilized against genetically modified agriculture and foods. The EU or more accurately European consumers have politicized and drawn attention to the possible long-term costs of introducing genetically modified crops and food into the food chain. The controversy and lengthy debate has put GMO on the ‘global agenda’ for several reasons. First, it has led to trade friction with the US since American farmers are the largest users of GM seeds and have lost export revenues in the hundreds of millions of dollars due to EU’s resistance to sell GM products. Second, the reluctance of the EU and European consumers have made other countries hesitant to buy and plant this GM variety of corn or soybean out of fear that they will be excluded from the EU market. Third, international food processors have become more cautious about using GM ingredients. While American consumers do not care much about ‘green’ genetic engineering, American food companies do and would prefer to use GM-free inputs in order not to draw attention to themselves. Thus, the turmoil in Europe has raised GMO into an international issue that affects various private sector actors and public agencies in the US.

From the beginning, the Commission has had three different objectives in the regulation of genetically modified matter. First, it has tried to reconcile divergent risk assessments, which can undermine the internal market. Second, it has sought to protect consumers from unsafe food. Third, it has tried to avoid international trade conflicts and in fact seeks to nurture and promote biotechnology as the next frontier in international competitiveness. These goals are not always consistent and reconcilable.

The Commission has produced numerous laws to address the complex dynamics of transgenic food products. The former DGXI (Environment and

Consumer Policy) drafted the Contained Use Directive (90/219), which dealt with laboratory experiments and required the user to carry out prior risk assessment. The Commission also issued the Directive on Deliberate Release in 1990 (90/220), which required manipulated organisms intended for release in the environment to acquire official approval and undergo risk assessment studies prior to import, marketing, or release. Both directives provoked a storm of protest from industry, scientists, and the US. Immediate attempts were made to reform directive 90/219, which was finally amended in 1998 and introduced more scientific rigor in the classification of risk potential of microorganisms and fell more closely in line with international standards (Patterson, 2000). The Novel Foods Regulation (97/258) dealt with food products that contain, consist of, or are produced from GMOs and introduced the idea of labeling although it was soon supplemented by the Novel Foods Directive (1139/98) that proposed the need for a label if 'substantial' modification had taken place (Galloux, Gaumont Prat, & Stevers, 1998; Hunter, 1999; Kettner, 2001).

While the Commission worked on clarifying the confusion about formulating common principles of risk assessment and management, the European public harbored considerable skepticism with regard to green (agricultural) biotechnology (Gaskell, Thomson, & Allum, 2002, p. 356). The reluctance to accept GM technology as harmless or beneficial came to a boil in late 1996 after it was disclosed that a large shipment of Roundup Ready soybeans (produced by Monsanto) was ready to enter the EU market. Environmental groups organized an anti-GM campaign that could claim the support of a large proportion of the European public. Some governments (France, the UK, and the Netherlands), which were initially receptive to GM technology, buckled under and declared their support for a temporary halt on the marketing of GM products. The matter reached a stalemate, however, when the governments of Austria, Italy, and Luxembourg invoked the safeguard clause in directive 90/220 to ban the import of GM soybean. After the unilateral declaration, the Commission was forced to issue a moratorium on the production and distribution of GM seeds and food in 1998.

The opposition to GMO is routinely attributed to Europe's espousal of the precautionary principle. Its formulation, succinctly stated, is that it is better to err on the side of caution or better to be safe than sorry (Majone, 2002; Vogel, 2001). European officials claim that in the absence of scientific proof of a risk nobody should assume that there is no risk involved. Therefore, officials should undertake proportionate measures to remove or reduce threats of serious harm. Not knowing what the long-term detriments are of

GM seeds/food, the EU position is that we must assume that the product is not safe unless otherwise proven. US trade negotiators believe that this attitude prevents GM products from entering the EU market unwarrantedly. To them, this type of reasoning must conceal ulterior motivations. In the US, after all, there has been hardly a debate on GMO. Yet Americans are very health conscious and are equally obsessed about 'risks.'

However, Americans define 'risks' differently especially in relation to food and food production regimes. For one, agriculture carries different connotations in Europe because farms are smaller and located closer to cities. In the postwar period and until recently, Europeans regarded farmers as custodians of another Europe that offered a bucolic alternative to the rushed hurried urban life. Farmers provide foodstuff but also supply more intangible sociocultural artifacts related to the management and conservation of the natural environment (Jones & Clark, 2001). This definition of farming has been strengthened since the 1980s to deflect public criticism that commercial agriculture in fact pollutes and destroys the countryside. Since the late 1980s, national governments and the Commission have introduced agri-environmental programs to deal with excessive production of animal waste, overuse of fertilizers and pesticides, destruction of natural habitat, disappearance of flora and fauna, and other negative consequences of intensive farming. In Northern Europe, programs and discursive debate depict agricultural landscapes as the product of centuries of continuous occupation and toil and possessing unique cultural assets. In Southern Europe, agriculture represents the small independent farmer/peasant cultivating high quality naturally grown foods and keeping villages and towns alive. European farmers are said to deliver more than foodstuff though this other image of providers of public goods has been played up since 1992 after the Commission has passed various agri-environmental programs and income-support schemes to deflect criticism of EU's productivist farming orientation.

Since American farming is highly industrialized or mechanized, capital intensive, removed from urban centers and found in thinly populated states, it has not provoked similar sentiments of nostalgia. Truthfully, Americans perceive farming as yet another industry on par with cars or steel. They do not harbor the same sentimental ties and ethical concern for the preservation of rural life (Echols, 1998). Moreover, while much of America's landscape is virgin and untouched, European landscape is by definition a cultural artifact since most of the land has been in use for centuries.

GM technology extends and deepens the dominance of commercial farming in that this innovation increases agricultural productivity or profits but yields no benefits for the consumer. The opposition to agricultural biotechnology

partly rests on the perception that this is yet another novelty, which can damage the environment or habitat, yet does not enhance the taste, texture, nutrition, or freshness of the final product. Countries with thriving organic farming or competitive regional specializations are opposed to the commercialization of GM technology because it threatens an alternative type of food production and is inconsistent with the emphasis on public goods provisions, and undermines livelihood of small farmers (Kurzer & Cooper, *forthcoming*).

Aside from divergent interpretations of multiple functions of farming, what seems of equal importance is that the development of genetically modified matter took place in totally different political-institutional circumstances. One major difference is that Americans trust their regulatory machinery, while Europeans do not. In spite of their cozy ties to industry, Americans are generally satisfied with the functioning of the EPA, FDA, and USDA (all three of them claim authority over GM food), while Europeans doubt the competence of regulatory agencies and the veracity of its official statements (Bray, 2003; Gaskell, Thomson, & Allum, 2002). These doubts turned into public outrage and colored opinions on green biotechnology. In turn, European interest groups have exploited discontent and negative views with respect to agricultural biotechnology to raise their public profile and launch political actions against GM food (Bernauer, 2003).

At the same time, agricultural biotechnology had made few inroads in European farming practices. For technical reasons, the genetic properties of corn/maize lend themselves to gene splicing but this mass crop is not widely grown in Europe. European farmers were not yet using GM seeds and European laboratories were several steps behind their American counterparts. The biotechnology industry did not form an active lobbying group marshaling counterarguments to diffuse the emotional claims of environmental/consumer associations. They were at loss on how to present an alternative vision that silenced the concerns about the threat to small scale or organic or regional specialization farming.

By comparison, in the US, the debate on plant biotechnology took place in the early to mid-1980s, when few commercial products yet existed and new laws to cover genetically modified foods or plants came into being in the early 1990s. Legislation divided responsibility for regulating GM crops and food products among three agencies: the US Department of Agriculture would be responsible for determining if crops grown from GM seeds posed a threat to other crops, the Environmental Protection Agency would monitor the environmental effects of GM crops, and the Food and Drug Agency would regulate the safety of GM foods. Congress decided that existing legislation was adequate to enable all three agencies to discharge these responsibilities;

therefore, there was no need for legislation to specifically address genetically modified products.

In 1992, the FDA issued a policy statement announcing that it would not treat a food product any differently simply because it was grown from genetically modified seeds. The FDA's 1992 Statement of Policy also addressed the critical issue of the labeling of GM foods. In the agency's view, labeling was only necessary if 'a new plant variety differed from its traditional counterpart such that the common or usual name' no longer applied to the new food or a safety of usage issue existed to which consumers must be alerted. Since the FDA considered food items produced from GM seeds as 'substantially equivalent' to those produced from conventional ones, no labeling would be necessary (Dunlop, 2000; Young, 2003). Indeed, according to the FDA's interpretation of American law, to require labeling would be to risk misinforming consumers, since they would be provided with information that was meaningless (Bernauer, 2003; Patterson & Joslin, 2002; Vogel & Bensedrine, 2002).

Although American NGOs and branches of international nongovernmental organizations (Friends of the Earth and Greenpeace, for example) argued that labeling of GM products would be desirable, they were not in principle opposed to the technology. One of the most vocal food-related consumer groups in the US, the Center for Science in the Public Interest, had no official position on the genetic engineering of foods (Echols, 1998). Selected public organizations have taken a decidedly pro-business viewpoint by arguing that GM technology can alleviate world hunger and will help less-developed countries. Infrequently, an activist group has tried to generate publicity for GMO and the Center for Food Safety has used legal action to review current biotechnology practices and to force through mandatory labeling. But its actions did not draw much attention because for the most part consumers did not fundamentally disagree with the position taken by a united biotech industry and remained indifferent to the halfhearted campaigns by American consumer/environmental NGOs to publicize the issue. Even the surprising revelations that GM corn, unauthorized for human consumption, had landed in taco shells failed to incite a wide public debate (Starlink GM corn in 2000). When it was announced in March 2005 that Syngenta, the large Swiss biotech firm, had mixed Bt 10 with a near-identical and approved corn seed called Bt 11 and that farmers had been planting the unapproved variety for three years, the media and public accepted the assurances of competent authorities that the resulting corn contained no health or environmental risk. Whereas the incident was widely reported in national newspapers, it nonetheless failed to stir anxious public scrutiny.

In short, American and European divergent approaches with respect to green biotechnology can be attributed to three cultural and institutional features. First, the American climate in general is more favorable to green biotechnology and regulatory agencies have passed rules to conserve this friendly environment for large agro-pharmaceutical companies. The FDA was unconcerned about new processes of production and only examined the impact of new products on human health and safety. It claimed that the products resulting from GM technology were the equivalent of the conventional variety. Second, American consumers put considerable faith in the food regulatory regime and trust authorities to identify and clamp down on unsafe unhygienic dangerous practices. Third, popular conceptions of farming and food vary in the US and EU. While upper-income households in the US are willing to spend extra money on organic produce and products, most Americans take mass produced, homogeneous, assembly line food for granted. Europeans are on the surface more attached to national culinary traditions and are more likely to expect food products to be fresh and natural. This does not describe all European countries, but then not all member states are equally opposed to the controlled development of genetic engineering of plants. As a rule, countries with a visible alternative food production regime (organic farming and/or regional specialization) are the most likely to come under pressure by consumers and NGOs to ban GM crops and foods.

All of these points may account for why European NGOs jumped on the anti-GMO bandwagon and snatched this opportunity to raise their own public visibility by campaigning against this issue. From the beginning, European NGOs inserted themselves in the decision-making process to try to influence the overall outcome. Environmental and consumer groups had contacts with officials staffing the former DG XI (Environment, Consumer Protection, and Nuclear Safety) and pushed hard for a process-oriented evaluation of GMO instead of an American-style product orientation. NGOs held up the Danish and German approaches, centered on the precautionary principle, to argue against self-regulation and against product-oriented rules (where the final product is evaluated for possible harmful consequences rather than subjecting the method of production to assessment) (Patterson, 2000).

In the mid-1990s, NGOs were able to articulate inchoate concerns and then reformulate them in the context of the prevailing climate of heightened anxiety about BSE and other contaminated foods (Bernauer, 2003). For example, in France, Italy, and Greece, fear for small farmers and cherished food specialties mobilized farmer's organizations, environmental groups,



and consumers (Ansell, Maxwell, & Sicurelli, 2006). In Austria, small-scale organic farmers expressed deep concerns about the long-term survival of their sector if GM crops were planted next to organic fields/farms since cross-pollination was impossible to prevent (Sassatelli & Scott, 2001). NGOs succeeded in neutralizing the influence of the pro-agro-biotech sector because Europe's was less developed than that of the US,<sup>4</sup> was fragmented across different national jurisdictions and R&D laboratories, while operating in a more difficult legal and business climate. Similar tactics in the US yielded no mass reaction and no mass mobilization against GMO.

### 3. DISCUSSION AND CONCLUSION

The US took the lead in the lengthy struggle to delegitimize and curb tobacco use. Specific combinations of variables created space for the emergence of a movement that succeeded in politicizing and regulating tobacco use. In the absence of a similar kind of configuration of factors in the EU, it took longer for tobacco control to gain credibility and its implementation has been less intense and passionate. Europeans are less likely to play the role of nanny and tell consumers what to buy or what to avoid. Generally, the prevailing sentiment was that cigarettes are a legal product and smoking is a legitimate activity. It took much longer to accept that cigarettes are exceptional harmful. Once it was recognized that smoking constituted a genuine public health challenge, most European countries introduced anti-smoking measures. Therefore, at this point, it seems fair to conclude that the EU and US agree about the urgency to tackle the smoking epidemic.

The situation is reversed in the case of agricultural biotechnology since US and EU experts and regulatory agencies continue to take a different view of the potential risks or hazards of GMO. Again, a particular matrix of institutional and cultural variables resulted in the vilification of agricultural biotechnology in the EU as opposed to its acceptance in the US. Whereas the Commission on the whole is supportive of the development of green genetic engineering, social forces, and consumers feel extremely ambivalent. While the Commission has approved the sale, import, or cultivation of GM products so long as the scientific assessments do not flag particular problems or risks, national governments are forced to take a strong anti-GMO stance because of popular pressures. Smoking did not mobilize public interest groups, but green biotechnology did because consumers or social groups identified a host of dangers that they failed to acknowledge in the case of tobacco use. Consumers in various EU member states oppose GM foodstuff for complicated reasons, having to do

with the lack of trust in regulatory agencies, the appreciation for natural and normal foodstuffs, the desire to sustain small-scale farming, and the fear of destroying particular culinary traditions (organic produce, regional specializations, diversity of choice of food products). Consumer resistance channeled by NGOs convinced supermarket chains to keep out products containing GMO derivatives and thus close the European retail market to GM foods. These actions put pressure on national governments to veto requests for authorization to import or sell GM products. In turn, the dynamics in the EU-level bargaining process affected American or international food processing companies because they were afraid of becoming targets of the new wave of protest action (Wales & Mythen, 2002). Although American consumers do not care about genetic engineering, American food companies operate throughout the world, including Europe. They prefer GM-free input to protect their reputation in Europe (Young, 2003).

While it would be an exaggeration to say that Europe drives the GMO global debate, its actions has certainly drawn attention to the possible costs or risks of introducing a wide variety of genetically engineered crops into the food chain. The opinion of European consumers and actions by NGOs put pressure on the EU to toughen approval procedures and to mandate the disclosures of labeling and tracing information to consumers. The regulatory decisions and popular hostility to GMO have convinced many international food processing companies to shun GM inputs out of fear of compromising their reputation or of being branded as the one firm that relies on GMO. It has even persuaded third countries to move slowly with the introduction of GM crops as they wish to avoid a controversial discussion in the EU about their products. Thus, global debates on GMO exist owing to the questions raised by European public interest groups and by the arduous regulatory climate designed by EU institutions. Since many of the scientific questions have no clear answers, competent authorities and private sector agents have become a bit more cautious about the long-term ramifications of green biotechnology.

Tobacco control became a hot public health issue in the wake of the achievements of the American anti-smoking movement, which demonstrated that it was possible to prevail over powerful tobacco companies and that a package of targeted policy measures can bring down smoking rates. This example inspired the World Health Organization to pass a Framework Convention to reduce the marketing/advertising freedoms of cigarette companies and motivated national governments in the EU to finally address the psychological, financial, and health costs of smoking-related diseases. But the passionate zeal that describes American local efforts to stamp out

smoking is absent in Europe just as the intense dislike of engineered foods is missing in the US.

## NOTES

1. To date, the main GM crops are corn, soybean, cotton, and canola and they have been modified to resist insects, diseases, and weed killers, but are mainly used to produce animal feeds, food additives, industrial compounds, or fiber.
2. Many member states had already banned advertisements in public entertainment places.
3. One of the first widely discussed studies (1981) on secondhand smoke compared the lung cancer rate of wives exposed to smoking husband versus nonsmoking husbands (Bayer & Colman, forthcoming).
4. The US firm Monsanto controls 80–90 percent of the world market for GM seeds. To succeed and recoup its enormous investments, it needs a biotech friendly regulatory climate!

## REFERENCES

- Albæk, E. (2004). Holy smoke, no more?: Tobacco control in Denmark. In: R. Bayer & E. Feldman (Eds), *Unfiltered: International Conflict over Tobacco Policy and Public Health*. Cambridge, MA: Harvard University Press.
- Altadis News. (2004). Another lawsuit against tobacco rejected. *Altadis News*, April 14, <http://www.altadis.com/en/noticias/detalles.php3?id=128>.
- Alvarez, L. (2003). Glen to glen: No smoking at the pub. *The New York Times*, August 11.
- Ansell, C., Maxwell, R., & Sicurelli, D. (2006). Protesting Food: NGOs and Political Mobilization in Europe. In: C. Ansell & D. Vogel (Eds), *What's the Beef? The Contested Governance of European Food Safety*. Cambridge, MA: MIT Press.
- Bayer, R., & Colgrove, J. (2004). Children and bystanders first: The ethics and politics of tobacco control in the United States. In: R. Bayer & E. Feldman (Eds), *Unfiltered: International conflict over tobacco policy and public health*. Cambridge, MA: Harvard University Press.
- Bernauer, T. (2003). *Genes, trade, and regulation: The seeds of conflict in food biotechnology*. Princeton, NJ: Princeton University Press.
- Berridge, V. (2004). Militants, manufacturers, and governments: Postwar smoking policy in the United Kingdom. In: R. Bayer & E. Feldman (Eds), *Unfiltered: International conflict over tobacco policy and public health*. New York: Harvard University Press.
- Bitton, A., Neuman, M. D., & Glantz, S. A. (2002). Tobacco industry attempts to subvert European Union tobacco advertising legislation [online]. Center for Tobacco Control Research and Education, San Francisco. Available from <http://www.library.ucsf.edu/tobacco/euad/>.
- Brandt, A. (1997). Behavior, disease, and health in the 20th century US. In: A. Brandt & P. Rozin (Eds), *Morality and health*. New York: Routledge.

- Brandt, A. M. (2004). Difference and diffusion: cross-cultural perspectives on the rise of anti-tobacco policies. In: R. Bayer & E. Feldman (Eds), *Unfiltered: International Conflict over Tobacco Policy and Public Health*. Cambridge, MA: Harvard University Press.
- Bray, F. (2003). GM foods: Shared risk and global action. In: B. H. Harthorn & L. Oaks (Eds), *Risk, culture and health inequality*. Westport, CT: Praeger.
- Commission of the European Community. (2002). *Eurobarometer: The Europeans and biotechnology*, 58. Brussels: Commission of the European Community.
- Cooper, A., & Kurzer, P. (2003). Rauch ohne Feuer: why Germany lags in tobacco control. *German Politics and Society*, 21, 24–47.
- Cranor, C. F. (1993). *Regulating toxic substances*. New York: Oxford University Press.
- Derthick, M. (2002). *Up in smoke: From legislation to litigation in tobacco politics*. Washington, DC: CQ Press.
- Duina, F., & Kurzer, P. (2004). Smoke in your eyes: The struggle over tobacco control in the European Union. *Journal of European Public Policy*, 11, 57–77.
- Dunlop, C. (2000). GMO and regulatory styles. *Environmental Politics*, 9, 145–155.
- Echols, M. A. (1998). Food safety regulation in the European Union and the United States: Different culture, different laws. *Columbia Journal of European Law*, 4, 525–544.
- Economist. (2005). Sonderbar: Why Germany may be a bigot's hell but a smoker's heaven. *Economist*, March 17.
- Engs, R. C. (2000). *Clean living movements: American cycles of health reform*. Westport, CT: Praeger.
- European Opinion Research Group. (2003). *Smoking and the environment: Actions and attitudes*. Brussels: Eurobarometer 58.2.
- Gaskell, G., Thompson, P., Allum, N. (2002). Worlds apart? Public opinion in Europe and the USA. In: M. W. Bauer & G. Gaskell (Eds), *Biotechnology – the making of a global controversy*. Cambridge, eds. London: Science Museum.
- Gately, I. (2001). *La diva nicotina: The story of how tobacco seduced the world*. London: Simon & Schuster.
- Gilmore, A., & McKee, M. (2004). Tobacco-control policy in the European Union: The legal, ethical, and policy debates. In: R. Bayer & E. Feldman (Eds), *Unfiltered: International conflict over tobacco policy and public health*. Cambridge, MA: Harvard University Press.
- Gusfield, J. R. (1998). The social symbolism of smoking and health. In: J. A. Schaler & M. E. Schaler (Eds), *Smoking: Who has the right?* New York: Prometheus Books.
- Harrison, K., & Hoberg, G. (1994). *Risk, science, and politics*. Montreal: McGill-Queen's University Press.
- Hennis, M. (2005). *Globalization and European integration: The changing role of farmers in the CAP*. Boulder: Rowman & Littlefield.
- Hervey, T. K. (2001). Up in Smoke? Community (anti)-tobacco law and policy. *European Law Review*, 26, 101–125.
- Hood, C., Rothstein, H., & Baldwin, R. (2001). *The government of risk: Understanding risk regulation regimes*. New York: Oxford University Press.
- Hunter, R. (1999). European regulation of genetically modified organisms. In: J. Moore & R. Bate (Eds), *Fearing food: Risk, health, and environment*. Boston: Butterworth-Heinemann.
- Huylenbroeck, G. V., & Durand, G. (Eds) (2003). *Multifunctional agriculture*. Burlington, VT: Ashgate.
- Jones, A., & Clark, J. (2001). *The modalities of European Union governance*. New York: Oxford University Press.

- Joossens, L. (2004). Effective tobacco control policies in 28 European countries. European network for smoking prevention. Available at <http://www.ensp.org>.
- Kersh, R., & Morone, J. (2002). How the personal becomes political: Prohibitions, public health, and obesity. *Studies in American Political Development*, 16, 162–175.
- Kettner, V. (2001). The European Conflict over Genetically Engineered Crops. In: Imig & Tarrow (Eds), *Contentious Europeans: Protest and Politics in an Emerging Polity*. Boulder, CO: Rowman and Littlefield.
- Krimsky, S., & Murphy, N. (2002). Biotechnology at the dinner table. *Annals of the American academy of political and social science*, 584, 80–96.
- Kurzer, P., Cooper, A. (forthcoming). What's for dinner? European farming and food traditions confront American biotechnology. *Comparative Political Studies*.
- LeBesco, K. (2004). *Revolt bodies: The struggle to redefine fat identity*. Amherst: University of Massachusetts Press.
- Mackay, J., & Eriksen, M. (2002). *The tobacco atlas*. Geneva: WHO.
- Majone, G. (2002). What price safety? The precautionary principle and its policy implications. *Journal of Common Market Studies*, 40, 89–109.
- Morone, J. (2003). *Hellfire nation: The politics of sin in American history*. New Haven: Yale University Press.
- Nathanson, C. (1999). Social movements as catalysts of policy change: The case of smoking and guns. *Journal of Health Politics, Policy and Law*, 24, 421–488.
- Omar, S., Dolwick, S., & Guindon, G. E. (2003). Tobacco control country profiles. Available at <http://www.who.int>, <http://www.uicc.org>, and <http://www.cancer.org>.
- Parker-Pope, T. (2001). *Cigarettes: Anatomy of an industry from seed to smoke*. New York: New Press.
- Patterson, J. (1987). *The dread disease: Cancer and modern American culture*. Cambridge, MA: Harvard University Press.
- Patterson, L. A. (2000). Biotechnology policy. In: H. Wallace & W. Wallace (Eds), *Policy-making in the EU*. New York: Oxford University Press.
- Patterson, L. A., & Josling, T. (2002). *Regulating Biotechnology: Comparing EU and US approaches*. European Policy Papers 8, European Union Center, University of Pittsburgh. Available at <http://aei.pitt.edu/archive/00000028>.
- Pertschuk, M. (2001). *Smoke in their eyes: Lessons in movement leadership from the tobacco wars*. Nashville: Vanderbilt University Press.
- Petersen, A., & Lupton, D. (1996). *The new public health: Health and self in the age of risk*. Thousand Oaks: Sage.
- Rabin, R. L. (2001). The third wave of tobacco tort litigation. In: R. L. Rabin & S. D. Sugarman (Eds), *Regulating tobacco*. New York: Oxford University Press.
- Read, M. (1996). *The politics of tobacco*. Aldershot: Avebury.
- Sassatelli, R., & Scott, A. (2001). Novel food, new markets, and trust regimes. *European Societies*, 3, 213–244.
- Studlar, D. (2002). *Tobacco control: Comparative politics in the United States and Canada*. Peterborough, ON: Broadview Press.
- Studlar, D. (2004). Tobacco control policy instruments in a shrinking world: How much policy learning? In: D. Levi-Faur & E. Vigoda (Eds), *Public policy and public management in a globalized world: Policy learning and policy emulation across countries and regions*. New York: Marcel Dekker.

- Sweeney, C. (2004). EU will not copy Ireland's tough ban on smoking. *Irish Independent*, January 13.
- The Wall Street Journal. (2004). Smokers and warnings in Europe. *The Wall Street Journal*, February 12. [online.wsj.com/article/0,,SB107652900146827150-search,00.html](http://online.wsj.com/article/0,,SB107652900146827150-search,00.html).
- Tridimas, G., & Tridimas, T. (2002). The European Court of Justice and the annulment of the tobacco advertising directive: Friend of national sovereignty or foe of public health. *European Journal of Law and Economics*, 14, 171–183.
- Valverde, M. (1998). *Diseases of the will: Alcohol and the dilemmas of freedom*. New York: Cambridge University Press.
- Vogel, D. (2001). *The new politics of risk regulation in Europe*. London: Center for Analysis of Risk and Regulation, London School of Economics and Political Science.
- Vogel, D., & Bensedrine, J. (2002). Comparing risk regulation in the United States and France: Asbestos, AIDS and genetically modified agriculture. *French Politics, Culture and Society*, 20, 13–32.
- Wales, C., & Mythen, G. (2002). Risky discourses: The politics of GM foods. *Environmental Politics*, 11, 121–144.
- Watson, R. (2002). EU waters down its plan to restrict tobacco advertising. *BMJ*, 325, 853–854.
- Wiener, J. (2004). Convergence, divergence, and complexity in US and European risk regulation. In: N. Vig & M. Faure (Eds), *Green giants? Environmental policies of the US and the EU* (pp. 73–110). Cambridge, MA: MIT Press.
- Wolfson, M. (2001). *The fight against big tobacco: The movement, the state, and the public's health*. New York: Aldine de Gruyter.
- Young, A. (2003). Political transfer and trading up? Transatlantic trade in genetically modified food and U. S. politics. *World Politics*, 55, 457–484.

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# GLOBAL MARKETS, GLOBAL CORPORATIONS: HOW EUROPEAN COMPETITION POLICY RESPONDS TO GLOBALIZATION

Teresa Rodríguez de las Heras Ballell

## ABSTRACT

*EU competition policy may be explained as a system: an organized set of objectives, rules, functions, procedures and authorities, acting in unity. A system is a complex reality, immersed in a complex context and permanently changing to overcome its dysfunctionalities and to adapt itself to environmental challenges. Globalization is its major challenge today. This paper proposes to understand globalization from four viewpoints. EU competition policy should respond to an evolutionary, contradictory, relative and systemic globalization. The aim of this paper is to identify the responses adopted in order to react to all these different dimensions of globalization.*

## 1. INTRODUCTORY REMARKS: THE LOGIC OF SYSTEMS

This chapter proposes to design a conceptual scheme to deal with the EU responses to globalization. Our interest is specially focused on EU competition

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 65–92

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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88004-6



policy as distinctly affected by the progressive interdependence of markets and the unstoppable *mondialisation* of business. Globalization is a very complex phenomenon, too wide to be captured, too vague to be concretized. Any opinion about globalization is usually conditioned – consciously or unconsciously – by a predetermined adjective that embellishes, taints or tightens the concept.<sup>1</sup> These slippery characteristics advise the researcher not to use a rigid and immovable concept, unavoidably partial and slanted, but to create a dynamic scheme to wholly understand “a globalization without adjectives.”

With the exposed purpose, the dynamic conceptual scheme that this chapter expounds consists in a sort of mechanism in working order whose parts and internal adjustments are defined. Thus, instead of imposing a sole perspective to understand the relationship between globalization and European policies, the proposed scheme offers a logic to recreate different sceneries that deploy a wide range of perspectives. This logic is composed of elements – as parts of a mechanism – and connections among them – as adjustments among parts.

EU policies are described as open systems acting in an environment, reacting to its challenges and interacting with it.<sup>2</sup> Globalization is one challenge of major interest in the world scene. The system (EU Policy) and its environment can enter into different sorts of relationships: mutual adaptation, conflict, exclusion, reciprocal interaction and so on. The question how the EU competition policy responds to globalization can be separated into its elements and constructed upon the logic of an opened system interacting with its challenging environment. The components of this logic are: a system, an environment, a challenge and a set of responses.

This chapter is structured as follows. Section 2 “The System” briefly describes the concept of system and proceeds to fit EU competition policy into it. Section 3 “The Environment” outlines the world scenario in which EU is immersed, emphasizing those factors outside the EU’s (the system) control, such as the transnational activity of corporations or the “delocalization” effect provoked by new technologies. In Section 4 “The Challenge,” an approach to grasp the phenomenon of globalization is proposed. Globalization is defined as a process characterized by four properties or attributes: evolutionary, relative, contradictory and systemic. The described attributes determine the response of EU policies to globalization, whose distinguishing features are exposed along Section 5 “The Response,” the longest part of the paper that is structured in its turn in several sections. The understanding of the influence of globalization on competition policy requires to be framed in a wider phenomenon. Legislating tasks – elaboration, application and construction – is immersed in a deep

adaptation process to overcome the challenges of a globalizing world. The conclusions of this paper are assembled in the last part (Section 6 “How to Respond to Globalization”) and can be condensed in two concepts: “contractualization” and networked enforcement.

## 2. THE SYSTEM

The starting point of this paper and a precondition to duly apply the logic that has been previously proposed is to fit EU competition policy into the concept of system. In a very schematic way, a system can be defined as follows: a set of organized elements acting as a unity. Indeed, EU competition policy is composed of rules, procedures, competent authorities, functions, and objectives that, working together, create a sort of “culture,” a distinguishing appearance that identifies European antitrust policy. This appraisal is crucial to really understand the concept of system, since it is not only a conglomerate of connected parts but the result of the emergence of a new and autonomous entity, an unity. The EU competition system has been adapted to respond to globalization.

EU competition system is (and was) composed of several elements and worked as follows (Korah, 1994; Guyénot & D’Évegnée, 1976; Bellamy, 2001): from a structural and procedural perspective, the Commission – the executive arm of EU – is empowered by Regulation 17/62 to enforce EU Competition Law. In accordance to the multinational essence of EU, the Commission delegated to the National Competition Authorities (NCA) its powers in relation to collusive agreements (Article 81.1 EU Treaty) but maintained the exclusive competence to grant exemptions under Article 81.3 of the EU Treaty. Despite enforcement competencies shared between administrative bodies and jurisdictional ones (at EU level and national level), the system is primarily an administrative one because the intervention of the Court of Justice of European Communities and the national courts is secondary and *a posteriori*. The parties to whom a decision of the Commission is addressed are entitled to appeal to the Court (First Instance Court and then Court of Justice). In addition, since practices that infringe competition rules are prohibited, the injured party may request compensation for damages in national courts.

From a regulatory perspective, EU competition policy is encapsulated in Articles 81 (collusion) and 82 (abuse of dominant position) of EU Treaty that are completed by rules on mergers and public aid, and developed by derivative regulation (directives, regulations and Guidelines). Moreover, EU

competition rules and national rules coexist within common market in a relationship mainly based on geographical criteria (practices that affect trade among member states (common market)<sup>3</sup>/practices that affect domestic market).<sup>4</sup> This regulatory scheme (mainly in relation to collusive agreements) was defined as a notification system. Those anticompetitive agreements that fulfilled certain criteria may be exempted from the prohibition. A person or organization seeking exemption must apply to Commission. This is done by *notifying* Commission of the agreement or practice. Commission is entitled to declare the prohibition inapplicable to a specific category of agreements or practices (*block exemptions*)<sup>5</sup> or an individual case. Alternatively, if a company is unsure whether its agreement or practice falls within the prohibition at all, it can seek the opinion of Commission on this point. Commission may state that the behavior is not prohibited by Articles 81 or 82. This is called *negative clearance*. Nevertheless, exemption is only possible for breaches of Article 81. The main purpose of notification is to get the practice exempted by the Commission, so there is no need to notify those behaviors that do clearly not infringe the EU provisions. Ancillary benefits of notification are an immunity from fines and the possibility of acquiring a reputation for being “community-spirited.”<sup>6</sup> This previous step, consisting in *notifying* Commission of the agreement, defined the system as a notification model. So, Article 81 worked as *ex ante* mechanism, and is composed of two parts. First, Article 81.1 prohibits collusion between undertakings – agreements, decisions by associations, concerted practices – which may affect trade between member states and has the object or effect of restricting competition within the common market. It is the substance and not the form of the collaboration that matters. Second, according to Article 81.3, this prohibition may be declared inapplicable (individually or by category) to these agreements that can produce favorable economic effects. Despite the first paragraph of Article 81, that a prohibition might be applied by NCA, the application of paragraph 3 was entrusted exclusively to Commission.

From an applicative perspective, the Commission was empowered to exempt practices that infringe Article 81.1 by Article 81.3; since NCA were only competent to enforce the prohibition. So, the authorization system was centralized. Thus, the enforcement of EU competition policy was based on a centralized system of notification, since Commission has sole power to declare Article 81.1 inapplicable pursuant to Article 81.3.

In next sections, I will discuss how this system has responded to and is responding to globalization.

The system approach offers a useful tool in order to evaluate the response of EU competition policy to global challenges. The influence of

globalization can be located on procedural aspects, may encourage adapting substantive rules or might imply a real “culture” shift. From the system approach, the response of EU competition policy can be explained in a selective way – *infra* Section 5 – the mechanism can be separated in its parts or observed in its entirety.

A second and related observation is that EU competition policy is an open system. This characteristic implies that the system is as passive as it is active. That is the system is influenced by the environment which simultaneously influences that same environment. Accordingly, it is reasonable to wonder to what extent European decisions are driving globalization, or being driven by globalization.<sup>7</sup> The reciprocal influence between system and environment is a decisive feature of the logic selected to conduct this paper. Thus, the response to globalization cannot be observed from a synchronous approach, like a cutting in the time that would show a unique image. Globalization activates a process of mutual adaptation, of reciprocal influence. The response to globalization is not an action but the performance of a process.

### **3. THE ENVIRONMENT**

The concept of environment is essential to shapely delineate the edges of the system. The environment is composed of those elements, factors, decisions or situations that are beyond the system’s control. All elements that the system can control are taken out the environment and integrated into the system. It is, indeed, the manifestation of incertitude.

Consequently, the EU, when elaborating among others its competition policy, it must assume the existence of environmental variables which its decisions cannot influence. In order to make this environment that surrounds our system (EU competition policy) more manageable, several of its features need to be elaborated upon.

First, there are several actors on the world scene: they range from primary and secondary ones, to economic powers and emerging markets, and to leaders and followers. The decision-making process is strongly conditioned by the power balance in the international relationships. Thus, the “consensus rule” of decision making can block the functioning of international institutions if other rules, more sophisticated and more flexible, are not devised to govern the decision-making process (Jackson, 2000–2001). Second, although the growing interdependence among markets, societies and business results in the disappearance of borders, or the so-called “globality,”

this is not sufficient to assure uniformity. Economic, social and technological gaps prevent the uniformity that could be imagined in a “globalized” world. This is important to understanding the reality of global markets and global corporations. We will see that globalization is a contradictory process – infra Section 4. Our environment is not a perfect and smooth global market and corporations are not necessarily acting globally. Some argue that the world is experiencing a process of “glocalization,”<sup>8</sup> a paradoxical word to describe the divergent forces that simultaneously increase globalization and “localization.” Third, information and communication technology (ICT) is a main actor on the world stage. Contrary to conventional wisdom, ICT provides extraordinary tools to channel and promote the unstoppable interdependence among people (chat forums and social networking), cultures (*e-learning*), markets (*e-marketplaces*) and enterprises (*e-commerce and e-procurement*). Moreover, ICT is creating a new space that duplicates our world.<sup>9</sup> This new space, the digital one, represents a new dimension where to compete and cooperate, buy and sell, produce, negotiate and sign contracts – in addition to teach and learn, to win and lose, to talk, to communicate, to publish, to consult and so on. The digital space is the real challenge that new technologies promise.

Accordingly, our system must manage an environment split by the global-local tension and duplicated in two spaces by effect of ICT.

#### 4. THE CHALLENGE

The environment is permanently changing. Each movement means a new challenge that is thrown at the system. Today’s major challenge is globalization, even if this phenomenon is not new but, on the contrary, always has accompanied the development of societies, markets and businesses. First, the improvement of transport means shorter distances between countries. Second, the economic development implied the overlapping of markets and the emergence of transnational companies. Third, ICT has facilitated the flow of information and knowledge across national boundaries.

The versatility of the concept instructs us to avoid rigid definitions. Globalization means obviously a process of increasing interdependence among economies, markets, cultures, societies, political decision-making processes and so on. As a result our concept may appear too vague, but any effort to concretize implies the risk of losing objectivity and ending in an imbalanced concept of “a globalization with adjectives.” Thus, our proposal is to define the globalization simply as a process with several properties, that show us an

evolutionary (infra Section 4.1), relative (infra Section 4.2), contradictory (infra Section 4.3) and systemic (infra Section 4.4) globalization.

#### *4.1. An Evolutionary Globalization*

Unlike the general impression that considers today's globalization a real revolution, the globalization is mainly a process, an evolution. The evolutionary feature of globalization insists on the fact that this phenomenon, as we see it nowadays, is not new but another link in the long chain of a process. By mistakenly interpreting it as revolutionary phenomenon affects how we approach ICT, one of its main tools. In fact, the emergence of ICT has been usually interpreted as a revolution in of itself. This in reality is incorrect since ICT merely amplify the effects reached by older technologies. So, new and old technologies coexist today: e-mail and ordinary mail, internet and paper, fax and SMS, mobile and phone.

An evolutionary globalization has at least two consequences for the purpose of this chapter. First, unlike a revolution, an evolutionary process can be re-routed, diverted, driven by the decisions of the system. When EU competition policy is responding to globalization, it is at the same time being seasoned with European ingredients "the global recipe." Second, an evolutionary process allows a response, a coherent and pondered action. The urgency, the improvisation, the rashness of a revolution suffocates any capacity to respond.

#### *4.2. A Relative Globalization*

The first connotation of this second attribute of relativity appears to insist unnecessarily on defining globalization as a process. Even if this assessment is true – but reiterative – the use here of the term "relative" seeks to point to another connotation. Besides the relativity in a temporal sense – a process – globalization is relative in other dimensions. For instance, there is an obvious difference between the fast pace of economic versus the slower political pace of globalization. This fact is well known and materializes in adding different adjectives to our bare concept of globalization. This dimension, however, is not of particular interest to this chapter, as I want to emphasize the relative character of globalization along a geographic dimension.

It is said that the so-called "regionalization" process is a sort of defense against the menaces of globalization. The construction of the EU is seen as a protection of its members against the effects of globalization. I really

disagree with this perspective. Provided that the globalization is a process driven to increase the interdependence among national societies and local markets and to surmount the national borders, the EU project<sup>10</sup> is in turn a ladder to a higher stage, a more “globalized” one.<sup>11</sup> So, the EU does not result from a reaction against globalization but rather it is a serious step towards it. Since globalization is relative, real “globality” is in a state of continuous construction.

#### *4.3. A Contradictory Globalization*

Today’s globalization is a globalization of contradictions, a globalization in contradiction and a contradictory globalization, because the globalization process does not result in uniformity. This lack of global uniformity has two readings, a positive and a negative one. On the one hand, globalization digs deep gaps between countries, societies, cultures and economies.<sup>12</sup> Our world appears fractured by a variety of gaps: technological, economic, social, human rights and so on. Luckily, however, the contradictions of globalization allow for another interpretation that is more encouraging. The more globalization amplifies the big things the more it accentuates the small ones. Contradicting any prediction, small things, local things, minorities, are emerging in a global context with an unexpected prominence. There are suggestive examples: a very specialized product or service may now reach its small and disperse target; minorities can make their voices heard; social networking allows the emergence of select communities that in a world of nations were diluted.

The term “glocalization” seeks to concentrate this conflicting tension between global and local. As a consequence, policies must not be planned to face a world of global size but to combine intelligently local and transnational, to integrate the parts into the mechanism without losing their nature, to harmonize the diversity of the plurality and the uniformity of the unity.

#### *4.4. A Systemic Globalization*

The emergence of little things, as has been previously exposed, does not mean that the “globality” may be described as an amalgamation of local unities, a set of small things coordinated among them. The globalization process creates a situation that is more than a mere interdependence among many elements (states, markets, societies and cultures). This erroneous image forgets the systemic dimension of the process. The crucial feature of today’s globalization is its ability to generate a result – the “globality” – that is more

than the sum of its parts. Though the system's components are not diluted and keep their identity, in their own they cannot explain the totality.<sup>13</sup>

This feature is, in my opinion, the most attractive attribute of the globalization such as it has been outlined along this chapter. A systemic globalization allows to imagine a real "universal society" that does not suffocate local identities but able to overcome the disintegration of a world of "nation-states."<sup>14</sup>

## 5. THE RESPONSE

The response adopted by the EU to face globalization is deeply conditioned by the challenge's evolutionary, relative, contradictory and systemic attributes. Here, EU competition policy is the system proposed to be tested to face the challenge. The core argument is based on whether the changes implemented in EU competition law accord with the bidimensional character of globalization that is at both the EU and international levels. As argued earlier, the EU is the first stage of the globalization process. Hence measures, decisions and initiatives adopted to reach the internal market are really responses that are aligned – assuming the significant differences between the supranational context and the international one – with those implemented to face globalization. The EU may be treated as a regional area – a piece of global context – extremely suitable to test the influence of globalization. Yet, EU decisions do not only seek to smooth internal dysfunctionalities, but they are also driven to locate Europe, as a global actor, in a strong position to respond to globalization and influence its trends. For instance, harmonizing initiatives that seek to mainly consolidate a European legal framework (internal effect) have an immediate effect on reinforcing the influence of the EU globally and its ability to shape the direction of globalization (external effect).

The response, from a legal viewpoint, can correspond with at least two phases: to globalize regulation (conflict-of-law approach, harmonization of principles, bilateralism by agreement, multilateralism and regulatory globalization), and to globalize enforcement (unilateral action, cooperation agreements, multilateral networks and global institutions). A world constructed upon the logic of nation-states poses two problems: the divergence of rules and the (conflicting) decentralization of enforcement. Accordingly our approach is divided into two perspectives: a substantive and an institutional one. The substantive one refers to the rules and the principles elaborated to confront the problems in a global context. From this



perspective, since competition law is part of a broader legal system, it is reasonable to ascertain first how the law (commercial law) – even if competition law incorporates an important administrative burden (public law), it is indeed part of law of business activity (private law) because it defines how to compete and to cooperate that are the essence of business – responds to the challenge of globalization (infra Section 5.1 and infra Section 5.2). The institutional one is focused on procedural and structural aspects of EU competition policy. The purpose is to wonder if the structure of the system is decisive in confronting the challenge and if it must be re-drawn to be adapted to the new environment (infra Section 5.3).

### *5.1. Transnational Activities and “Delocalized” Activities: How to Regulate?*

In a world in which the logic of the legal systems is based on the binomial state–domestic law and dominated by the principle of territoriality, the major challenge is posed by the transnational activities. The implication of several national elements complicates the peaceful distribution of power among national states. This historic challenge has been confronted with a range of regulatory and non-regulatory instruments that are limited by two extremes: conflict-of-law approach and uniform texts on international commerce law; between them, harmonizing initiatives, bilateral cooperation and multilateral agreements. Unlike International Private Law (conflict-of-law approach) with its mere allocation effect, the Uniform Law of International Commerce reveals a very successful approach to a real “globality” because it promotes the convergence of rules, the uniformity of application and the existence of real universal principles. At the risk of somewhat forcing the terms, it could be said that whereas conflict rules manage the transnational activity, Uniform Law is well suited for the global activity. At this moment the systemic feature of globalization meaningfully emerges.

Transnational activity is not a new challenge for the legislators, the enforcers and the practitioners. The old generation of technologies, mainly related to transport and electronic communications, created the fitting conditions to allow commerce to extend beyond national borders (Pincus, Pincus, & Reid, 1991). The modern generation of technologies, generated around digital communications, has launched the era of “delocalized” activity. These new technologies have delocalized business, trade and markets because now territoriality is not essential to envisaging and engaging in commercial activity. This resulting digital space undeniably requires a global approach to regulation.<sup>15</sup>

The development of competition law has followed the same historic path. Both transnational and “delocalized” business activities affect the logic of antitrust policy. Once national borders are surmountable, competition law must be prepared to manage (anti)competitive situations involving differing national elements. A price-fixing agreement concluded in London between a French company and a Mexican one regarding goods that are manufactured in India and packed in China to be distributed in Germany is an example of a transnational activity. A situation that arises when the operator of a B2B e-marketplace adopts an unreasonable and discriminatory decision by refusing access to a company and thus preventing it from competing in the (electronic) market (*cyberspace-handicapping*), is said to be “delocalized” because the market is virtual, with no territorial connection. It is reasonable to assume that the continued growth in interdependence among countries and markets correspondingly increases the likelihood that anticompetitive practices – coordinated behaviors, abuse of dominant position, transnational mergers – may adversely affect different countries. These transnational effects require efficient allocation rules. The standard of adversely affected market (or “effects theory”) – EC competition law may be applied to foreign undertakings whose conduct has anticompetitive effects in the common market – may manage this sort of transnational situations. However, since this doctrine of effects is able to solve the issue of an activity that involves various legal systems, no convergence of rules, uniformity of procedures or coherence in enforcement are achieved. The July 3, 2001 EU Commission declaration stated that the proposed merger between the US companies General Electric (GE) and Honeywell<sup>16</sup> was incompatible with common market principles was quite controversial. Despite the nationality of the companies, the Commission assessed that the combination of the leading aircraft engine maker with the leading avionics/non-avionics manufacturer would create/strengthen a dominant position in various relevant markets in which the merging companies were active. Apart from the substantive reasoning, the case poses a pair of procedural questions. First, the GE/Honeywell case shows the urgency of acting on the basis of cooperation to face global markets, global corporation and global practices; even if this is a rare case where transatlantic competition authorities have disagreed.<sup>17</sup> Second, the GE/Honeywell case insists on the incoherency that results from merging globality with territorial criteria. The result is always partial and incoherent – global companies are not encouraged to act globally since their global dimension is penalized. So, other instruments to face competitive activities at global scale must be devised.

Despite their complexity transnational anticompetitive activities are successfully managed within the fragmented context of national markets. The

major challenge arises when, with the modern generation of technologies, a new disputed space emerges. Then, it is not a matter of allocating competences. To manage the new space with the traditional tools, new connecting lines are required to link the physical space and the digital one. In the field of contracts, the principle of functional equivalence<sup>18</sup> creates a mirror image – according to the functions that are performed – in the digital space corresponding to each legal institution in the physical one (paper document–electronic document, manuscript sign–digital sign, contractual acceptance–click-agreement, and so on). So, private law may be applied to conducts and situations that happen in the digital space just (functionally) “translating” the digital reality into words associated to the physical world (if a rule refers to “manuscript sign” may be applied to digital sign, for instance). Within the competition law system, this core principle may also be very useful to “modernize” and prepare antitrust rules for the digital era.<sup>19</sup> The digital space is not immune to anticompetitive behavior such as collusive agreements, mergers, and the abuse of a dominant position. In the absence of international antitrust rules and enforcing authorities, the “effects theory” may still play the role of connecting the activities that take place in the digital space with a concrete territory, a legal system and a competence authority. Suggestive examples may illustrate this idea. When a pricing agreement is reached by the participants of an e-marketplace, the effects of this agreement are delocalized – they extend to a virtual space. However, it is still possible to connect this electronic platform and the behaviors that take place within it, with a physical reference: establishment of companies, “real” markets affected by the agreement, *stream-of-commerce* or target markets. Nevertheless, this strategy implies that new problems can be resolved by using old solutions. I will, however, articulate more flexible proposals in the next sections.

The challenge competition law must face today, therefore, is to manage “delocalized” activities. The emergence of B2B electronic marketplaces<sup>20</sup> offers an incomparable opportunity to understand this phenomenon, of “delocalization.” E-markets, also called virtual hubs, electronic platforms or cyber markets, are markets that are an assembly of economic operators and relationships, supported on a digital infrastructure.<sup>21</sup> The question “where are transactions concluded?” must be answered: in the digital space. The legal system immediately tries to fit into its logic this new situation and settles well-known connection points to root within the physical coordinates those activities that take place in the digital space (place of business, place of incorporation, residence of consumer and so on). Even if this solution seems to be reasonable and efficient, digital space is still a very exciting intellectual challenge.

These e-marketplaces are markets constructed in a digital space without physical roots and are truly global from a territorial perspective. Thus, they show a very confusing image when approached through traditional lenses.<sup>22</sup> The need for a regulatory globalization system is more urgent than ever.<sup>23</sup>

From a substantive perspective, the effect of globalization on competition law system – and in fact on the legal system in general – can be summed up in two challenges: transnational business activities and “delocalized” business activities. In the next section different regulatory and non-regulatory instruments to manage globalization (and its two challenges, just mentioned) are discussed.

### *5.2. Instruments to Regulate Globalization*

Since globalization, as defined earlier, is a process, an evolutionary and relative phenomenon each response appears in some way integrated within a long chain of actions in whose context it must be interpreted and understood. Hence, each regulatory instrument has an important role with regard to the globalization challenge. The appearance of new conditions has encouraged the creation of new instruments to replace obsolescent ones. In the new setting the proliferation of markets and corporations deserving to be termed “global” has proved that the conflict-of-law approach has become inadequate, inefficient and inconvenient. Convergence in substance and coherence in enforcement must characterize an efficient regulatory instrument in a global context. The first aim can be achieved through different avenues: bilateral agreements, multilateral regulations and uniform rules. The second aim refers to institutional issues that require a degree of centralization or coordination at international scale, which has not been reached so far as the next section further explains this issue.

The widely successful 1980 United Nations convention on contracts for the international sale of goods (CISG) or UNIDROIT principles though applied by national authorities show paradigmatic examples in the international context of a global approach. On the “regional” level and according to the relativity of the globalization, EU also seeks to design a “global” (regional or supranational) approach that is evident in the attempts to harmonize the contractual framework in Europe,<sup>24</sup> and the initiatives to draft a European Code of Civil Law and general principles of contract law. A general acceptance of such rules in the socioeconomic and entrepreneurial fields is assured by the achievement of a high degree of efficiency. However, in the political field the suitability of similar uniform rules is limited by their multilateral but not universal origins.

The imbalance that can be perceived between the consolidation of a global society and borderless trade and the loose integration in political and regulatory areas demands (and at the same time justifies) the encouragement of new instruments. Markets and businesses are calling for the reassessment of regulatory coordinates to achieve more flexible, well adapted, “a-national” and efficient rules. In the absence of a complete, coherent and balanced legal system on a global scale there will be an intensification of the so-called “contractualization” trend (Galgano, 2003; Loquin & Ravillon, 2000) currently governing international transactions and multinational enterprises activity (Westfield, 2001–2002). Companies and organizations in the international commerce conclude contracts to set the agreed rules to govern their relationships, instead of relying on uncertain and fragmented national laws to regulate their activities. Thus, in an international context, laws tend to substitute for contracts as regulating source. Some reluctantly argue that private companies are being endowed with formulating powers since contracts are the main regulating source in global transactions. Nevertheless, contractual freedom that allows companies to formulate standardized contracts, codes of conduct, best practices, among others self-regulating instruments, must be always exercised within a legal framework (a national or international one) that above all, guarantees it. This freedom is not absolute. Some areas are not susceptible to be modified or excluded along negotiations. Consumer protection rules are a very significant example of binding regulations that cannot be excluded in B2C contracts. Legislation on e-commerce serves to single out the differences between B2C (*business to consumer*) and B2B (*business to business*) (or B2G – *business to government*) transactions assuming that in accordance to the characteristics of digital space, the contract appears to be the most efficient instrument to regulate the interests of the parties involved wherever they are located.

The suggested approach in the EU to meet the needs and expectations of the economic agents in an internal market is a mix of regulatory (regulations, directives and recommendations) and non-regulatory (co-regulation, self-regulation, voluntary sector agreements, open coordination method and so on) measures.<sup>25</sup>

With regard to competition law, the inadequacy of the conflict-of-law approach is likewise evident. The divergence in antitrust policies among countries can erect a serious obstacle to the growth of world economy. Antitrust is in urgent need of a global-regulatory approach.<sup>26</sup> There have been some initiatives<sup>27</sup> attempting to come to grips with this aspect of globalization: these include bilateral agreements between United States and EU,<sup>28</sup> or between the EU Commission and the EFTA (European

Free-Trade Association) Surveillance Authority;<sup>29</sup> multilateral approaches such as those within the North American Free Trade Area (NAFTA), or under the World Trade Organization (WTO); several historical developments<sup>30</sup> in international fora such as OECD<sup>31</sup> or UNCTAD.<sup>32</sup> Among the cited initiatives, the multilateral and cooperative components are specially important to the International Competition Network (ICN)<sup>33</sup> that is an informal forum to discuss competition policy issues, based on convergence of views that lead to common standards in procedural and substantive matters. Its distinct characteristics as a network, not an international organization, do not prevent a continued interaction with international organizations such as WTO, OECD and UNCTAD.

The formulation of recommendations, common standards, guidelines or best practices within international networks to achieve procedural and substantive convergence symbolizes a stimulating step toward the development of soft-law instruments to foster a global approach in a context which the involvement of public interest hampers the smooth appearance of an international enforcement authority. Moreover, although the presence of public interest in antitrust policy<sup>34</sup> reduces the main role that contract plays in other fields of business activity, a “contractualizing” trend can also be perceived in these situations that involve private interests. E-marketplaces’ operator as channels to *de facto* “delocalized” activities, provide their members a *Rules Book* that regulates<sup>35</sup> in great detail various matters related to antitrust, privacy, copyright, or spamming.<sup>36</sup> These internal policies do not replace antitrust legislation but insert them within the contractual framework that regulates the activity of the members within the e-marketplace.

In conclusion, globalization can be expected to demand more efficient regulatory and non-regulatory instruments to manage not only the growth of interdependence among countries, markets and individual, but the emergence of a real global society in every sphere. An attractive proposal may consist in a combination of multilateral decision-making processes at universal scale to reach wide legitimacy and a serious participation of private agents in formulating tasks to achieve efficiency.

### *5.3. Decentralized Enforcement*

The enforcement system is the second component of antitrust policy. The deterrence effect of antitrust legislation mainly rests on enforcement. Simply stated, a global approach to antitrust requires a global enforcement authority. Nonetheless, a global enforcement system can adopt multiple forms of antitrust regulations. There are various options regarding the degree of

centralization and decentralization; or according to the primacy of public or private interests.

EU competition policy has suffered from the incisive effect of globalization on its enforcement system. Aware of this challenge, EU has undertaken a deep “modernization” process<sup>37</sup> that can be explained as a response of the system to a changing environment. According to the logic of the systems approach, an “open” system is permanently influenced by its environment as its structures simultaneously determine its ability to adapt itself to the environment and its power to affect the environment. The economic, social and political coordinates of the European and international scene have been altered by the challenge posed by globalization. The globalization of markets signifies the presence of new operators, the amplification of competitive effects and the intensification of the problems in investigating antitrust infringements. Since globalization is relative, the European model must surmount its internal inefficiencies (first level – a sort of regional globalization) and compete externally within the “competition of systems”(Monti, 2000) (second level – worldwide globalization).

Regulation 1/2003<sup>38</sup> initiates a systemic change in EU Competition Law. It is of the order of a new culture rather than a mere procedural change (Illescas, 2003; Martínez-Lage, 2003). The previous model designed by Regulation 17/62<sup>39</sup> that can be simply described as a centralized scheme based on a notification system<sup>40</sup> (ex ante system) no longer secured a balance between two core objectives: to ensure effective supervision and to simplify administration to the greatest possible extent.<sup>41</sup> There have been a number of factors, which have intensified pressure for modernization and improvement: internal dysfunctionalities<sup>42</sup> of the former model and external forces arising from its changing context.<sup>43</sup>

The combination of a centralized structure and a notification model hampers the application of EU competition rules by courts and competition authorities of the member states (national courts and NCAs), imposes great costs on undertakings and prevents from concentrating resources on hard core infringements.

On the one hand, this system has suffered from some failures (Miles & Snow, 1992):collapse in Commission procedures due to the increase in EU competition law caseload; despite several refinements to alleviate “paper” overload, a reduction in transparency has fragmented implementation of Article 81 and an extensive use of the notification system in order to block national procedures has led to unnecessary compliance costs for industry.

On the other, the system must also respond to external challenges. Globalization reveals itself along several dimensions, regionally, with the

progressive enlargement of the Community, now up to 25 members with the incorporation of new countries, giving rise to new markets, new cultures and new economic conceptions internationally with the growing interdependence that thickens the so-called global network, and on a digital scale with the extension of a new space of cooperation and competition.

Hence, since a centralized system – centered on the EU Commission and aggravated by a notification system (*ex ante*), seems unsuited to a context framed by the ongoing enlargement of the Community, competitive pressure and the progressive sophistication of markets; decentralizing initiatives are reasonable proposals. The modernization package purports to replace the existing model with a directly applicable exception system in which the NCA and the national courts are empowered not only to apply Article 81.1 (prohibition) and Article 82, but also Article 81.3 of the EU Treaty. So, Article 81 can be applied under a “*rule of reason*”<sup>44</sup> perspective, since a balance of anticompetitive and pro-competitive effects are allowed. Moreover, since the notification model is replaced by a legal exception system, the undertakings involved in a certain practice must self-assess the risks of incompatibility with common market, (the compulsory notification is not now required) (Venit, 2003).

The reform creates a complex model of residual decentralization with some recentralization. This is because, despite some advantages regarding proximity of authorities to examined practices, efficiency in the use of resources, or more accurately supervision of the most serious (*hard core*) infringements, totally decentralized systems are seriously threatened by disintegration (incoherence) and duplication. First, there are menacing risks of *forum shopping*, legal uncertainty and “*nationalization*” of competition law. Second, whereas centralized systems suffer from being too big, bureaucratic and unwieldy, decentralized systems are vulnerable to duplication. Some instruments to coordinate the Commission and the NCAs’s role have been designed.<sup>45</sup> There includes a form of selective *recentralization* that insists in the role of “central node” assigned to EU Commission and the establishment of a “network of public authorities applying the Community competition rules in close cooperation”<sup>46</sup> – the *European Competition Network* (ECN) (Ehlermann & Atanasia, 2004).

Although the “modernized” EU competition system has been accused of being less effective than what previously existed and less consistent than what was intended, two core elements of EU modernization program may be useful guidelines to outline a global antitrust system. These are the concept of network, because it implies a decision-making process governed by multilateralism and the need for coordination and the *ex post* model



(although this was not originally devised by EU) because it is more efficient than an authorization model. As stated earlier, the old EU model was based on a notification (or authorization) system which that an anticompetitive agreement or practice could be exempted (or authorized) provided the notification to Commission and certain criteria were satisfied. It was an *ex ante* model since any potentially anticompetitive business project had to be examined by the competent authority before being implemented in the market. The modern EU competition system corresponds with an *ex post* model. A company may self-assess that its agreement, practice or behavior does not fall within the prohibition at all or does fulfill the exempting criteria and begins implementing the business activity in the market. If the competent authority does not agree with this self-assessment and ascertains that the practice is anticompetitive then it may act *ex post*.

Moreover, a very significant third feature to pattern a purported global antitrust system is rather timidly glimpsed in the EU reform. Unlike a US antitrust system that has confidence in both public and private enforcement methods, in Europe private enforcement antitrust plays no significant role. This is primarily the result of the view only public bodies can protect the public interest as well the absence or under-development of class-actions suits and the failure to appreciate that private law can act as a deterrent. Despite Regulation 1/2003 emphasized the role of national courts in the enforcement of EU competition policy, a paradigm shift has yet to be achieved.

In my opinion, the path undertaken by the EU from central enforcement to authority networks and private litigation<sup>47</sup> is the right one. Europe must now face up to the challenge of decentralized enforcement among 25 NCAs and the rising involvement of national courts. The functioning of this new design mechanism is leading to the testing of some instruments, such as case allocation rules, coordination units, conflict resolutions, information exchange and common practices, that could emerge a reference pattern for the future global antitrust system.

## **6. HOW TO RESPOND TO GLOBALIZATION: PROPOSALS**

The starting point of this paper is to explain the EU's competition policy as a system immersed in a changing environment whose major challenge is globalization pressure. Globalization has been defined as a process characterized by four attributes: evolutionary, relative, contradictory and systemic. The EU therefore, is permanently reacting to environmental

impulses. Moreover, the EU's purpose is to define a European way to drive globalization and to evolve into a new innovation and knowledge-based economy while preserving the distinctive attributes of European social model (Rodrigues, 2003).<sup>48</sup> Thus, EU could be conceived as a regulator<sup>49</sup> of globalization.<sup>50</sup> This dynamic and reciprocal view of globalization reveals a more manageable and realistic model to outline proposals.

The core features of today's globalizing world are transnational activity and "delocalization" effect of ICT. These two phenomena put pressure on the two dimensions of law system: substantive (convergence of rules) dimension and institutional (coherency of enforcement) one. The main response to the globalization effect on the substantive dimension is the expanding "contractualization" trend or "regulation by contracts." The basic response to the effects on the institutional dimension is condensed in the notion of network. The notion of a network entails a structural, operative and conceptual proposal. Structurally it captures the complexity of multilateralism without breaking the unity of the globality; operationally it fosters the development of coordination instruments governed by the principle of cooperation; and conceptually it condenses the meaning of a systemic globalization that manages the diversity in the unity, the conflict in the order, the local in the global, the small things and the big things.

In the competition law field our discussion leads to the following proposals:

1. In the absence of a complete set international regulation, convergence of rules must be achieved through cooperative and soft regulatory instruments: common rules, best practices, guidelines and "contractualization."
2. Assuming that the creation of a central international authority may not be achievable, both official authorities' networks and private enforcement must be encouraged to structure the application of competition law with a global perspective in mind.
3. The emergence of a new space as a result of ICT is the most hopeful challenge for regulators and enforcers that new technologies have given rise to. Although a process of adaptation many appear to be the most conciliatory method of linking both spaces (physical and digital ones), we must also keep devising more daring proposals to regulate (or perhaps deregulate) the new space.

## NOTES

1. Beck (1997) explains further the doctrinal opinions based on one-logic globalization and those that assume a globalization of complex and multi-casual logics.

2. The creator of the General System Theory was Ludwig von Bertalanffy (Bertalanffy, 1968). See also Lakatos (1976) and from a sociological perspective Morin (1977).

3. Practices which may affect trade between member states and which have as their object or effect the prevention, restriction or distortion of competition within the common market.

4. Any practice aimed at producing or enabling the effect of impeding, restricting or distorting competition in all or any part of the domestic market, are prohibited.

5. *Regulation 2658/2000 on specialization agreements; Regulation 2659/2000 on R&D agreements; Regulation 2790/1999 on vertical restraints; Regulation 1400/2002 on vertical agreements in the motor vehicle sector; Regulation 772/2004 on technology transfer agreements and Regulation 358/2003 on agreements in the insurance sector.*

6. Inns of Court School of Law (2002, p. 31).

7. Using mathematical terminology, EU can be explained as both a dependent variable and an independent variable in the equation, since “EU is not only at the receiving end of globalization but it is itself an agent of globalization” (Hooghe, 2003).

8. A neologism to describe the coexistence of global and local elements (Beck, 1997, pp. 77–80).

9. Architecture (technology) performs a crucial role as regulatory instrument in new space, additional to public regulation, markets and social rules (Lessig, 1999).

10. An analysis of integration theories in Verdun (2000).

11. Also Kohútikova (2003).

12. Although a recent study of World Bank reveals that the openness of markets and the growing economic integration has also benefited to the developing countries (*Globalization, Growth and Poverty – A World Bank Policy Research Report*, 2000. World Bank and Oxford University Press), other institutions remark the fact that globalization has enlarged the gaps between countries and emphasized the imbalances between societies and individuals (*World Commission on Social Dimension of Globalization Report*, published on February 24, 2004, International Labour Organization, [www.ilo.org](http://www.ilo.org)).

13. Hirst and Thompson (1999) describes a model based on an open worldwide market regulated by a mix of nation-state public policies and international agencies as an alternative to the model resulting from a globalized economy in a mere neoliberal sense.

14. A multifaceted approach is the most suitable analysis to understand the “globality” since the highest level does not exclude the lower ones but they all coexist in a stratified space. Proposing a multifaceted approach (King, 1994–1995). Aggarwal and Fogarty (2004) wonder if EU’s new approach suggests that “inter-regionalism is an emerging synthesis in the dialectic of market-driven globalism and politically driven regionalism.” Interregionalism is fundamentally cooperative in nature, intended to bring benefit to both parties through voluntary negotiations and mutual agreements in cross-regional commerce. This idea of the requirement of a multidimensional approach is the crucial result of a systemic approach.

15. Despite the existence of serious difficulties to apply traditional regulatory instruments to digital space, Netanel (2000) and Minda (2001) remark that “the new digital economy is not immune to regulation” (Pitofsky 2000, p. 131; Balto & Pitofsky, 1999; Rubinfeld 1998).

16. Case n° COMP/M.2220 *General Electric/Honeywell*, Regulation ECC no 4064/89 Merger Procedure, 3/07/2001.

17. Words of Mario Monti, IP/01/939, July 3, 2001.

18. *UNCITRAL Model Law on Electronic Commerce with Guide to Enactment* (1996), approved by General Assembly Resolution 51/162 of December 16, 1996, with additional Article 5 bis as adopted in 1998, at [www.uncitral.org](http://www.uncitral.org). Regarding the basic principles of electronic commerce law (Illescas, 2001).

19. Explaining the rules of *digital economics* and its effect on traditional antitrust understanding (McKenzie & Lee, 2001; Ahlborn, Evans, & Padilla, 2001; Posner, 2001). The core question can be formulated as old rules for new economy or new rules for new economy? (This problem has been deeply studied by Shapiro & Varian, 1999, Tapscott, 1996; Kelly, 1998.)

20. Basic references on this field are Kaplan and Sawhney (2000) and Sculley and Woods (2001).

21. Rodríguez de las Heras Ballell (2006) proposes a model to fit e-marketplaces (constitution, operative, membership, transactions into e-markets and liabilities) into commercial law logic (contracts, societies, tort, industrial property, competition law and so on). For preliminary research please see Rodríguez de las Heras Ballell (2003a, 2003b).

22. Some cases have been analyzed by European Commission in relation to competitive practices relating to E-Marketplaces: *Covisint*, (IP/01/1155) (38.064); *Vol-broker (Deutsche Bank/UBS/Goldman Sachs/Citibank/JP Morgan/Natwest)* 38.866; *MyAircraft.com*. COMP/M.1969 *UTC/Honeywell/i2/MyAircraft.com*, 4.8.2000, IP/00/912; *Chemplorer* COMP/M.2096 *BAYER/Deutsche Telekom/Infraserv/JV*, 6.10.2000, IP/00/1131; *Cofunds* COMP/M.2075 *NEWHOUSE/Jupiter/SCUDDER/M&G/JV*, 1.9.2000, IP/00/971; *ec4ec* COMP/M.2172 *Babcock Borsig/MG Technologies/SAP Markets/JV*, 7.11.2000, IP/00/1266; *Governet* COMP/M.2138, *SAP/Siemens/JV*, 2.10.2000, IP/00/1102; *Supralift* COMP/M.2398 *Linde/Jungheinrich/JV*, 25.4.2001, IP/01/611; *Date AS (Telenor Bedrift AS, Den Norske Bank ASA, ErgoGroup As y Accenture Technologies Venture BV)* (IP/01/638). All cases may be consulted at [www.europa.eu.int](http://www.europa.eu.int).

23. This justifies the launching of institutional initiatives by several antitrust authorities to deal with the relationship between antitrust and this new phenomenon: Federal Trade Commission, *Entering the 21st century: Competition policy in the world of the B2B electronic marketplaces*, Washington, October 2000; Office of Fair Trading, *E-commerce and its implications for competition policy*, Frontiers Economics (2000, OFT Report 308); European Commission, *E-marketplaces: new challenges for enterprise policy, competition and standardisation*, Workshop Report, Bruselas, 2001.

24. In 1989 and 1994 the European Parliament called for work to be started on the possibility of drawing up a common European code of private law (OJ C 158, 26.6.1989, 4000 (resolution A2-157/89); OJ C 205, 25.7.1994, 518 (resolution A3-0329/94)). The Commission on European Contract Law has published *Principles of European contract law parts I and II*, edited by Ole Lando and Hugh Beale. Kluwer Law International, 2000. Moreover, the Pavia Group has recently published its *European contract code – preliminary draft*, (Università di Pavia, 2001) based on the work of the Academy of European Private Lawyers. A general overview in *Communication from the Commission to the Council and the European Parliament on European Contract Law* (OJ C 255, 13.9.2001, 1–44).

25. *Communication from the Commission to the European Parliament and the Council. A more coherent European Contract Law. An Action Plan.* OJ C 63, 15.3.2003, 1–44.

26. Pitofsky (1995) remarked that “more and more countries share the same values of fostering competitive markets and protecting consumers.”

27. Hartley (2004) explains further the relations between legal system in the international context.

28. Cooperation between the US and EU agencies is based primarily upon the September 23, 1991 US-EC Agreement on the application of the competition laws (OJ L 95, 27.4.1995, 47–52), a principal purpose of which is to avoid conflict in the enforcement of the antitrust laws. By a joint decision of the Council and the Commission on 10.04.1995 the agreement was approved and declared applicable (OJ L 95, 27.4.1995, 45–46). On June 4, 1998 another agreement, which strengthens the positive comity provisions of the 1991 agreement entered into force (OJ L 173, 18.6.1998, 26–31).

29. The EEA agreement (Agreement on the European Economic Area) entered into force in 1994 and was concluded between the European Communities, all EU Member States and all EFTA members to establish a dynamic and homogeneous EEA, based on common rules and equal conditions of competition.

30. Communication submitted by Sir Leon Brittan and Karel Van Miert. Toward an international framework of competition rules. Communication to the Council, COM (96) 284.

31. It has adopted a recommendation to manage notifications between agencies, amended in 1995 (C(95) 130 final).

32. In the 1970s a full Competition Code was negotiated in the framework of UNCTAD. The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices was adopted by UN General Assembly in December 1980 (UN Doc. A/35/48 (1980)), last revision September 2000 (at [www.unctad.org](http://www.unctad.org)).

33. From its inception in October 2001, the ICN has brought together many world’s existing competition authorities. Further information at [www.internationalcompetitionnetwork.org](http://www.internationalcompetitionnetwork.org).

34. Antitrust goals are a controversial question. See for the historical battle in the US between efficientists (namely *Chicago School*) – (Bork, 1993, 1966; Bork & Bowman, 1965; Areeda, 1983; Elzinga, 1977; Posner, 1979) – and populists (*New Coalition*) – Fox (1980–1981, 1987), EU Competition policy has adopted its own perspective, introducing the market integration as a specific goal of antitrust (on the differences between US antitrust and EU competition, Hawk, 1988; Dara, 1987; Fox, 1986; Overton, 1991).

35. This is a regulating and coordinating function that is likewise performed by *alternative trading systems (ATS) operators* in securities markets (e.g. De Bel, 1993; Macey & Kanda, 1989–1990; Mahoney, 1997).

36. Among others, the following e-markets are specially illustrative: [www.internationalcompetitionnetwork.org](http://www.internationalcompetitionnetwork.org), [www.gnx.com](http://www.gnx.com), [www.intercontinentalexchange.com](http://www.intercontinentalexchange.com), [www.metalsite.com](http://www.metalsite.com), [www.omnexus.com](http://www.omnexus.com).

37. On December 16, 2002, the Commission’s “modernization” proposal – *Proposal for a Council Regulation on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty*, September 27, 2000, COM (2000), 582 final

([2000] OJ C 365E/284) – was transformed by the Council into Regulation 1/2003. The terms “modernization” is referred to the elements of the reform relating to the prioritization of the Commission’s enforcement agenda. The modernization initiative is set in a decentralization decision consisting of the devolution of powers concerning the enforcement of Article 81 to the NCA and the national courts. *White Paper of European Commission*, April 28, 1999, relating to the reform of the implementing rules of Articles 81 and 82 of the EC Treaty (Commission Program no. 99/027). The first steps towards a decentralized application of the competition rules date back at least to 1997, if not to the Competition Report of 1983. In 1997, the Commission issued a *Notice on Co-operation between National Competition Authorities and the Commission in Handling Cases falling Within the Scope of Articles 85 and 86 of the EC Treaty* (OJ 1997, C 313/3), so-called *1997 Co-operation Notice*. Previously the extensive interpretation of ECJ decisions on *Sabam* As. 127/73, *Delimitis* C-234/89, *Automec* T-24/90, *Wilhem* As. 16/68, *Guerlain* As. 253/78 and 1 to 3/79, and *Commission Notice on Co-operation between National Courts and the Commission in Applying Articles 85 and 86 of the EC Treaty* (OJ 1993, C 39). Regarding modernization process in EU competition law (see Nazareli & Cowan, 1999; Rodger, 1999; Ehlermann, 2000; Rivas & Horspool, 2000; European Association of Lawyers, 2001).

38. *Council Regulation (EC) 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty*, (OJ L 001, 4.1.2003, p. 1/03). The Commission has adopted a “Modernization Package” following the *Communication pursuant to Article 33 of Regulation 1/2003* (OJ C 243, 10.10.2003, p. 3/03). The “Modernization Package” is composed of the following texts: *Commission Regulation (EC) No 773/2004 of 7 April 7, 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty* (OJ L 123, 27.04.2004, pp. 18–24); *Commission Notice on cooperation within the Network of Competition Authorities* (OJ C 101, 27.04.2004, pp. 43–53); *Commission Notice on the co-operation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC* (OJ C 101, 27.04.2004, pp. 54–64); *Commission Notice on the handling of complaints by the Commission under Articles 81 and 82 of the EC Treaty* (OJ C 101, 27.04.2004, pp. 65–77); *Commission Notice on informal guidance relating to novel questions concerning Articles 81 and 82 of the EC Treaty that arise in individual cases (guidance letters)* (OJ C 101, 27.04.2004, pp. 78–80); *Commission Notice – Guidelines on the effect on trade concept contained in Articles 81 and 82 of the Treaty* (OJ C 101, 27.04.2004, pp. 81–96); *Communication from the Commission – Notice – Guidelines on the application of Article 81(3) of the Treaty* (OJ C 101, 27.04.2004, pp. 97–118).

39. *Council Regulation (EEC) 17/62 First Regulation Implementing Articles 85 and 86 of the Treaty*, (OJ 13, 21.2.1962, p. 204/62).

40. The major effects of the reform are focused on enforcement over the restrictive agreements (decisions and concerted practices) as defined in Article 81. The impact on Article 82 is less extensive than on Article 81 since the Commission has never had exclusive competence over the application of Article 82, contrary to the monopoly on applying Article 81 (3) of the Treaty.

41. Recitals 2 and 3, Regulation 1/2003.

42. Third, the potential multiplicity of authorities involved has provoked a pathological use of the notification system in order to block national procedures. Fourth,

unnecessary compliance costs for industry due to the notification model. The cost of compliance is too high, since nearly all agreements must be notified, involving time and expenses. The notification burden has overloaded the Commission, which has been absorbed in handling less serious cases instead of concentrating all its resources and attention on detecting and punishing serious issues. Consequently, the deterrent effect is weak and antitrust goals are not fully achieved.

43. I expound further this perspective in Rodríguez de las Heras, Ballell (2005).

44. Classical work of Joliet (1967).

45. The following is a list of the most significant provisions in Regulation 1/2003 that manage the selective recentralization and achieve vertical coordination within the decentralized system. Provisions related to recentralization: Reinforcement of Commission's regulatory and decision-making power – structural remedies (Article 7), binding commitments (Article 9), finding of inapplicability (Article 10), powers of investigation (Chapter V), severe sanctions (Chapter VI), withdrawal in individual cases (Article 29) and implementing provisions (Article 33). *Vis attractiva* in favor of the Commission by the initiation of proceedings leading to the adoption of a decision under Chapter III, which relieves the NCAs of their competences (Article 11.6) prior consultation – political deference – (in accordance to the limitations laid down in Article 35). Management of compatibility relationships between national competition law and Articles 81 and 82 of EC Treaty on a priority basis in favor of European rules (regarding Article 81 EC Treaty) when there is a convergence of goals (Article 3 Regulation 1/2003). Vertical mechanisms between the Commission and the NCAs include the following: the downward documentation delivery mechanism (Article 11.2); the upward information mechanism regarding the beginning of first formal investigative measures (Article 11.3) and thereafter at the adoption of a decision (Article 11.4); the upward consultation mechanism on any case involving the application of Community Law (Article 11.5); bidirectional (up and down) information mechanism (Article 12). Similar mechanisms are provided for in relation to national courts (Article 15) (*amicus curiae*). Achieving a uniform application of EU competition law (Article 16): avoiding (upward) conflicts, contradictions or incompatibility with Commission decisions. Undertaking of inspections by NCA at the request of the Commission, if pertinent, with the assistance of officials or other accompanying persons authorized by the Commission (Article 22). The issue of informal guidance regarding novel situations or unresolved questions for the application of EU Competition rules sought by individual undertakings (Recital 38). In novel issues only centralized guidance is appropriate to facilitate uniformity and consistency in a developing competition law system.

46. The network is tied by multilateral information mechanisms (Article 11.4, even widely interpreting Article 12) and co-ordinated by an *Advisory Committee* (Article 14).

47. Using the illustrative words of Basedow (2001) in the title of his paper.

48. Moreover, Europe integration furthers global integration by attempting to “complexify” the system building (Dillon, 2002).

49. Webb (2003) states that “(o)ne way to understand European integration is as an effort to civilize globalization,” or as “an effort to keep people in the driving seat of globalization.”

50. Besides Europe is a local producer of globalization, as Hooghe (2003) states.

## REFERENCES

- Aggarwal, V. K., & Fogarty, E. A. (2004). *EU trade strategies. Between regionalism and globalism*. Houndmills: Palgrave.
- Ahlborn, C., Evans, D. S., & Padilla, A. J. (2001). Competition policy in the new economy: Is European Competition Law up to the challenge? *European Competition Law Review*, 22(5 May), 156–167.
- Areeda, P. (1983). Introduction to antitrust economics. *Antitrust Law Journal*, 52, 535.
- Balto, D., & Pitofsky, R. (1998). Antitrust and high-tech industries: The new challenge. *Antitrust Bulletin*, 43(3–4), 583–607.
- Basedow, J. (2001). Who will protect competition in Europe? From central enforcement to authority networks and private litigation. *European Business Organization Law Review*, 2, 443–468.
- Beck, U. (1997). *Was is Globalisierung? Irrtümer des Globalismus – Antworten auf Globalisierung*. Francfort del Meno: Suhrkamp Verlag.
- Bellamy, C. (2001). *European Community Law of competition*. London: Sweet & Maxwell.
- Bertalanffy, L. (von) (1968). *General system theory. Foundations, development, applications*. New York: George Braziller.
- Bork, R. H. (1993). *The antitrust paradox, a policy at war with itself* (2nd ed.). New York: Free Press.
- Bork, R. H. (1966). Legislative intent and the policy of Sherman Act. *Journal of Law and Economics*, 9, 7.
- Bork, R. H., & Bowman, W. S., Jr. (1965). The goals of antitrust: A dialogue on policy. *Columbia Law Review*, 65(3), 363–376.
- Dara, G. (1987). Antitrust law in the European community and the United States: A comparative analysis. *Louisiana Law Review*, 47(4), 761–790.
- De Bel (1993). Automated trading systems and the concept of an “exchange” in an international context. Proprietary Systems: A Regulatory Headache!. *University of Pennsylvania Journal of International Business Law*, 14, 169–211.
- Dillon, S. (2002). *International trade and economic law and the European Union*. Oxford: Hart Publishing.
- Ehlermann, C. D. (2000). The modernization of EC antitrust policy: A legal and cultural revolution. *Common Market Law Review*, 37, 537–590.
- Ehlermann, C. D., & Atanasia, I. (2004). *European Competition Law annual 2002: Constructing the EU network of competition authorities*. Oxford: Hart Publishing.
- Elzinga, K. G. (1977). The goals of antitrust: Other than competition and efficiency, what else counts? *University of Pennsylvania Law Review*, 125(4), 1191–1213.
- European Association of Lawyers. (2001). European Competition Law: A new role for the member states. Congress organized, November 20 and 21, 2000 by the European Association of Lawyers. Bruxelles: Bruylant.
- Fox, E. M. (1980–1981). The modernization of antitrust: A new equilibrium. *Cornell Law Review*, 66, 1140–1192.
- Fox, E. M. (1986). Monopolization and dominance in the United States and the European community: Efficiency, opportunity and fairness. *Notre Dame Law Review*, 61, 981–1020.
- Fox, E. M. (1987). The battle for the soul of antitrust. *California Law Review*, 75, 917–924.
- Galgano, F. (2003). Lex mercatoria, shopping del Derecho y regulaciones contractuales en la época de los mercados globales. *Revista de Derecho Mercantil*, 247, 12.



- Guyénot, J., & D'Évegnée, C. P. (1976). *European Antitrust Law of the common market*. Paris: Economica.
- Hartley, T. C. (2004). *European Union Law in a global context. Text, cases and materials*. Cambridge: Cambridge University Press.
- Hawk, B. E. (1988). The American (anti-trust) revolution: Lessons for the EEC? *European Competition Law Review*, 9(1), 53.
- Hirst, P., & Thompson, G. (1999). *Globalization in question*. Cambridge: Polity.
- Hooghe, L. (2003). Globalization and the European Union: Shared governance on a regional scale. In: H. Lazar, H. Telford & R. L. Watts (Eds), *The impact of global and regional integration on federal systems: A comparative analysis* (pp. 283–327). Montreal & Kingston: School of Policy Studies.
- Illescas Ortiz, R. (2001). *Derecho de la Contratación Electrónica*. Madrid: Civitas.
- Illescas Ortiz, R. (2003). El futuro de la aplicación del Derecho Europeo de la Competencia tras el Reglamento (CE) 1/2003. *Foro Mercantil*, 1, 78–93.
- Inns of Court School of Law. (2002). *EC Competition Law in practice*. Oxford: Oxford University Press.
- Jackson, J. H. (2000–2001). The perils of globalization and the world trading system. *Fordham International Law Journal*, 24, 371–382.
- Joliet, R. (1967). *The rule of reason in Antitrust Law. America, German and common market in comparative perspective*. Liège: Faculté de Droit.
- Kaplan, S., & Sawhney, M. (2000). E-hubs: The new B2B marketplaces. *Harvard Business Review*, May–June, pp. 97–103.
- Kelly, K. (1998). *New rules for the new economy. 10 Radical strategies for a connected world*. New York: Penguin.
- King, D. B. (1994–1995). Globalization thinking: Commercial and Consumer Law illustrations. *Saint Louis University Law Journal*, 39, 865–884.
- Kohutikova, E. (2003). Europe in 2020-globalization challenge and/versus regional responses? In: G. Tumpel-Gugerell & P. Mooslechner (Eds), *Structural challenges for Europe* (pp. 455–461). Cheltenham: Edward Elgar.
- Korah, V. (1994). *An introductory guide to EC Competition Law and practice*. London: Sweet & Maxwell.
- Lakatos, I. (1976). *Proofs and refutations – the logic of mathematical discovery*. Cambridge: Cambridge University Press.
- Lessig, L. (1999). *Code and other laws of cyberspace*. New York: Basic Books.
- Loquin, E., & Ravillon, L. (2000). La volonté des opérateurs vecteur d'un droit mondialisé. In: E. Loquin, & C. Kessedjian (Eds) *La mondialisation du droit* (pp. 91–132). Dijon: Litec.
- Macey, J., & Kanda, H. (1989). The stock exchange as a firm: The emergence of close substitutes for the New York and Tokyo stock exchanges. *Cornell Law Review*, 75, 1007–1052.
- Mahoney, P. G. (1997). The exchange as regulator. *Virginia Law Review*, 83, 1453–1500.
- Martinez-Lage, S. (2003). Cambio de cultura. Aprobada, al fin, la reforma de las normas de aplicación de los artículos 81 y 82 CE. *Gaceta Jurídica de la CE y de la Competencia*, 223, 3.
- McKenzie, R. B., & Lee, D. R. (2001). How digital economics revises antitrust thinking? *Antitrust Bulletin*, 46(2), 253–298.
- Miles, R. E., & Snow, C. C. (1992). Causes of failure in network organizations. *California Management Review*, 34(3), 53–72.
- Minda, G. (2001). Antitrust regulability and the new digital economy: A proposal for integrating “hard” and “soft” regulation. *Antitrust Bulletin*, 46(Fall), 439–511.

- Monti, M. (2000). Competition in a social market economy. Conference on the “Reform of European Competition Law”, 9–10 November 2000, Freiburg.
- Morin, E. (1977). *La Méthode, Tome I*. Paris: Éditions du Seuil.
- Nazareli, J., & Cowan, D. (1999). Modernising the enforcement of EU competition rules – Can the commission claim to be preaching to the converted? *European Competition Law Review*, 8, 442–445.
- Netanel, N. W. (2000). Cyberspace self-governance: A skeptical view from liberal democratic theory. *California Law Review*, 88, 395–498.
- Overton, T. R. (1991). Substantive distinctions between United States Antitrust Law and the Competition Policy of the European community: A comparative analysis of divergent policies. *Houston Journal of International Law*, 13(2), 315–342.
- Pincus, L. B., Pincus, T. H., & Reid, M. (1991). Legal issues involved in corporate globalization. *Columbia Business Law Review*, 1991, 269–285.
- Pitofsky, R. (1995). International antitrust – an FTC perspective. Remarks by Robert Pitofsky, Chairman US Federal Trade Commission, before the Fordham Corporate Law Institute, 22nd Annual Conference on International Antitrust Law and Policy, October 26, 1995.
- Pitofsky, R. (2000). Antitrust analysis in high-tech industries: A 19th century discipline addresses 21st century Problem. *Texas Review of Law and Politics*, 4, 129–140.
- Posner, R. A. (1979). The Chicago school of antitrust analysis. *University of Pennsylvania Law Review*, 127(4), 925–948.
- Posner, R. A. (2001). Antitrust in the new economy. *Antitrust Law Journal*, 68(3), 925–943.
- Rivas, J., & Horspool, M. (2000). *Modernisation and decentralisation of EC Competition Law*. The Hague: Kluwer Law International.
- Rodger, B. J. (1999). The commission white paper on modernization of the rules implementing Articles 81 and 82 of the EC Treaty. *European Law Review*, 24, 653–663.
- Rodrigues, M. J. (2003). The European strategy for economic and social modernization. In: G. Tumpel-Gugerell & P. Mooslechner (Eds), *Structural challenges for Europe*. (pp. 3–12). Cheltenham: Edward Elgar.
- Rodríguez de las Heras Ballell, T. (2003a). La competencia empresarial en el ámbito electrónico. *Revista de la contratación electrónica (RCE)*, 40(July), 49–65.
- Rodríguez de las Heras Ballell, T. (2003b). E-marketplaces: la competencia entre mercados. *Gaceta Jurídica de la Unión Europea y de la Competencia*, 228, November/December, 53–64.
- Rodríguez de las Heras Ballell, T. (2005). Decentralised application of EU Competition Law: A strategic approach. In: Calvo Caravaca, Alfonso-Luis, Areal Ludeña, Santiago (Eds), *Cuestiones actuales del Derecho Mercantil Internacional*, (pp. 899–910). Madrid: COLEX.
- Rodríguez de las Heras Ballell, T. (2006). *El régimen jurídico de los Mercados Electrónicos Cerrados (e-marketplaces)*. Madrid: Marcial Pons.
- Rubinfeld, D. L. (1998). Antitrust enforcement in dynamic network industries. *Antitrust Bulletin*, 43(3–4), 859–882.
- Sculley, A. B., & Woods, W. W. A. (2001). *B2B exchanges. The killer application in the business-to-business internet revolution*. New York: Harper Business.
- Shapiro, C., & Varian, H. R. (1999). *Information rules. A strategic guide to the network economy*. Boston: Harvard Business School Press.
- Tapscott, D. (1996). *The digital economy. Promise and peril in the age of networked intelligence*. New York: McGraw-Hill.
- Venit, J. S. (2003). Brave new world: The modernization and decentralization of enforcement under Articles 81 and 82 of the EC Treaty. *Common Market Law Review*, 40(3), 545–580.

- Verdun, A. (2000). *European responses to globalization and financial market integration. Perceptions of economic and Monetary Union in Britain, France and Germany*. Houndmills: Palgrave.
- Webb, R. (2003). The “New Europe” – looking ahead to 2020. In: G. Tumpel-Gugerell & P. Mooslechner (Eds), *Structural challenges for Europe* (pp. 469–473). Cheltenham: Edward Elgar.
- Westfield, E. (2001–2002). Globalization, governance, and multinational enterprise responsibility: Corporate codes of conduct in the 21st century. *Virginia Journal of International Law*, 42, 1075–1110.

# EUROPE: SPACE, TERRITORY AND IDENTITY

Riva Kastoryano

## ABSTRACT

*The process of Europeanization like the process of globalization requires a political, social, cultural alignment among nations, a source of an identity anxiety. Europe as a political project unquestionably challenges the nation state: supranational institutions impose norms and values on nation-states, and transnational organizations create a space for political participation that goes beyond national territories. Together they re-map a European "political community." This chapter asks: What are the roles of supranational institutions in shaping such a political community? What are the implications of the emergence of a European public space on the understanding of the European citizenship? What political model for the European Union?*

The rejection of the Treaty of the European Constitution by France and the Netherlands carried the Union into a crisis questioning the European project as a market, as a supranational space, and as a political community, in short questioning once again its very nature and definition. Opposition to the Constitution hinged on perceived threats to national social benefits, the weakening of state sovereignty and on fears that national identity was in

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**European Responses to Globalization: Resistance, Adaptation and Alternatives**  
**Contemporary Studies in Economic and Financial Analysis, Volume 88, 93–110**  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88005-8

danger of disappearing. Most of the arguments were related to the process of globalization in which both nation-states and the European Union, together, are obviously taking part. Public opinion has transposed globalization and ultra-liberalism, interpreted as engendering social inequalities in the Union, defined by the Single European Act of 1986 “as a space without internal frontiers in which the free movement of goods, property and capital is safeguarded,” which has led to a collective fear of losing control of state boundaries, territorial and institutional limits, and diversity.

How to imagine limits to diversity? The year before the ratification of the Treaty of the Constitution, new territories were added to the Union, introducing new political traditions and redefining its geography. The frontiers – not defined – have moved and territory has become a space, open and abstract, yet re-territorialized with the enlargement. The rejection of the Treaty of the European Constitution (and the use of the argument of globalization) has thus confirmed the paradox in the relationship between states and the Union with regard to territoriality: states’ de-territorialized strategies in their relationship with other member states are confronted by transnational actors and the territorial limits of the Union. The rejection of the Constitution created also an ambiguity with regard to European identity: although it reinforced the relevance of states in European decisions, discourses and debates promoted at the same time a sense of belonging to Europe as unity, as civilisation, as history – emphasized in the Treaty and made explicit with the debates on Turkey’s membership negotiations – and dissociated therefore the European Union from the process of globalization. Although as Ulrich Beck asserts, “What Europe is or should be, cannot be conjured up from the past; it has to be developed as a political response to the questions of the future, in every field such as the labor market, ecology and the social state, international migration, political freedoms and basic rights,” and he suggests that “The crucial first insight is that without Europe there can be no response to globalization.”<sup>1</sup>

The European Union as a political construction is a project. It responds above all to the will to renounce violence and to resolve conflicts, and it engages member-states to deploy various efforts to prove their “will to live together” in this direction.<sup>2</sup> Different approaches – both functionalist and liberal, institutional and neo-institutional – have tried to define a new political vision; theoretical considerations have given rise to normative discourses about a model of pluralist society founded on the principles redefined by input from different national and/or minority cultures that claim nationhood in order to form a common European culture. This leads to questions about modes of participation and representation of individuals

and groups and about the means of expression of all collective identities, as complex and heterogeneous as they may be. In addition, there are the “non-European” foreigners who are resident in Europe, who proclaim other kinds of belonging than to the nation-states of their residence and find support in the new political space, implementing common political projects, mobilizing the representation of “minority” identities within a European space and searching for new points of reference.

Europe as a political project unquestionably challenges the nation-state, this political structure “invented” in 18th century Europe based on the coincidence of territorial, cultural, linguistic, even to some extent, religious unity. It challenges its relevance because of the increasing interdependency between states and supranational institutions as well as transnational networks that are at the core of the process of Europeanization, and on a larger scale, of globalization. Supranational institutions impose norms, values, and discourses on nation-states. Transnational organizations create a space for political participation that goes beyond national territories. Together they re-map a “political community” that is Europe (Kastoryano, 2004).

Such a political community, geographically not defined, takes part in the process of globalization. At stake is the integration, of both states and the European Union, together and separately, in the global economy and into political, social, cultural alignment for the best place in the European and international hierarchy for power and influence.<sup>3</sup> The European Union as a re-territorialized political space is also a model for the process of globalization in a sense that it leads to many questions with regard to membership. The concept of a European citizenship introduces an extraterritoriality in its practice and raises the question of “just what it is that binds people together, what it is that constructs human community.”<sup>4</sup> Both Europeanization and globalization challenge the traditional definition of belonging, the relationship between citizenship, nationality and identity; between territory and the nations; between rights and identities, culture and politics, states and nations – all concepts which are interconnected in nation-states and dissociated within the context of the construction of the European Union, as well as with the process of globalization.

But on the other hand, different from globalization, the European construction as re-territorialized political space raises questions about its identity. How to combine a universalist ideology of the nation-state with the cultural and historical particularisms that characterize each of these nations? How to choose between economic interests and a common political will on the one hand and the sovereignty of states and political traditions on the other? How to conjugate the pluralistic and complex sense of belonging by

individuals, groups, and peoples in order to construct a political identity that is purportedly European, or rather, to arouse identification with Europe as a new political space of action and demands, an identification with a “European political culture” in which other identities – ethnic, religious, regional, even national – would be considered as private identities?<sup>5</sup>

This chapter will try to answer these questions by questioning:

- (1) The nature of the European project itself in terms of the emergence of a political community. What are the implications of such an evolution on the definition or the understanding of the European citizenship?
- (2) The passage from a European transnational space to a global civil society.
- (3) The place of states.
- (4) Whether multiculturalism can serve as an identity for Europe.

## 1. THE EUROPEAN POLITICAL PROJECT

The European Union as a political community in construction implies a new understanding of a political society in which all diversity is mutually recognized. The question is the quest for a political culture common to all the nations that make up this new entity and to all its member-states, each with its own history, traditions, and values – in short, about the unity of “European people” or the unification of the “peoples of Europe” as expressed in the debates around the European Constitution. Hence, the principal task of Europe might be defined as the management of the diversity of political cultures within the framework of universal democracy, a democracy that, as Jacques Lenoble hopes, “might underwrite both the universalistic goal and the actual rootedness of our identity.”<sup>6</sup>

Renan relied on the idea of voluntarism to define the nation as a political unit.<sup>7</sup> The feeling of belonging attached to it is incarnated by a citizenship that transcends the anthropological diversity of national societies, its political unity being guaranteed by the state and its institutions. Can the construction of political Europe reproduce the model of formation of the nation-state? Of course, the reality of Europe does not correspond to a nation-state. This political structure emanating from modernity in the 18th century relied on a necessary coincidence between territory, language and culture, all together under the control of a central administration (Tilly, 1973; Eisenstadt & Rokkan, 1973), whereas it is impossible to speak of territorial and national unity in the European construction. Obviously

Europe cannot ignore the multiplicity of languages, the diversity of traditions, and the plurality of cultures that together pose a challenge to the political integration of Europe and to its identity.

But, like a nation-state, European Union is presented, at least among its member-states, as the expression of a “will to live together” using Renan’s formula or rather a will on the part of states to make Europe together. Europe is integrated by the establishment of a common jurisdiction guaranteed by the European Court of Justice and a community-wide jurisprudence independent of any international law. From its beginnings, the supranational institutions acted upon the states like national institutions do upon the nation. Foremost as site of socialization, these institutions are the source of the political formation of the “practitioners of Europe,” in Marc Abélès’s words, people who find themselves despite their different nationalities united by a European interest now redefined as the general interest (Abélès, 2005).

European integration seems to be completed through its juridical construction. The Single European Act of 1986 mentioned above introduced a *de facto* legislative procedure that influenced the decision-making resulting from cooperation among states. Networks of bilateral and multilateral treaties as well as collateral conventions led to the elaboration of a framework agreement by which all states agree to respect or example the principles that assure the protection of national minorities for example. Similarly, the convergence of legislation on immigration and on the right of political asylum, and on questions of security and police services, all contribute to the construction of a common juridical space.

Supranational institutions, guided by the principles of regulating states traditions and of political and juridical harmonization, are imposed on states in the name of the “general interest” protected by the European Court of Justice. In fact, the latter has erected, under pressure from national courts, the legislative architecture of legal protection of Human Rights and has also exerted what Joseph Weiler calls the “direct effect” of its founding clauses and treaties so as to guarantee the respect of fundamental rights at the Community level (Weiler, 2005). Is this sufficient for us to foresee a European legal system that would evolve along the lines of the U.S. Supreme Court, thus approaching the model of a federal institution that unifies a nation?

But Europe is neither a nation nor a super-nation. Europe is not a state either even though the European Constitution can lead to the understanding of the Union as state. In its objectives, Europe does not pretend to compete with states and nations, and according to Jean Marc Ferry even its



constitution is not bound to be married to the classical form of a legal state (Ferry, 2000). So far, European construction introduces a “normative supranationalism” that exceeds the framework of the nation-state while reproducing at the European level the same principles as nation-states’, but which instead apply to the states themselves. Europe produces norms and values in order to “domesticate” states.<sup>8</sup> While issues of human rights, immigration and minority rights remain within the exclusive domain of states, states find themselves constrained to accept new legal norms produced by European institutions. The European Convention of Human Rights, for example, authorizes a European citizen (in this case, one who has the nationality of one of the states that has accepted individual recourse) to appeal directly to the Council of Europe, and a foreigner (who does not have the nationality of a country in the E.U.) to have recourse to the European Court of Human Rights. In short, the juridical construction of a united Europe leads to a reinterpretation of the concept of universality as well as of human rights and citizenship.

Numerous debates about citizenship and nationality have accompanied the gradual transformation of a common market into a union as political space, stressing the multiplicity of identity references in the formation of a political Europe, with new historical narratives. Jean-Marc Ferry suggests a “post-national” model to describe the overcoming of the “nationalist principle” involved in the construction of a political Europe. Habermas, for his part, develops the concept of “constitutional patriotism” to underline the separation between the feeling of belonging implied by national citizenship and its legal practice in spheres beyond the nation-state. For him, citizenship is “conceived on the model of affiliation to an organization that assures a legal position and situates the individual outside the state.” Ferry goes farther than the “classic version of constitutional patriotism” when he proposes the idea of “politics as culture beyond a consensus on the fundamental principles of democracy and the rule of law” due to the advent of a politically operative commonsense – in contrast to a consensus, even authentic, about the various fundamental principles of universalist values (Ferry, 1992). With another perspective, regarding this time the non-European populations arising from 1960s immigration in different member states, Yasemin Soysal defines as “post-national” the adoption of international norms referring to the person or residence and not to legal citizenship (Soysal, 1995).

These post-national conceptions of belonging feed normative discourses about the necessary definition of a new model of citizenship. But European legislation does not always move in the direction of these discourses. From a legal standpoint, the Maastricht Treaty maintains the link between national

citizenship (hence nationality) and “citizenship of the Union” (Art. 8, and in the European Constitution). The citizen of the Union is a person who has the nationality of one of the member states. But at the same time the citizen of the Union has the right to circulate and reside anywhere in the territory of member-states, and even the right to vote in municipal and European elections in a member-state from which he does not originate, simply as a legal resident. This practice introduces a notion of extraterritoriality of citizenship and challenges the adaptability of national citizenships within the European legal framework. Likewise, the registers of belonging and political engagement show that the practice of citizenship gives rise to a multiplicity of interests as well as multiple kinds of belonging and allegiance within the European framework, detached from an entity that is exclusively national and territorial, separating therefore citizenship from nationality, where citizenship is expressed in terms of rights and nationality in terms of identity.

## **2. EUROPE: BETWEEN TRANSNATIONAL SPACE AND A GLOBAL CIVIL SOCIETY**

Is the institutional and juridical construction of Europe enough to create a unified public space, a space of production of European political power and a space of membership and belonging? Obviously, governmental cooperation is marked by the concern to harmonize cultural, political and legal differences among European institutions, and that in fact results in a convergence, at least in certain domains, among states. Supranationalism in itself prefers the notion of the formation of a unified (or rather standardized) political space. But to what extent can supranational institutions activate a popular will, guarantee the “people’s” participation, arouse a common identification, and assure loyalty – in short, produce a citizenship that would turn European construction into a democratic project?

Clifford Geertz would answer to this series of questions by recalling that “political processes are vaster and more profound than the formal institutions entrusted with regulating them.” “The most critical decisions concerning the management of public life,” he adds, “are not taken in parliaments; they are taken in a domain made uniform by the ‘collective consciousness’ (Geertz, 1973).” In the framework of a European union, this would amount to seeking new affective anchors beyond the instrumental link with an economic space, to defining new solidarities among nations and among citizens, to imagining a citizenship that would be the motor of a European identity, a question that is not raised by globalization.

This comes to define a European space where the “general interest” is defined beyond particularistic goals – that is national and/or ethnic. European construction however has not produced a national consciousness beyond national belonging. That is why some scholars reject the idea of a European space as a space of political production, due to the lack of political stakes and the experience of frequent debates among member-states; consequently all networks tend to the formation of a “symbolic space.” As for a public space that represents collective interests, it is limited to institutional projects and the administrative world. Thus, Europe is being constructed as the world of an elite, not as the expression of a popular will nor thanks to the support of the European population as a whole, this also raises the question of whether European public space can be the space of political participation and representation, as well as the space of citizenship – which remains national for the time being. It is precisely this absence of “citizenship” born of a common political culture that gives content and pertinence to the concept of a “democratic deficit” in European construction.

Nevertheless the logic of supranationality produces rather a European civil society that is transnational (Eder & Giesen, 2001). An important number of networks, some formal, some informal, some based on identity, some on interest, some often on both, some professional, some networks of associations, cross-national borders and form a spider’s web that covers Europe where they compete and interact, where activists formulate new demands and act in a wider space (Keck & Sikkink, 1998), that becomes a “communicational space,” to use Habermas’s phrase. More than that, they constitute the fabric of European space, and connect the European space to a global civil society (Urry, 2003).

Interestingly enough “immigrants”<sup>9</sup> with the status of permanent residents or legal citizens of one member state contribute a great deal to the globalization of Europe through precisely their transnational networks and raise once again the question of the link between citizenship and nationality in a global perspective. They foster solidarity networks across national borders on the grounds of one or several identities, linking the home country to the country of residence and to a broader European space insuring this way the extension of the European space of action to the home country that is not necessarily within the limits of the Union like Turkey, North Africa, Pakistan, India, etc. The emergence of transnational associations underscores the development of multiple trans-spatial interactions: not only between national societies (home and host) and the wider European space, but also between national and supranational institutions; and among member-states of the European Union as well as with international organizations

that defend their interest. These multi-level interactions create common social, cultural economic and political involvement and participation that re-define the territorial basis of citizenship.

In Europe, encouraged by supranational institutions, transnational actors involved in setting up such networks try to act directly through the Commission in Brussels, consequently beyond the sphere of nation-states. Despite the fact that immigration and integration policies come within the power of the state, such transnational organizations aim at claiming the recognition of a collective identity by supranational European institutions. Thus appears a new mode of political participation occasioned by a space open to the demands of both its citizens' and residents' interests and identities. This allows them to assert autonomy in relation to state systems that are territorially defined. By the same token, transnational activity strengthens the demand of populations resulting from immigration now resident in European countries for equality of rights and treatment at the European level, as well as their struggle against racism; it becomes a means of circumventing the homogenizing effects of nation-states. Moreover, a network built on a common interest defined at the European level formulated in terms of equality of rights meant to "liberate" immigrants from the politics of their host country (as well as home country) and to express claims beyond both nation-states (home and host). As for their leaders, they develop a discourse on equality and the universality of Human Rights; seeing the transnational effort as a way to fight racism and xenophobia globally, they develop a common consciousness, an "idea of a wider world over and above separate states and national societies" to defend their interest and to be a part of a global community.<sup>10</sup>

Some of the transnational networks are based on local initiatives, some come from the country of origin, some are encouraged by international organizations, and some others by supranational institutions particularly the European Parliament which lies at the core of European legitimacy and democracy. Thus, European supranational institutions, through transnational actions, play an important role in the diffusion of social, cultural, political and even juridical norms in different European countries as well as in the country of origin. Guided by the logic of regulation and of political and juridical harmonization which they impose on nation-states, European supranational institutions have encouraged a global structure that includes the countries of origin. Home countries try to rally their nationals to achieve recognition of their (extra-community) country from the European authorities, the best example being Turkey and the Turks abroad. Thus, they reactivate their loyalties through religion and contribute to the creation of a

“transnational community.” As for Islam in Europe, for example, international organizations interested in Islam in Europe mobilize resources to allow Islam to go beyond the national diversity of Moslems living in the various countries of the Union, to create a single religious identification and a transnational solidarity based on that.

Transnationality, thanks to increasing interactions among actors from different traditions – national, regional or ethnic – might even become a means of socialization and training in a new political culture that one could truly call European and/or global. It becomes a way to practice citizenship beyond political territories of states (home and host). In this perspective, leaders of immigrants’ associations for example, legal citizens of a member state or not, act together in this new space, making of it a common space of political interaction and of the use of power and put forward a multiplicity of identifications and loyalties to actors.

In Europe, transnationalism as a new mode of participation helps to assert the autonomy of these identities and of their representatives toward territorially defined nation-states while it fosters immigrant involvement in the “European project.” Just as in the United States, a country of immigration ever since it was founded, where the various waves have contributed to defining the American nation, in Europe, the European Parliament feeds hope to non-European immigrants that they will participate in the construction of Europe and its identity. Transnational actors rely upon Europe as a new political space open to all kinds of claims and representations because of its uncertain or “soft” identity in contrast to “hard” national identities. Nation-states and national identities, product of a long process made of common experiences rooted in history and collective memory are experienced, by immigrants, as difficult to penetrate. In contrast, a Europe perceived as an uncertain political community might leave a space for collective actions and claims through which plural and complex loyalties can be articulated in order to define a new political unity and identity. The hope remains that the construction of and identification with a European political community in process would be de-facto plural, including states and nations, as well as “minorities” (Kastoryano, 1998). The participation of the leaders of voluntary associations in European transnational civil society invites them into the multiple interactions and confrontations of cultures that form the European Union. Their participation affirms on the one hand a space for rational action, political and social development, and on the other a space for cultural integration of a collective identity. It brings also to the fore multiple belongings, where citizenship is as multiple as membership and refers to rights to direct participation in the home and host country and

the European union, and nationality becomes an ethnic identity that transcends boundaries and is promoted by the country of origin. In both cases territoriality becomes more and more abstract.

### 3. A PLACE FOR STATES

However, transnational Europe and globalization create a paradoxical relationship with states. The consolidation of a transnational solidarity generally aims to influence the state from outside. According to [Keck and Sikking \(1998\)](#), “they try to transform state understanding of their national interest, and alter their calculation of the costs or benefits of particular policies .” Even if transnational networks contribute to the formation of “external communities,” outside of their relationship with states, these networks today are imposed on the states as indispensable structures for negotiation of collective identities and interest with the national public authorities, which define the limits of their legitimacy. The objectives of transnational networks are to reinforce their representation at the European level, get support on a global level but their practical goal is recognition at the national level.

In other words, the ultimate goal is to reach a political representation that can only be defined at the national level. For example rights and interests for non-Europeans, such as the protection of their rights as residents, housing and employment rights, family reunification and mobilization against expulsion – in short policies that touch, directly or indirectly in the domain of identity – can only be claimed from the state. From now on all claims at a national level imply a parallel pressure at the European level, and conversely, all claims on the European level aim to have an impact on decisions taken on the national level within each of the member states.

Appadurai’s “theory of cascade” ([Appadurai, 1994](#)) that links the local to global appears in the European context as the result of increasing interaction between nation-states and supranational institutions in the definition of general norms and values, while keeping a national particularity for each state – particularly when dealing with policies with regard to immigration, integration and access to citizenship. Supranationality raises tension between European institutions – intergovernmental relations and nation-states, tensions between a tendency of unifying a European political arena and states’ sovereignty.

Thus, Europe as a political community does seem perceptible outside nation-states, as demonstrated by the structuring of networks and the

political engagement of actors, although for interests that are a priori particular. The networks are a sign of the Europeanization of a political action, but not the Europeanization of claims (Tarrow, 2001). Claim for recognition and equality remain attached to the state as a practical frame for mobilization and negotiation and a legal as well as an institutional frame for recognition, and the nation as a source of identity and emotions for mobilization. Of course, an organization which transcends national borders brings to the fore the principle of multiple identifications deriving from the logic of a political Europe and finds a basis within the process of globalization. It is precisely this aspect of multiple identification and allegiances that provokes passionate debates about the construction of Europe, for it disrupts the relations between citizenship and nationality, states and nations, culture and politics, as well as the relations between a political community and the territorial nature of participation. It signals therefore the non-relevance of the nation-states and its homogenizing ideology facing identity claims being expressed within and without national borders.

In distinction from globalization however, Europe as political space, bounded and territorialized is based on the interpenetration between states and the E.U. on their reciprocal power and influence. But general interest is still expressed within nations. This has led the states to be considered as the structuring force of European construction and the nation as the political space where, ultimately, "will" and citizenship are manifest. In this sense, as Paul Thibaud stresses, "Europe remains an indeterminate political project that has not managed to legitimate itself independently of states"; according to him, within the E.U., "nations should see guaranteed the exercise of certain functions essential for their identity, in particular social and territorial solidarity and the defense of their cultures (Thibaud, 1996)."

This appears as much in the production of cultural norms as in production of European legal norms. The European culture cannot ignore the diversity of national cultures, languages, territorial and non-territorial identities; and a European space cannot be constructed unless these identities are preserved as constitutive elements of a European public space, a space of communication, of representation and a space where political power is exercised. European identity cannot therefore be the sum of these various cultures but a space where they are all in relation, and it brings to the fore the principle of multiple identifications deriving from the logic of a political Europe.

The production of European legal norms, despite the quest for universality, especially with respect to human rights, shows that states remain, in Joseph Weiler's expression, "the fundamental limits" in the creation of a European jurisprudence. These limits apply to "the principle by which

certain explicitly designated powers or authorities would guarantee that, in some domains, the human communities would be free to make their own social choices without intervention from above" (Weiler, 2005). Even if the European Convention on Human Rights defines a universal "hard kernel" transcending cultural diversity, "human rights remain the result of a compromise between social forces that come into play within a given political regime and a given balance among competing interests (governments and or individuals); they are consequently defined within the 'fundamental limits' and their essential values."

Similarly, with regard to the right to protection of national minorities in Europe, for example, there is an ambiguity in the very definition of national minority and the uncertainties in the establishment of legal forms for its recognition. In effect, is one designating cultural, linguistic, territorial minorities that are officially recognized as such (like Catalans and Basques in Spain) or rather referring to immigrant minorities that are equally officially recognized (as in the Netherlands)? The definition offered by the Human Rights Convention is very broad: "the term 'minority' refers to a group that is numerically inferior to the rest of the population and whose members are animated by the will to preserve their culture, traditions, religion or language." But it is the concept of minority developed in relation to the social, cultural and political realities of the countries of central and eastern Europe, where the problem of democracy has arisen since 1989 in terms of recognizing communities, that lies at the origin of the application of minority rights by European institutions to other countries of western Europe. In France, the term 'minority' is rejected, whether with regard to regional or religious identities or else to collective identities expressed by immigrant populations. For example, the Council of Europe in November 1994 elaborated a convention to guarantee the individual freedom of minorities without injuring the unity and cohesion of the state. But France did not sign it because the Minister in charge of European Affairs considered that the text was "not compatible with the French Constitution." Thus, various declaration, charters and conventions have oscillated between the protection of individual rights and collective right, the protection of the particular identity of the individual and from there to the promotion of collective rights, ending by taking into account national contexts and specific situations. Whatever the definition (legal, social, cultural) of a minority, discrimination is unanimously rejected by all member states and is included in Charter of Human Rights, in the European Constitution.

It is through the policies of asylum or immigration and integration that the force of the state is most strongly felt, leading to tension between



supranationality and the inter-governmental, tension between a tendency to unify European space and state sovereignty. Any supranational legal norm concerning the rights of immigrants is founded in national jurisprudence, and the member-states have always refused to transfer their powers to Brussels, preferring to move in the direction of intergovernmental cooperation as it has been institutionalized since Maastricht. At the signature of the Schengen agreement on the entry and free circulation of foreigners within the E.U. is nothing less than the establishment of an administrative network outside Brussels, which does not have the central power of a federation for democratic oversight. As for establishing a space of European security, the states prefer, he says, “to remain within a multi-bilateral framework that does not involve, to their minds, definitively abandoning sovereignty (Bigo, 2002).”

#### **4. MULTICULTURALISM: AN IDENTITY FOR EUROPE?**

The European Union stands for the idea of open-minded conciliation – for a conception of universality alternative to that of the nation-state. According to those who fight on behalf of immigration, the idea of universality suitable for Europe would be to conceive of an arena in which foreigner residents in Europe, and even citizens who are perceived to be foreigners (by virtue of the nationality of origins seen as an ethnic marker, or by virtue of color or religion) would be inscribed within a plurality of cultures for the same reason as those referring to traditional national identities.

One line of thought on united Europe bears directly on overcoming “state models,” understood as particularistic, and on the means of linking the different juridical, cultural and political spaces that comprise it. This presupposes a production of cultural and juridical norms in which the states’ interests would be expressed, their principles and sovereignty protected and their identity represented – in short, a model of pluralist society with a constitution founded on principles restructured by the recognition of different cultures in order to form a common European political culture. This would require ways of combining the plurality of national cultures with the political unity necessary to define a European identity. New forms of democracy would have to be imagined. Chantal Mouffe (1990) proposed a “plural democracy” that would take account of this multicultural vision of political realities, trying to find a new form of articulation between the universal and the particular.

The dynamic of forming a political culture shared by the Union can only operate through confrontation among different national traditions. Already in national terms, the augmented relations among immigrant populations that are increasingly structured into communities bearing specific identities, testifies to a “political acculturation” (in Habermas’s expression) in their forms of participation and adherence to the surrounding civic culture; this leads states into negotiations over identity that pose a challenge to political traditions on all sides in the hope of achieving a new historic compromise.

In the European context, there is a need for a reciprocal political acculturation among states so as to create a common political culture, all the more so because European space is the space in which all identities are ultimately negotiated. Whether national, regional, linguistic, religious, majority or minority, identities are redefined by the complex play of interaction and identification inside European space. It is precisely the whole set of these relations among the Union, the member-states, and immigrants (“foreign” to European identity) that leads to a redefinition of the concepts of universality, particularity, nationality, and citizenship, concepts that are at the origin of the formation of a nation state, and increasingly needing to be redefined within the framework of Europeanization and globalization.

Without contest, European construction rests on combining of the one and the multiple. Juridical experience, especially in the realm of human rights makes visible in Europe both the idea of uniformity and the idea of diversity: the very concept of human rights as a “fundamental right” is a universal concept yet also a source of differentiation among states. In practice, European institutions are the only political space in which this equation arising from a *de facto* pluralism appears so evidently.

Can “multiculturalism” provide the sought-for compromise; a multiculturalism that would “reconcile the universality of its legal framework with the singularity of cultural identities so as to constitute a common political culture? (Kastoryano, 1998, 2005)” A multiculturalism that might be discerned as a new form of political organization and turn cultural and national diversity into a right based on egalitarianism? A multiculturalism in which different territorial and cultural identities appear as political markers? In fact, taking into account the multitude of cultures that want to be territorialized but often do not conform to state boundaries, can one imagine a territorial multiculturalism combined with a cultural multiculturalism that is often analyzed within the nation-state framework, in order to construct a political Europe? Multiculturalism as the foundation of political unity and that takes account of the cultural, political and legal diversity that characterizes Europe – could this overcome the tensions and antagonisms among

member-states and between member-states and Brussels, as thinking about a confederated Europe has suggested, resulting in a political unity that respects constitutional multiplicity as well as a diversity of identity across Europe? Contrary to a federalism that rests on territorial and political unity and on the will of the native people to achieve a common constitution, multiculturalism takes the opposite route, beginning from the multiple and arriving at political unity, while seeking to establish a new equilibrium among culture, politics, and territory, arousing eventual identification by actors with this new political entity. One might suppose that a multiculturalism born from an initial diversity might in fact become an explicit theory of European identity.

Europe as a space of citizenship, of engagement and participation, as a space of belonging that is both regional and national, even ethnic and religious, will add a new element to the individual's choice of identity: thinking of oneself as European. Multiculturalism as the basis for negotiating multiple identities might solve problems of allegiance by enabling people to think of the European Union not as a construct like the nation-state but as the coexistence among the identities that compose it. In this hypothesis, multiculturalism might be the source of a European identity. The lack of European political identity risks leading to a definition of a European "us" founded on a social order as a common good, but as a space of prosperity and security founded more on exclusion (based on ethnic and religious criteria) than on inclusion. Debates prior to the enlargement did not change the content of the debate on immigration that has led to the reputation of "fortress," underlying this image of unified space. This is all the more so in reference to a "clash of civilizations" in which Islam is considered to be an external threat and becomes a way of excluding the Muslim populations established in Europe, by redefining both an internal and an external border that are supposedly "uncrossable for cultural reasons." This can be translated into the rejection of immigrant populations who are constituted into diasporas feeling more solidarity with the external, especially countries of origin in North Africa or Turkey. Such a mechanism in defining European identity challenges notions of both universality and multiculturalism in European political visions.

Moreover, debates about Turkey's membership have helped to elaborate the image of Europe based on religious and "civilizational" criteria, criteria that Europe as project had rejected along with its construction. The "otherness" of Turkey as a member-state challenges this idea of multiculturalism as a basis for a European identity and the integration of Europe into globalization. The challenge is not because of Islam as such – the religion of an

important nonterritorial minority in Europe – but rather because of a “territorial Islam” of Turkey’s population at the same level as other nationally territorialized religions in Europe, having all, nevertheless, as common denominator: their secularization. To exclude Turkey from European multiculturalism would come to wake up “the spectre of a new fundamentalism based on exclusion of what is not European” asserts Jean-Marc Ferry (2004). Such an evolution would lead to a Euronationalism that is as dangerous as nationalism, and would close up Europe to the process of globalization.

Of course, like any political model, multiculturalism runs up against limits and even its own paradoxes. In effect, multiculturalism risks, like nationalism, leading to a fractioning of European society into the multiple identities that characterize it, dividing the E.U. (like the nations that comprise it) into political unities and thereby skirting tribalism. Or else the strengthening of the role of the states in European construction might lead to a nationalism that leaves little space to other identities in the national societies. European projects cannot ignore that states are caught and pulled between “nationalist passion and unitarian hope.” But a multiculturalist approach to Europe might one day take the European Union into a global political space in which are negotiated the paradoxes of democracy.

## NOTES

1. U. Beck, *What is Globalization?* Polity Press, Cambridge, 2000, p. 158.
2. Sentence inspired by E. Renan, “Qu’est-ce qu’une nation?” emphasizing voluntarism for defining the nation as principally a political unit.
3. See Elie Cohen, *La tentation hexagonale. La souveraineté à l’épreuve de la mondialisation*; Paris, Fayard, 1996; see also Zaki Laïdi, *La norme sans la force*, Paris, presses de Sciences-Po, 2005.
4. A. Iriye, *Global Community. The role of International Organizations in the Making of the Contemporary World*, University of California Press, Berkeley, 2002.
5. Rawls, *Political Liberalism*, Columbia University Press, New York, pp. 29–35 and chapter VI (The idea of public reason), pp. 213–253.
6. J. Lenoble, Penser l’identité et la démocratie en Europe, in L. Lenoble et N. Dewandre (ss. la dir.) *L’Europe au soir des siècles*, Paris, Seuil, 1992, pp. 293–315.
7. E. Renan, Qu’est-ce qu’une nation? *op. cit.*
8. Z. Laidi, *op. cit.*, 2005.
9. The use of the word immigrant needs an explanatory note. What is meant by immigrant in this context is the third country nationals who settled in different European countries in the 1960s mainly for economic reasons, even in many cases they come from former colonies. Juridically the term refers to a temporary status, which is not valid today since most of them have the citizenship of the country of

settlement. The use of the terms reflects rather the difficulty to admit these populations being a part of the social, cultural and political system.

10. A. Iriye, *op. cit.*

## REFERENCES

- Abélès, M. (2005). Homo communautarius. In: R. Kastoryano (Ed.), *Quelle identité pour l'Europe?* (2nd ed., pp. 57–83). Paris: Presses de Sciences-po.
- Appadurai, A. (1994). *Modernity at large*. Minnesota University Press.
- Bigo, D. (2002). Border regimes, police cooperation, and security in an enlarged European union. In: J. Zielonka (Ed.), *Europe unbound. Enlarging and reshaping the boundaries of the European union* (pp. 213–240). London: Routledge.
- Eder, K., & Giesen, B. (Eds) (2001). *European citizenship. National legacies and transnational projects*. Oxford: Oxford University Press.
- Eisenstadt, S., & Rokkan, S. (Eds) (1973). *Building states and nations*. Sage.
- Ferry, J. M. (1992). La pertinence du postnational. In: J. Lenoble et & N. Dewandre (Eds), *L'Europe au soir des siècles: Identité et démocratie* (pp. 39–59). Seuil, Paris: Editions Esprit.
- Ferry, J.-M. (2000). *L'Etat européen*. Paris: Gallimard.
- Ferry, J.-M. (2004). Quelle Europe chrétienne? *Esprit*. December.
- Geertz, C. (1973). *The interpretation of cultures*. New York: Basic Books.
- Kastoryano, R. (1998). *Quelle identité pour l'Europe. Le multiculturalisme à l'épreuve*. Paris: Presses de Sciences-po.
- Kastoryano, R. (2004). Transnational networks and political participation: The place of immigrants in the European Union. In: M. Berezin & M. Schain (Eds), *Europe without borders. Remapping territory, citizenship, and identity in a transnational age*. Baltimore: John Hopkins University Press.
- Keck, M., & Sikkink, K. (1998). *Activists beyond borders. Advocacy networks in international relations*. Ithaca: Cornell University Press.
- Mouffe, C. (1990). *La démocratie entre modernité et post-modernité : Pour une démocratie plurielle*. Revue du MAUSS, no. 8, pp. 14–30.
- Soysal, Y. (1995). *Limits of citizenship, immigrants in western Europe*. Chicago: University of Chicago Press.
- Tarrow, S. (2001). La contestation transnationale. *Culture et Conflit* no: 38–39 (special issue on Sociologie de l'Europe. Mobilisations, élites et configurations institutionnelles), pp. 187–25.
- Thibaud, P. (1996). L'Europe allemande ... définitivement ? *Esprit*, May, pp. 53–65.
- Tilly, C. (1973). *The nation-state in formation, reflections on the history of European state building*. Princeton University Press.
- Urry, J. (2003). *Global complexity*. Cambridge: Polity Press.
- Weiler, J. (2005). Les droits fondamentaux et les limites fondamentales: Normes communes et valeurs antagoniques dans la protection des droits de l'homme. In: R. Kastoryano (Ed.), *Quelle identité pour l'Europe* (2nd ed.)? Paris: Presses de Sciences-po.

# AGAINST DOMESTIC VIOLENCE: THE INTERACTION OF GLOBAL NETWORKS WITH LOCAL ACTIVISM IN CENTRAL EUROPE

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## ABSTRACT

*The international women's movement has always focused on discrimination against women, but only in the past few decades have activists paid special attention to domestic violence. In post-communist Europe, it took even longer but the Polish, Czech, Slovak, Hungarian, and Slovene governments eventually reacted to domestic and global pressure and established new definitions and norms dealing with domestic violence. Analyzing the process of norm development on domestic violence in Central Europe can direct us toward determining to what extent political and economic processes and decisions in Europe are driving globalization, or are being driven by globalization.*

## 1. INTRODUCTION

“If he beats you, he loves you.” This traditional Russian proverb reflects an attitude that is unfortunately too common across the world. Traditionally,

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 111–152

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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88006-X

partner violence against women has been accepted, occasionally even glorified, and relegated to the realm of private affairs. The women's movement has, since its inception, focused on various forms of discrimination against women, but only relatively recently have activists paid attention to domestic violence and managed to develop successful campaigns against bodily harm and emotional abuse (Jefferson, 2003; Renzetti, Jeffrey, & Bergen, 2001). By creating a space that is beyond public or private, activists opened up a global arena in which human rights and dignity, and not national custom and laws, prevail.

In post-communist Central Europe, the process of acknowledging domestic violence has been, and continues to be, especially challenging. The difficulties lie partially in the region's very recent integration into many global trends, such as democratization and respect for human rights. In addition, the communist systems left a highly ambiguous heritage regarding gender equality (Fodor, 2003; Gal & Kligman, 2000a, 2000b). On the one hand, the previous political system emancipated women from direct subordination to men and provided broad social welfare assistance to balance women's work and family responsibilities. On the other hand, the communist system repressed political expression and various individual freedoms. It generally maintained the traditional gendered division of labor, providing for women's needs mostly rhetorically and when it served its ideologically determined economic needs. During this regime, domestic violence was taboo, without a name and with no acknowledgment of its existence and severity. In this difficult political terrain, how did domestic violence become a central topic of debate from the early 1990s among Central European general publics, governments, international organizations, and non-governmental organizations (NGOs)? I argue that globalization and its increasing power of dispersing the norms of democratization and human rights allowed for the discussion on domestic violence to step on stage. However, these norms were not to appear in their full (ideal) form, but would become muddled in international and domestic give-and-take and adapted to the specific needs of local environments and international trends.

This essay investigates to what extent globalization is driving the processes and decisions regarding domestic violence in Poland, the Czech Republic, Slovakia, Hungary, and Slovenia, and to what extent they are driving globalization. To answer this question, we need to learn what kind of global forces have affected the emerging public policy debates on defining and trying to eliminate violence in intimate relationships in these five recent European Union (EU) accession countries. The manner in which international

organizations (such as the EU and UN), international law (e.g., the UN's CEDAW Convention), and emerging international norms (i.e., democratization, respect for human rights) impact the deliberations on domestic violence are of special concern in this region which has become more open (and vulnerable) to global forces during its many transformations in the past decade.

### *1.1. Where are we? Central Europe as a political category*

Poland, the Czech Republic, Slovakia, Hungary, and Slovenia lie in close proximity to one another in Central Europe and have all been affiliated (to various degrees) with decades of communism whose collapse in 1989 also signaled the region's "return" to Europe. To crown the process of reintegration to capitalism and to mark the development of democracy, these five countries became members of the EU in May 2004. The changing laws about and changing attitudes toward domestic violence in Central Europe can serve as a litmus test to measure the effect of both political and economic integration into Europe and the international system. These increasing and interwoven processes of political, economic, and cultural integration amount to globalization (Pieterse, 2004). These processes, seemingly unstoppable, are spilling further over to many fields both abstractly via the dispersion of human rights norms and more concretely to previously less-affected geographic areas, such as Central Europe (Risse, Stephen, & Sikink, 1999; Soysal, 1994).

The first part of this essay will locate, contextually define and connect to Central Europe the concepts of globalization and domestic violence that serve here as both descriptive and explanatory tools. These two concepts are each deeply contentious everywhere in the world but they are especially and acutely controversial in contemporary post-communist Central Europe. Because globalization seems to have profoundly contributed to the establishment of the environment where a discussion about domestic violence can take place, the attitudes of Central European activists, governments, and general publics about domestic violence reveal these actors' relationship to globalization. The second part of the essay will describe the various global networks that have engaged with Central European actors on domestic violence. The emphasis will be on the power of norms, such as democratization and human rights, for reasons of parsimony and also limitations of length. While the power of the many international actors and norms over Central Europe is no doubt formidable, exchange between these locations is not entirely one-directional. The final section will demonstrate that while



seemingly universal in their message and method, the human rights on domestic violence adapted to local conditions by taking a more gender-neutral approach. The debates and solutions regarding domestic violence in Central Europe aptly demonstrate that an exchange has taken place, albeit the interaction also portrays that the parties have been rather unequal in their effect of influencing one another. This feedback mechanism within the microcosm of domestic violence policy reveals that globalization greatly impacts Poland, the Czech Republic, Slovakia, Hungary, and Slovenia, while the extent and the main carriers of globalization are also affected by these countries' responses.

The public debate on domestic violence in Central Europe exemplifies, in a manner deeply significant in the field of political science, the extent of transformation from communism to democracy. Furthermore, this comparative study addresses one of gender studies' most problematic and heatedly debated topics: gender equality and its application to public policies (Charlton, Jana, & Staudt, 1989; Inglehart & Norris, 2003; Sainsbury, 1999). The gender-specific nature of domestic violence became a major point of contention on the nature of domestic violence in Central Europe. Are women mostly, or nearly exclusively, the victims of domestic violence as most feminist scholarships show (Hanmer & Itzin, 2000; Schechter, 1982), or is intimate violence more complex than this monolithic, legal approach, as both revisionist feminist (Mills, 2003) and conservative thinkers and politicians attest? Some Central European politicians and activists claim that the communist experience made this region different from the West in this respect as well. Many public figures in Central Europe feel the need to be "balanced," namely to include both genders equally in public policies. In addition, as an obligatory dismissive remark toward communism, populist politicians assert that "here, women beat men" (Interviews, Hungarian Parliament, July 2003 and Slovenian Parliament, October 2004). Third, similarly to worldwide debates (Penn & Nardos, 2003; Stychin, 2003; Warrior, 1976, pp. 20–21), the efficiency of legal (criminal) approaches to eliminate domestic violence has been often questioned in Central Europe, again evoking there the now resented omnipotence of the state to interfere in private life. All of these three policy debates: the extent of democratization, gender neutrality, and the supremacy of the rule of law reflect on how Central Europe incorporates its most recent political past into its contemporary international relations with powerful allies such as the EU, the UN, and the USA, as well as how it develops some fundamental value orientations integral to a meaningful (or ideal) liberal democracy, such as respect for human rights and individual political empowerment.

The geographic subject matter of this inquiry – Central Europe – is rather difficult to define. In spite of appearances to the contrary, the term Central Europe is a political delineation rather than a geographic demarcation. Different historical periods defined the borders of this region quite differently. It is a frontier region, physically part of Europe, but on the edge of it and not fully integrated with it. The region's name (Central? East-Central? Eastern?), what and whom it encompasses, and its physical and social geography have all been fundamentally influenced by global politics.<sup>1</sup> In this essay, the term Central Europe refers to the post-communist European countries of Poland, the Czech Republic, Slovakia, Hungary, and Slovenia. These countries joined the EU in May 2004 along with the Baltic countries of Estonia, Latvia, and Lithuania, and the Mediterranean islands of Malta and Cyprus. What holds Poland, the Czech Republic, Slovakia, Hungary, and Slovenia together as a group is not merely their shared history of frequent and relentless foreign domination when they were often ruled by the same power-center, let it be the Habsburgs between 16th and 19th centuries or the Soviet Union after 1945 until the late 1980s. This region is also held together geographically by their common border with the EU and by their common identification as a political-economic coordination group, the so-called Visegrad countries.<sup>2</sup> Both this physical and the cognitive self-identifying aspects separate this set of countries from the other 2004 EU accession countries which have not experienced communism after World War II (such as Malta and Cyprus) or were annexed by the Soviet Union, such as the Baltic states of Estonia, Latvia, and Lithuania. The closeness (in these broad geographic and political terms) of Poland, the Czech Republic, Slovakia, Hungary, and Slovenia provides the basis for pursuing the “most similar” research design in methodology (Dogan & Pelassy, 1990, p. 19).

### *1.2. Applied Methodologies*

One of the major challenges in this research project has been its explicitly interdisciplinary nature that calls for various types of research methodologies. It is particularly difficult to combine quantitative data and qualitative, ethnographic information about phenomena, which has only sporadically been recorded in police records, where victims were shunned and blamed for what happened to them, and where international donors do not want to be portrayed as forces behind local NGO efforts. Although official statistics are sparse and unreliable in this regard, hotlines and shelters record an ever-increasing number of requests for help. Accounts in the media also indicate that domestic violence seems to be on the rise in Central Europe. The

increased number of domestic violence cases in Central Europe raises the need to pose the familiar question: is more of this type of crime occurring in the region because of changes in the political and, consequently, gender regime, or is the increase attributable to the victims' feeling more secure in asking for state (police) protection and that they are more aware that these crimes amount to a violation of their basic rights. (On the notion of gender regime, see Adams & Padamsee, 2001; Mazur, 2001.)<sup>3</sup>

Tracing the inner logic of contemporary political negotiations between governments and various social movements (human rights, shelters, and the women's movement) requires both textual (qualitative) and public policy (quantitative) analysis, and within these traditions, multiple research strategies. To gain quantitative data, I collected academic and police reports, policy papers, and social movement campaign materials to establish and analyze trends of crime statistics and corresponding policy responses, such as money spent on training of police, jurors, and psychologists. The effect of international agencies is also measured by money spent on projects related to domestic violence in Central Europe. Explaining how social movement strategies became successful requires qualitative analysis. In order to obtain qualitative data, I interviewed various past and present NGO representatives, academics, administrators at the governments' Women's Policy Office or Equal Opportunity Office (if such existed), various members of the respective national Parliaments, many local social welfare agencies, and spokespersons for the police. In the summer of 2003, I conducted a field study of activist networks in Poland, the Czech Republic, Slovakia, and Hungary. In the fall of 2004, I returned to these sites and Slovenia. In addition, I took part in the international gathering of the Women Against Violence Europe (WAVE) network, which consists of European NGOs providing services to victims of domestic violence. WAVE held its first conference after a seven-year hiatus in Vienna on October 14–17, 2004. The WAVE network serves as the headquarters of coordination for the European Info Centre Against Violence (see <http://www.wave-network.org>). Thematically coding relations with international and government agencies both interviews and printed media, for main themes, such as gender equality, I apply qualitative research methods to unearth the hidden chronological and structural elements of social movement activism and the corresponding government actions. The broad archival research of printed media on domestic violence charts a history that is otherwise unknown and may not have been recorded in major newspapers and popular media. Events that appear in local media, such as protests about reported child abuse or information on bills submitted to Parliament, rarely make the

headlines beyond national news and are infrequently accessible by internet-based information networks. If the national media did not report some events, data from interviews with local activists and government officials fill in the gaps. Combining participant observation, qualitative and quantitative data led to the conclusions of this chapter, which shows the interconnected nature of globalization and changes in domestic violence laws and attitudes in Central Europe.

## **2. THE TWO INTERLINKED CONCEPTS: GLOBALIZATION AND DOMESTIC VIOLENCE**

### *2.1. Globalization*

Although the noun “globalization” entered US dictionaries first only in 1961 (Webster, 1961), the concept spread quickly because it described newly emerging phenomena that scholars and lay people alike still struggle to define. Just as English philosopher–social thinker Jeremy Bentham’s coining of the term “international” in the 18th century and its capturing the emerging notion of an increased number of nation-states and the growing transactions between them, the wildfire-like popularity of the term “globalization” denotes a new characterization in the past few decades of what we still call “international” relations. However, just as the overlap here between the meaning of globalization and internationalization suggests, there is significant fuzziness around the edges of these often-used terms. What is the difference, if any, between internationalization and globalization? To establish the difference, I first need to clarify how the term globalization is applied in this essay.

The literature on globalization has ballooned to the point that it has changed the contours of scholarly inquiry and, eventually, publishing (for an excellent overview regarding publishing on globalization in economics, see Dougherty, 2004). Partially, as a result of the steady parade of writings on the subject, the meaning of globalization is becoming overly broad, occasionally even unruly and pervasive. However, diverse tendencies in world order are just as much the reason for the debates on definition than the different ideological and professional homes of the various authors. The debates about globalization’s effects are oftentimes angry, especially because authors do not share the same (professional) language. Instead of establishing a common denominator for inquiry, the different kinds of knowledge on globalization have been raising more questions than they answered.

Notwithstanding, the accompanying intellectual ferment also brought numerous instances of innovation, especially as authors reach across disciplines and national boundaries. With some difficulty, the majority of the various conceptualizations can be arranged in major categories (for various typologies see Beck, 2000; Giddens, 2000; Mittelman, 2002).

It is difficult not to be impressed by the broad and deep impact globalization has exerted (although to various degrees) all over the world. These versatile impacts form the basis of five competing major groups of conceptualizations of globalization, seen as deterritorialization, internationalization, liberalization, universalization, modernization, and Americanization. Globalization as deterritorialization (coined by Scholte, 2000) captures the uniqueness of the contemporary phenomenon featuring the increased intensification of various sorts of material and abstract (i.e., norm or value) exchanges. This conceptualization goes beyond the well-established notion of internationalization, which since the 18th century refers to the increased cross-border relations between countries. Similarly, globalization as deterritorialization incorporates and adds to the notion of liberalization, which implies the reduction or abolition of government-imposed restrictions between countries, peoples, and ideas. While globalization as deterritorialization recognizes that there are elements of universalization in contemporary processes, it sees some cultures as more privileged in the so-called synthesis of cultures and recognizes the predominance of Western values in the move toward “global humanism.” Globalization as deterritorialization also acknowledges that modernization is associated with the spread of (Western) social structures, i.e., rationality, capitalism, etc., and sees that “Americanization” could be construed as one special contemporary subset of modernization. Seeing globalization as deterritorialization reflectively adds that there is a mutual (albeit not fully reciprocal) interchange between global actors and spaces, which modifies the otherwise monochromatic image of modernizing (Western) and/or Americanizing influence as well. However, giving the general description to globalization as deterritorialization in this study does not imply that there is a unified, homogeneous global order. Instead, defining globalization as deterritorialization carries the message that the modalities of exchange and the resulting discourses combine in a complex way and enact multiple scripts. This global system does not always act in agreement with all its parts, and these inner conflicts lead to “conflicting claims and empowerment” (Sewell, 1992, p. 17). The interaction between global forces, Central European governments, and social movement activists reflects this complexity in the microcosm of recognizing and dealing with domestic violence.

From the many definitions of globalization that are used in the social sciences and popular literature, globalization will be presented here as deterritorialization. Globalization as deterritorialization focuses on the spread of supraterritoriality, which is a reconfiguration of geography, a transformation that changes spatial organization of social relations and associations. Seeing globalization as deterritorialization provides the most useful lens of understanding how human rights norms about domestic violence have started to change Central Europe's laws and public opinion. (For a much broader interpretation on the power of human rights norms contributing to the fall of the communist system, see [Thomas, 2001](#)). Placing deterritorialization in the center of inquiry emphasizes that the territorial state is increasingly facing pressures both from "above" – particularly from the power of markets ([Friedman, 1999](#)) and international organizations such as the EU – and from "below," in the form of social movements and civil society ([Falk, 2003](#); [Smith & Johnston, 2002](#)). Indeed, there is a growth industry debating the role of civil society, social capital, and civic engagement in shaping both local and global polity ([Paxton, 2002](#); [Putnam, 1993, 2000](#)).

The Central European region's many historical separations and its most recent reentry to Europe and capitalism reignited intense feelings of resentment and attraction toward the West. The collapse of Soviet-style communism in Europe also signaled the end of the last ideologically, materially, and militarily formidable bastion outside of capitalist and globalizing trends. The effects of globalization are especially intense in this recently reintegrated part of the world. Depending on one's political value orientation, globalization is welcome and its effect of bringing up human rights norms defined in universal terms may be liberating. On the other hand, globalization can also be seen as an intervention force that twists, distorts, or otherwise unfavorably changes previous cultural and political norms. This latter sentiment is one major reason why global forces often refrain from openly identifying themselves as financial or ideological supporters of NGOs working for the criminalization of domestic violence in Central Europe.

The debate on the nature of domestic violence and the solutions to eliminate it in Central Europe show how the borders of states became not only more permeable (as internationalization would suggest) but the characteristics of the state and many of the policy actors fundamentally changed their features due to the multiple levels of interactions between citizens, social movements, and their many organizations of both state and non-state origin. The circulation of people, goods, norms, social movements, with their

especially influential US-influenced rights discourses and cultural influence (see Grewal, 2004) has created transnational subjects that are dynamic, produced and transformed both within and beyond national boundaries.

The changing and increasingly interconnected nature of actors who engage with domestic violence policy underlines the characterization of globalization as deterritorialization. This conceptualization does not negate the influence of states and their agencies, but highlights how their *modus operandi* have altered and it adds multi-centricity to the state-centered international perspective (Ferguson & Rosenau, 2003). Today, this “polymorphous world” (Mittelman, 2004, p. 221) conditions what kind of norms can travel. The emerging global norms of engagement include respect for human rights and these expectations have lifted the preconceived conceptual filter of ignorance regarding domestic violence. However, as the new powerful global material and ideological infrastructures, such as funding agencies, think tanks, professional associations, journals and various sorts of media have started to focus on this topic, they also toned down the original feminist and counter-hegemonic (see Gramsci, 1971, 2000) message in exchange of dealing with the problem – even if in a less transformative manner. Why did this trade-in take place? What is so disturbing about domestic violence that the premises of the activists are most often questioned and modified? Taking up this issue shakes up and challenges the “informal and intersubjective processes” of power, morals, and civilization (Cox with Schecter, 2002).

## *2.2. Domestic Violence*

Domestic violence is a worldwide problem, the political, social, and psychological costs of which are only now beginning to be discovered (Walby, 2004; Heise, Pitanguy, & Germain, 1994). The division between public and private spheres has long shielded this particular type of crime. It is one of the major achievements of the feminist movement that this division became questioned (Peterson & Runyan, 1999; Sassoon, 1987). When feminist scholarship pointed out how liberalism carried and naturalized this division, they also observed that it relegated many (especially and most likely) women to the private realm and excluded them from full personhood and political participation (Pateman, 1988; Phillips, 1991). While several feminists argue that women cannot rely on liberal politics (Brown, 1995; Elshtain, 1995; MacKinnon, 1989), women used liberal ideology, and especially its descendant human rights framework, to address some aspects of male domination in revealing them as causing inequality and exploitation (Mahoney, 1994; Marcus, 1994).

The transnational activist networks of the feminist movement successfully used the universal claims of the human rights framework to explicitly include women's rights in it (Keck & Sikkink, 1998). In an effort to avoid the many culturally different interpretations of women's rights, activists focused on one relatively common platform: the sanctity of bodily integrity. Violence against women has emerged as one of the most powerful cases pointing out the untenability of the division between public and private spheres when the private sphere has served as the one powerful excuse to cover up crimes that otherwise would be considered torture, harassment, intimidation, stealing, rape, beating, and often, homicide. Domestic violence formed an important part of the tragically broad violence against women in the eyes of the mostly feminist groups that first brought attention to this issue. With the spread of liberal democracy, feminist movements struggled to gain women's place in the *body politique* and slowly (and still partially) managed to convince governments and international organizations to produce more gender-sensitive laws and policies that included protective orders, domestic violence courts, shelters, and trained jurors, police, health professionals, and social workers to recognize and sensitively assist victims.

Campaigns against domestic violence and the roots of the shelter movement originated in the UK, where, in 1971, Erin Pizzey established what is considered to be the first battered women's shelter. They were established in the USA in the 1970s, and were soon transplanted to Western Europe (Dobash & Dobash, 1992; Tierney, 1982). The international women's movement has established a complex (and still contentious) definition of domestic violence and has developed many methods to decrease its occurrence. Since the early 1980s, considerable work has been done internationally on violence against women and much research exists (see, e.g., Buzawa, 2002; Weldon, 2002; Marcus, 1994, *forthcoming*). The international women's movement established that violence in the home is not an individual or cultural problem, but is a violation of human rights for which the individual states and the United Nations should be held responsible. In this instance, many feminist theorists', postmodern writers', and anti-feminists' objections to grouping all women together notwithstanding of differences in class, ethnicity, religion, ability or disability, sexual preference (Riley, 1988; Young, 1995) were put aside to confer a common identity of potential victimhood and in favor of universal human rights.

With the fall of the communist system, these policy frameworks traveled to Central Europe. Transnational norms and international actors exerted pressure, most often indirectly, on this region to deal with this newly named but pervasive problem. The degree to which post-communist



countries were willing to respond to the challenge posed by the social movements regarding domestic violence can be used to measure their desire to honor (at least in principle) their integration into the community of democratic nations.

Recognizing the universality of gender inequality is a major aspect of dealing with domestic violence. The Western-inspired shelter movement has long claimed that women are most often the victims of crimes in the home. That domestic violence is even becoming a publicly discussed topic in Central Europe testifies to the skill and the strength of the international women's movement that wants to address abuse and exploitation.

However, in contrast to this universal claim stand the many Central European cases of official foot-dragging and denial that may point to a historically and culturally different nature of political and gender socialization. These resistances may demand an acknowledgment of the limitations of universal applicability, whether these are about the assumption of women's victimhood, the heavy criminalization of domestic violence, or the use of perpetrator programs. The communist past made contemporary Central Europe acutely sensitive to human rights violations. Integrating this knowledge into current diplomacy, these countries recently chose to be in the forefront of international organizations pursuing the human rights agenda (McMahon, 2005). In this noble pursuit, these countries may have rhetorically trapped themselves on the side of universality and might not be able to continue to deny the gender-specific nature of domestic violence. But in the meantime, by trying to harmonize universal claims with regional, cultural, and historical specificity when creating domestic violence policies, Central European countries continue their long history of negotiation between forces of various Eastern and Western legal and cultural traditions.

Probably nobody would have denied that domestic violence existed previously as well in Central Europe, but it was clear that such events went systematically unrecognized and suppressed in an ideological context where it was possible for the state to apply pressure to each individual and easily intervene in family problems if necessary (see Johnson, 2003). Under socialism, the state's supervision in private matters was so pervasive that it was less likely to tolerate individual transgressions. Also, public housing was much more widely available, making a victim's life easier to arrange in case the person was forced to leave the family home. As the political roles altered in 1989, one would have expected that a (gender) regime system change would take place concerning this problem as well. However, the direction of change ushered in a more unfavorable gender regime. The

ideal of the autonomous family has been strengthened in the post-communist period and the previous possibility of direct state intervention in family affairs became viewed as an encroachment on privacy according to the liberal pretence of new democracies. The increasing dominance of the private would be hard to miss in post-communist countries, especially with the backdrop of the Europe-wide erosion of social democratic regimes that are moving toward more market-oriented modes of risk management.

The concept of domestic violence stretches across various countries and continents but it has remained rather fuzzy at the edges. Opponents of feminist groups have intensively scrutinized this conceptual vagueness in post-communist Poland, Czech Republic, Slovakia, Hungary, and Slovenia. How to name a previously anonymous issue?

In each language, the problem was labeled with many different terms. Nearly all of the terms used in Western discourse have been tried from “wife beating” and “wife abuse,” to “spousal violence” and “partner abuse,” until eventually the less-relationally focused term of “domestic violence” emerged victorious. Similar battles raged in each country about the implied meaning of violence among intimate partners. Tracing the course of these debates carries more of a message than a simple chronology of events. The analysis of the reasons to why raising the issue and naming domestic violence causes heated debates also shines light on the underlying causes of lawmakers’ objections and popular resistances against altering the previous arrangement of authority. How had the recognition of domestic violence started to take place? To start with, a name had to be coined. In naming, the enmeshed condition of culture/traditions of “how we do things” and new norms collide. But only after finding at least an operational name can individual and state responsibilities be separated in a domestic violence policy to the extent that law enforcement could deal with implementation. Naming “domestic violence” in an inclusive but not confrontational manner was a crucial, but difficult, task, hampered by quite a few challenges.

First, identifying the hurt party became problematic because each term borrowed from the West employs different emphasis on who the vulnerable parties are. If the general term becomes “violence against women” (which has been the usage in feminist-inspired international discourse), this implies that exclusively women can be the victims. This terminology was quite unpalatable to Central European decision-makers and consequently, many social movement activists decided to shift the language to engage them. Most politicians and scholars in the Central European region habitually note that if a policy framework accepts the term as violence against women,

then abuse against the elderly, children, and men would be omitted from the notion of violence in the home. Feminists wish to retort that much of the violence against children, elderly, and even young men springs from women's oppression, because men often try to earn leverage on women's behavior by hurting other family members. Their voices rarely reach mainstream media and mostly a lone feminist legal scholar (such as Krisztina Morvai in Hungary) or activist (such as Ursula Nowakowska in Poland) becomes the often ostracized emblem of raising this theme. This debate continues to evolve if anyone, regardless of sex, age, or marital status, can become a victim of violence in the family, or if there is a need to emphasize that gender-based violence as a manifestation of the prevailing patriarchic order and separate it from the other types of crimes.

Second, the specification of location in the term "violence in the home/family" turned out to be similarly challenging because both the "home" and the "family" are conspicuously vague. The image of violence in the family offended and politically distanced many social conservatives who wished to envision the family and their domicile as a homogeneous and harmonious entity.

Third, should only violence in marital relations be subject to the scrutiny of public view as the term "wife abuse" suggests? With cohabiting and divorce rates in Central Europe reaching record highs, the traditional approach of limiting domestic violence to married partners living at the same address was not tenable. However, the alternative to "wife abuse" would have been "partner violence" but it can also infer homosexual relationships. Legitimizing homosexual partnerships even in such a backhanded way would be an overly heavy burden to most politicians in Central Europe.

The end result (for the time being) for the terminological quandary was "domestic violence." Violence was extricated from male power as "domestic" violence gained heightened visibility. The difficulty of finding a consensual (even if still obscure) answer to these testy questions of terminology demonstrates the standing power of previous cultural arrangements, especially gender relations. In spite of the profound social changes during communism between the sexes and the many political transformations since 1989, this aspect of power imbalance between men and women until now has escaped the scrutiny of the state and the public. What is so deeply challenging about naming and dealing with violence among intimate partners?

Considering domestic violence as a crime challenges the legitimate role of power, both within intimate relationships and also in the context of the state

and its law-enforcement. In recognizing domestic violence as a crime and by calling for due collective resistance to unjust authority, basic social patterns of behavior, such as traditional gender roles, perception of appropriate behavior, individuals' rights, and the state's responsibility are challenged. In the post-communist European societies where social transformation has been especially rapid, the last vestiges of what feels like stability in intimate relations may be especially hard to deal with.<sup>4</sup> Feminist movements to shelter women from abuse dramatically revealed the gap between the presumption and the reality of security and welfare.

Even with the most toned-down and least confrontational term, that is, "domestic violence" there are still many problems, as some anti-feminist scholars and policy-makers are eager to point out. Fundamental features of balancing gender equality and difference, as well as equality before the law, and the usual methods of evidence gathering at a crime scene are questioned in the case of violence in the home. For example, the type of admissible evidence between intimate partners grew to be a sticky question to grapple with in the new rule of law-based judicial systems where neophyte advocacy of clearly transparent and corroborated evidence was yet one more piece of proof to reject the show trials of communism. How could evidence be sought in cases of emotional abuse? Should only physical violence be considered a target of criminalization? Even if the effects of beating can be more clearly demonstrated, physical violence is most frequently the result of often long-standing emotional and psychological mal-treatment. But emotions do not seem to fit squarely in the legal categories, because testimonies of domestic violence survivors who point out the inadequacies of state protection rarely receive a sympathetic ear. It is peculiar why exactly women's testimonials are dismissively scrutinized and then systematically disregarded, while ample attention is offered to battered men who have not yet mounted any sort of campaign.

Many of these concerns are familiar from the international literature but in the presence of a strong constituency supporting feminist and shelter movements, the conceptual fuzziness of domestic violence has not undermined the hard-won capacity to deal with this problem in Western democracies (see for a review, [Deanham & Gillespie, 1999](#)). The short discussion above on terminology and the related various conceptual problems regarding domestic violence in post-communist Central Europe have already indicated some of the effects of global actors and norms over the definitions and deliberation. Who were these global actors that exerted the most influence on Central Europe regarding domestic violence policies and how did they accomplish this task?

### **3. CENTRAL EUROPE: A CASE STUDY ON THE INTERSECTION OF GLOBALIZATION AND INTERNATIONAL NORM DEVELOPMENT ABOUT ELIMINATING DOMESTIC VIOLENCE**

From a problem whose real nature and social prevalence was for a long time absent from general public discourse or was largely misconceived, domestic violence has become an issue with an identifiable extent and character in Central Europe. Even more importantly, the sustained presence of the issue in public discourse has facilitated political discussions that have resulted in legislative and policy changes to prevent and prosecute cases of domestic violence.

Domestic violence is a fledgling legal definition in Central European countries that not only share a similar political past and similar gender regimes, they are also facing nearly identical problems related to gender equity as new members of the EU. Domestic violence was hidden during communism in Central Europe and it could easily have remained a taboo. Raising the profile of this issue is the interminable task of maverick social movement organizations that choose to hear feminist arguments from the West. These trailblazer individuals and their originally mostly informal organizations have brought this issue up from the collective unconscious. Acting in unison with global social movement trends and responding to a narrowing reception of their claims, activists in Central Europe have become increasingly issue-oriented in contrast to pursuing broad, often welfare-related themes. The emerging social movement activism related to domestic violence and their (albeit limited) success demonstrates the interconnectedness of Central European domestic politics and global actors and trends.

There are many significant changes in the empirical landscape of domestic violence in Poland, the Czech Republic, Slovakia, Hungary, and Slovenia (see appendix for details, and for an alternative conceptualization [Johnson & Brunell, 2007](#)). This series of empirical evidence also demonstrates that in addition to the broad similarities there are also plenty of variations in incorporation regimes. What explains the significant differences of public attitudes and governmental policy responses in Poland, the Czech Republic, Slovakia, Hungary, and Slovenia?

While transformation is evident regarding the legal recognition of domestic violence, the picture of these changes is quite diverse as the Central European countries wrestle with the heritage of the past and try to balance

the pressures from many domestic and international expectations. Starting from small-scale and NGO-sponsored, wildcat-like sticker-mounting efforts to publicize emerging hotline numbers in the middle of the 1990s, all five Central European countries took part in recent national campaigns to raise awareness against domestic violence. However, just to mention the two most extreme cases, 2003 was the first such attempt in Hungary and the fourth in Poland.<sup>5</sup> Emerging from an identical legal system in the old Czechoslovakia, Slovakia enacted a bill criminalizing domestic violence in 2002, but there is no sign of such a legislative action in the Czech Republic. Slovenia has amended the Criminal Procedure Act in 1998 and the Penal Code in 1999 that reflect the recognition of domestic violence. Poland and Hungary have been making incremental legal changes, often reversing the direction of movement when new governments are swept into office (Regulska, 2003).

In all of these countries, both before and even after legal changes were enacted and campaigns reached out to inform on domestic violence, the publics and many decision-makers questioned the feminist gender-specific definition of domestic violence and remained highly skeptical about the use of law in “private” matters. It is noteworthy that the ferment of public debates and consequent legal changes took place in a very short span of time (beginning in 1992) and practically in tandem across the whole Central European region. How could a previously unnoted phenomenon gain attention to this degree? Increasing global interactions at least partially answer this otherwise cryptic puzzle.

#### **4. THE SOURCES OF GLOBAL INFLUENCE ON DEFINING AND ELIMINATING DOMESTIC VIOLENCE**

Over the last decade, the full denial of and widespread skepticism toward domestic violence has been at least partially transformed in Central Europe. All these changes developed due to the efforts of an internationally engaged set of activists. These advocates against domestic violence deconstructed the previously existing framework (of denial and neglect) and applied the international human rights framework with various degrees of success. The best evidence of this transformation is that all over the Central European region, domestic violence has been given a name and it is becoming part of the everyday vocabulary. Domestic violence crisis centers of various kinds (religious/conservative, feminist-oriented, and local government-run) have emerged all around the region. In each of the five Central European

countries studied here, activists produced legislative proposals to prevent and deter violence in intimate relationships. The policies around domestic violence became embroiled in public debates, not least because of the interconnectedness of social movement activists, international organizations and state governments.

An important component in the relationship between NGOs, international organizations, and national governments is that it increasingly takes place on a global (deterritorialized) level. The main international influences on Central European policies on domestic violence can be roughly divided into (1) intangibles, such as norms and (2) tangible forms of pressure exerted through personal, financial, and organizational means. Without the pretense of being encompassing, the most notable forms of influence are

- (1) Intangibles: norms, such as democratization and the corresponding respect for human rights, women's rights and the broad solidarity-based norms of the European social democratic model.
- (2) Tangible/Concrete actors:
  - A International Organizations (IOs)
    - (i) Non-Governmental Organizations (NGOs), both formal and informal groups of the feminist movement, such as the East–West Women's Network, and human rights organizations such as Amnesty International, and international funding agencies such as the Soros Foundation-financed Open Society Institute.
    - (ii) Inter-Governmental Organizations (IGOs), such as the EU, the UN, the Council of Europe.
  - B Individual state governments, most evidently the US, Sweden, Holland, Austria.
  - C Transnational Corporations (TNCs), such as Phillip Morris and Johnson & Johnson.
  - D Professional organizations, such as the American Bar Association.

The next section will describe the effects of these global influences in more detail, with special emphasis on the symbolic order of international norms, such as democratization, human rights, and women's rights. The focus on norms is primary to the other institutional aspects because many of the international actors refer to these norms as the reasoning behind their actions. Also, data on the effect of international agencies were rather hard to verify because most of them were reluctant to disclose their direct effect on and financial contributions to influence public policy. The reason for such unease and secrecy may be previous bad publicity about their involvement

in public policy. For example, Phillip Morris, the transnational cigarette manufacturer has been trying to erase the effect of a disastrous report it published in 2001 that touted the positive effects of smoking on national budgets.<sup>6</sup> The pursuant international outrage is just one sign that globalization is not any more exclusively about the interconnectedness of money-above-all markets but also about the globalization of human rights. It was the long third wave of democratization (Huntington, 1991) after World War II that brought these rights and norms globally more within reach (see, e.g., Langley, 1991; Lockwood & Ferguson, 1998).

## **5. IMPACT OF NORMS IN CENTRAL EUROPE: DEMOCRATIZATION, HUMAN RIGHTS, AND WOMEN'S RIGHTS**

### *5.1. Democratization: Women's Social Movements as a Measure for the Quality of Democracy*

In addition to the more traditional explanations citing internal economic collapse and external military pressure as the main causes of the collapse of the communist system in Central and Eastern Europe (Kotkin, 2001; Roskin, 2002), other explanations pointing to the effect of emerging international norms of democracy and human rights have been steadily gaining attention and credence (Thomas, 2001). These norms, in their many permutations, became some of the strongest vehicles to influence attitudes toward and laws on domestic violence in Central Europe.

The idea of democracy encouraged Central and Eastern European citizens to engage in political activism to bring down the communist system but upon achieving this goal, social movements experienced a difficult time maintaining momentum (see Howard, 2003). Women's social movements faced additional obstacles in organizing and making their policy networks heard because the communist regimes had claimed to have achieved gender equality and also because the popular perception was that communist governments gave special privileges to women in employment and politics (Aslanbegui, 1994; Funk & Mueller, 1993; Gal & Kligman, 2000a, b). In the euphoria of establishing a democratic framework after communism, feminist activists faced nearly insurmountable difficulties when they claimed that the new governments needed to assist victims of domestic violence (mostly women) and further gender equality when the female victim image and enforced gender equality (in select areas) were some of the deplored



hallmarks of the communist system. To overcome these difficulties, norms such as democratization and human rights provided then-unquestionable moral foundations to address abuse and exploitation. Western feminist organizations were in an excellent position to provide inspiration and also on occasion, financial support to Central European activists to form their own associations assisting victims of domestic violence. Moving away from difficult-to-gauge broad social issues such as female unemployment, decreasing family benefits, and raising the retirement age where women's groups proved not even a match for governments and international financial institutions, such as the IMF and World Bank supporting welfare cuts, some activists eagerly switched focus to a more specific issue, such as domestic violence that promised to make a significant difference in many people's lives.

It took a decade in Poland, the Czech Republic, Slovakia, Hungary, and Slovenia to develop the first activist networks capable of pressuring their respective governments into addressing the long-neglected issue of domestic violence. In each of these countries, local women's NGOs initiated and maintained the campaign to recognize domestic violence and to develop public policies that could deal with this problem. While the previous Yugoslavia and particularly Slovenia display an early start of social movement activism compared to its then communist neighbors (Fink-Hafner, 1993), even its strong women's networks were not able to create sustained progress regarding the recognition of domestic violence (Jalusic, 2002). It was the impending membership in the European Union that brought the strategic possibility for the NGOs working with domestic violence victims to pressure their respective governments to substantively deal with this issue in the name of democracy and human rights.

Despite numerous difficulties in legitimizing their focus, many NGOs in Central Europe devised strategies to bring attention to domestic violence, create a public discourse, establish services for victims, and start to bring about legislative action. The Central European NGOs dealing with domestic violence developed a culturally and politically fitting, complex set of arguments to reflect the lessons learned from the gender politics of the communist past and the trends in international human rights and feminist discourse. Although political processes are increasingly globally interdependent, they are still in large part articulated through the processes of domestic politics (Smith, Charles, & Pagnuccio, 1997), where citizenship is still a powerful political weapon in the fight against women's subordination (Lister, 1998).

The NGOs used many creative street-shock techniques rooted in their home environments and they borrowed ideas or arguments from abroad.

First of all, the informal groups rather quickly formalized in Central Europe, because only by institutionalizing their structures could they apply for foreign and state funding. Second, NGOs in all Central European countries mounted public awareness campaigns to raise attention to their claims and to gather constituency. Some campaigns started out very humbly, with volunteers placing stickers of the hotline number on public vehicles (as NANE in Hungary [Szász, 2001]). The stickers were scrupulously removed each day by cleaning crews and then ‘miraculously’ reappeared overnight. Others in Slovenia plastered the stairs of busy intersections with the usual excuses of “falling of the stairs,” reminding people not to close their eyes to such obvious lies aimed at covering up physical abuse in the home. The public awareness-raising campaigns brilliantly applied popular folks songs (“What happened to you little girl?” in Slovenia) and juxtaposed it with the beaten image of a woman. The traveling expositions of the life-size cut-out images of “Silent Witnesses” (of women murdered by their husbands or partners, see <http://www.silentwitness.net>) and the “Clothesline Project” (also commemorating victims of domestic abuse, see <http://www.clothesline-project.org>) traveled seamlessly from the United States and Western Europe to many parts of Poland, Czech Republic, Slovakia, Hungary, and Slovenia. Due to mobilizations by letter writing and occasional popular protests, the NGOs working on domestic violence have managed to challenge the holy image of the nuclear family and reverse some of the trends of no-interference in the private sphere. They could achieve this feat by helping themselves to international connections as leverage points and feminist arguments that they adjusted to local surroundings. These NGOs constantly invited the media to their activities, used testimonies of survivors in town meetings and scientific conferences, wrote many open letters to national and local legislators and bureaucrats, and frequently and repeatedly cited the statistics of callers to their hotlines (because no other victim statistics were available). Due to the relentless activities of NGOs assisting domestic violence victims, the problem of domestic violence has shed its anonymity and has become an issue for public debate.

While the NGOs invoked feminist reasoning to draw attention to the gendered nature of domestic violence and supported their claims by citing international treaties (such as CEDAW, see appendix for dates) signed by each of these countries and referred to the norms of human rights, many groups were willing to work with gender-neutral terminology and a more traditional and child-centered image of the family, if that brought more allies and government cooperation as a result. Instead of a feminist-inspired women-specific focus as many NGOs intended, they could not dent the

media and policy focused on abuse of children, even if most data implied that women are the most frequent victims of domestic abuse. The bills and police directives were drafted in a gender-blind manner. The 1997 Amsterdam Treaty that these Central European countries became signatories to with their 2004 membership in the EU, curiously and counter-intuitively also added to the pressure to promote gender-neutrality in policy if the NGOs wanted to be successful in the legislative arena.

The numerous and heated conflicts about the naming of domestic violence (see above) and the pursuant debate on policy reveal that this issue touches on a raw nerve of unsettled gender issues and belongs to the list of long-neglected social problems affecting a large segment of the population. Democracy supposedly should not leave such large groups voiceless. However, one may agree with Arundhati Roy, stating that “We know of course there’s really no such thing as the ‘voiceless.’ There are only the deliberately silenced, or the preferably unheard” (Roy, 2004). It was the international women’s movement that first pointed out the devastation and injustice created by violence in the home and they stated that this violence disproportionately targets women and girls. The women’s movement worldwide argued rather successfully that human rights are also women’s rights.

### *5.2. Human Rights: Women’s Rights as Human Rights*

The diffusion of human rights norms both geographically and abstractly emerged as a consequence of global waves of democratization. Many scholars connect the emergence of and the pursuing debate on domestic violence to the achieved degree of democratization (Friedman, 1995; Kaplan, 2001). The debate on domestic violence can serve as a litmus test of the depth and maturity of democracy in Central Europe. How did the women’s movement break out of this silence and manage to frame domestic violence as part of the human rights agenda?

International trends in women’s human rights have inspired changes in state policies (Kerr & Sweetman, 2003; Lockwood & Ferguson, 1998). Since the 1970s, the international women’s movement has increasingly created public forums to denounce violations of women’s human rights. In the Beijing 1995 UN conference, defining human rights as women’s rights bridged the gaps between various national agendas. From orderly UN conferences to dramatic uninvited invasions of women wearing pink slips in the 2004 US Republican National Convention meeting in New York City, activists forced delegates to recognize violence against women in all its forms (for more examples, see Mertus & Goldberg, 1994).

The notion of human rights has become a pervasive element of contemporary international relations. Eventually incorporated into the laws of many countries (including those of Central Europe), the Universal Declaration of Human Rights of 1948, the European Convention on Human Rights of 1950, and the International Covenant on Civil and Political Rights of 1966, started to contest the exclusive model of politics and rights that were anchored in national sovereignty. Invocation of human rights established and advanced universal claims as it legitimated claims for rights both within and outside of national borders. However, these pieces of international law were mere vehicles without much power until the end of the Cold War. After the collapse of the Soviet system, the notion of human rights strengthened and expanded. It is evoked today with increased frequency and in an ever-widening circle of domestic and international issues, including the right to a clean environment, the right to marry, and also protection from domestic violence.

Until the 1990s, human rights used to be focused on torture, genocide, and similar extreme forms of abuse. In the past 15 years, the international women's movement (among others) broadened the meaning of human rights to include not just the most extreme and brutal, and often state-sponsored atrocities, but also to reveal and prosecute human rights violations that were hidden in the private sphere, including various sorts of specifically women's human rights.

Framing women's deprivations as a violation of human rights is not merely a shift in rhetoric, but a fundamental, legally oriented trend in social movement activism that has been taking place worldwide, possibly due to a global effect of American legal traditions which moved most social movement activities into the legal arena (see, e.g., on the peace movement Dewar, Abdul, Sol, & Ruete, 1986; on abortion Hull, William, & Hoffer, 2004; about hate crimes Jenness & Grattet, 2001; and on animal rights Silverstein, 1996 and Trägårdh, 2004). Groups providing for victims of domestic violence extended the meaning of human rights to relations in the private sphere. The NGOs pointed to the connection between a victim's survival and gender-sensitive state institutions, such as state-sponsored crisis intervention centers, domestic violence courts, and specially trained police officers who investigate rape and abuse charges. Without such provisions, they claim, the state is in flagrant violation of its duty to protect its citizens from abuse. Following the logic of the Tracy Thurman case in Torrington, CT after which US police were more inclined to intervene in domestic violence cases for fear of heavy fines after they were successfully sued for failing to protect a woman from battering despite many warnings from an estranged

partner,<sup>7</sup> Central European NGOs contemplated law suits using the same argument against their own governments to be submitted to the European Court of Human Rights in Strasbourg, France (Interviews 2003 and 2004).

Encouraged by international activism and increased attention to women's right to physical safety, Central European NGOs incorporated various elements of the international women's and shelter movements into their arguments to convince the public, their governments, and the international community of the value of their claims. Citing international statistics and emerging evidence from their home countries (Nikolic-Ristanovic, 2001; Morvai, 1998; Tóth, 1998), Central European NGOs dealing with domestic violence claimed that one in five women are battered. They launched a regional media campaign with the financial backing of the Open Society Institute (based on New York and Budapest) to shake up the public to recognize the severity of the issue by citing this dramatic number and using human rights as a general framework to back up their claims with.

The NGOs working to criminalize domestic violence linked their agenda with the broader international human rights agenda and they reached out to the West for material, intellectual, and ideological support. However, due to the process of global (quasi-deterritorialized) interchange of norms, the Central European NGOs developed rather differently than their predecessors in the West and they ended up rather dependent on both their foreign donors and the state. Such unintended consequences will likely influence their activities and, in the long run, the quality of democracy built.

### *5.3. Unintended Consequences: The Relationship of Central European Shelter NGOs with International Organizations and the State*

The weakness of civil society traditions in Central Europe pressed the emerging NGOs dealing with domestic violence victims to rely on state and/or international donors for survival. The "third sector" (as the broad array of NGOs are also called to distinguish it from state or private production) adjusted to the accounting requirements of the international and domestic founders, but this caused many unintended consequences. First of all, civil society, and within it the shelter groups, never became autonomous. Instead of relying on volunteers, the survival method among Central European associations was to be registered as an NGO, and to become quickly institutionalized and professionalized. Because they could not rely on their own resources, the NGOs immediately turned to outside funding sources, which also forced NGOs to employ professional staff, first for grant writing and upon its success, to contract social workers to lead or to replace volunteers.<sup>8</sup>

Second, the NGOs' foci came to reflect external funding expectations. To avoid competing for funds among one another, the main groups often informally divided up the roles of taking care of domestic violence victims, as happened between the three main provider organizations in Slovenia (Interviews, Association for Non-Violent Communication, Ljubljana, October 2004). Many NGOs also streamlined their operations and became more (single) issue-oriented and often professionalized.

The NGOs in the Central European post-communist countries, and especially the associations working with domestic violence victims, emerged rather differently from the trajectory of the similarly aimed Western European and North American groups. In Western Europe and North America, these groups originally organized largely on a volunteer basis, strictly following non-governmental and non-familial logic to shelter women battered by husbands and boyfriends. While the Western European and North American shelter NGOs emerged as an unaffiliated sphere between state, market, and family to protect women and only later, and even then only partially, accepted state funding, the Central European NGOs became immediately dependent on international donors and state funding. In the case of Russian shelter groups, this support reached a level of near full reliance on one major foreign financial supporter, the Ford Foundation (see Hemment, 2004; Henderson, 2000).

International support for NGOs has undoubtedly been crucial to promote democracy but dependence on foreign funding questions the quality and type of democracy built (Diamond, 1999, pp. 252–255). In the fight for institutional survival, especially when international donors move on to other parts of the world, NGOs also often turn to local and national governments for funding and become (partial) replacements for state social service providers.

Shelter NGOs all over the world have a rather contradictory relationship with the state. Just like its many Western counterparts, the Central European shelter movement struggles to shift responsibility for domestic violence victims to the state because they consider a person's basic safety as a basic human right and a (mostly unacknowledged) primary welfare right. Also, on a more practical level, they observe every day that battered persons need a wide array of public provisions and this frequent contact would also push the NGOs to establish a close connection with state representatives and service providers.

Over-reliance on state funding can easily compromise women's autonomy. Also, upon contracting the state or local government for supplying services for battered persons, NGOs offer an avenue to "offload public

provisions” (Banaszak, Beckwith, & Rucht, 2003, p. 7). By outsourcing services, states do not need to give an assurance that these services will be continued long term if the targeted population grows, or when conditions of austerity strike. These are gendered ramifications of neo-liberal “dumping” of responsibility on individuals, many of them women (Fraser, 1989).

Leapfrogging the independent stage in the development of shelter NGOs has become a liability for many Central European groups. Their close nexus with either the state or foreign donors created many unintended consequences. Some scholar-activists claim that “where feminists cannot create options beyond those three sites [of state, market, and family], women’s welfare, safety, and equality are profoundly compromised” (Brush, 2002, p. 169).

Another unintended consequence of the transparency and accountability requirements of state and foreign funding of social movement organizations in post-communist Europe is that the focus of women’s organizations moved from broad demands for more ephemeral goals, such as justice and gender equality, to much more narrowly defined themes. As these organizations began to institutionalize<sup>9</sup> in the form of NGOs, the ones that managed to survive and become successful most often became single issue-focused and professionalized. In contrast, the beginnings of the Western European and North American shelter organizations were organizationally and politically very different. The early shelter movement prided itself in not requiring official documentation from the women looking for a place to stay and emphasized awareness raising and community building as political education. While many former victims became shelter workers in the West, this step was largely left out in Central Europe because financial sponsors gave preference to professionally accredited service organizations whom they considered more trustworthy (and potentially less controversial).

#### *5.4. The Feedback from Central Europe*

What sort of effect, if any, did Central Europe exert on the various global forces about domestic violence policy? Is there any feedback mechanism toward global norms and international actors?

The various resistances toward gender-specific terminology and policy from Central Europe did not originally create, but may have strengthened, a move toward a gender-neutral and child-focused interpretation of domestic violence. NGOs in Central Europe found that by moving to a gender-neutral territory of interpretation at least they were more likely to be accepted in governmental-level deliberations about policy. The international shelter

movement, especially its feminist branch has found this accommodation unacceptably reinforcing women's traditional roles rather than raising gender consciousness (Geske & Bourque, 2001, p. 259; Itzin, 2000). Also, based on the CEDAW convention, such neutrality should have no legitimacy (Landsberg-Lewis, 1998, p. 3). However, some authors claim that when activists relinquished their most radical inclinations, then (West European and North American) states became less explicitly patriarchal (Elman, 2003).

With international norms and actors not forming one seamlessly coherent ideological or institutional whole, there is a lot of space for interpretation and adjustment to local conditions. With the United States experiencing a considerable conservative upsurge, feminist interpretations became less frequently supported on the governmental level than in the 1990s. Almost at the same time, the European Union also passed measures to establish gender mainstreaming which required both genders to be considered in the process of any decision- and policy-making (Pollack & Hafner-Burton, 2000; Rossilli, 2000). While ideologically quite differently rooted, the impact of these changes in the international scene was quite similar in toning down the explicitly gender-specific feminist claims of the shelter movement in general and in Central Europe in particular.

In addition to the international effects, the marginalization of feminist scholarship and practice on domestic violence is attributable to intense anti-feminist resistance in Central Europe (Acsády, 2004; Goven, 1993). The resistance to incorporating feminist perspectives into the terminology and policies on domestic violence is only surprising insofar as it prospers despite a generally broad conceptualization of welfare in Central Europe. The resistances emerging from the communist past and the re-emergent patriarchic values in post-communist Central Europe pushed the definition and the policies related to domestic violence toward a gender-neutral manner. Instead of recognizing women as the party most likely to be hurt by violence in intimate relations, politicians and policies in Central Europe exert extreme care in making 'balanced' statements where men and women are equally depicted as potential victims and in need of services to ameliorate their plight (For further examples, see Herczog, 2004; Sáfrány, 2003). To avoid slipping into the contested (gender) territories, a focus on children emerged as a solution, similarly to trends noted elsewhere (for the United Kingdom, see McGee, 2000).

On the one hand, the increasing frequency of exchange between citizens, their NGOs, respective governments, and international governmental and non-governmental organizations both feeds into and is facilitated by



globalization. Globalization affects Central Europe in multiple ways and forms. On the other, the post-communist Central European experience also affects the international norms and the organizations, but this reverse affect takes place often indirectly and covertly, if and when it meets already existing international trends.

To convincingly apply the emerging global norms of democratization and human rights to Central Europe regarding the terminology of and policies about domestic violence required that both the domestic and the international actors incorporate some of each other's arguments and account for this region's history, politics, and culture. After all, Central Europe did not have to 'fall into line' with the other countries. However, it had relatively little maneuvering ground in the face of globalization, which allowed for the human rights and women's rights networks to emerge and connect internationally. These rights frameworks provided a powerful set of arguments that was hard to totally neglect, and consequently, it propelled the discussion on domestic violence into the public arena of all of these Central European countries. Based on the assumption of universality of human rights, there is the possibility of a common, even if culturally modified and contested, gender equality element in need of adjudication. Domestic NGOs, most often with a feminist dedication, grasped this opportunity and provided evidence that domestic violence has been just as much a pandemic in Central Europe as it is in the West. After local NGOs established their definition of domestic violence and made some preliminary policy recommendations, they followed up in quick succession by framing domestic violence as a human rights violation and on this basis have demanded legal changes and pushed for a broader set of services to provide for these vulnerable (battered) segments of the population. These local NGOs dealing with domestic violence applied a mix of global and national signifiers (i.e., symbols), values, and arguments to further their case before parliaments and broader publics. As these shelter NGOs find a niche in the political environment to voice their claims, they continue to vigorously apply both domestic and global pressures to secure a receptive audience.

## 6. CONCLUSION

Only after the regime changes of 1989 could women's rights NGOs emerge in Central Europe and draw attention to violence against women in the private sphere. They largely deconstructed the previous denial of domestic violence: their arguments undermined the notion that such events are

nonexistent or extremely rare, and they attempted to rebuild the concept of domestic violence based on gender inequality. Their effort to change public perception amounted to a political-cultural shift in the understanding of violence among intimate partners. In the past few years, domestic violence has emerged as a central issue that parliamentarians, police, judges, social workers, and activists are beginning to debate. What has changed in the domestic and the international environment that allowed this policy change?

The movements across Central Europe on domestic violence have been interconnected both regionally and internationally in their aims and methods. The most active Central European NGOs have been fundamentally influenced by exposure to feminist interpretations and the international human rights agenda. The NGOs skilfully maneuvered around their own national state apparatus to find a leverage point by raising the image (even if not else) of international expectations, thereby applying a threat of a boomerang effect (Keck & Sikkink, 1998).<sup>10</sup> These efforts affected and opened public space and made visible what was the otherwise invisible phenomenon of domestic violence.

The emerging network of communication and coordination among the activists dealing with domestic violence testifies how culture (note here the traveling concepts and methods of mobilization), power, and public space are increasingly interconnected and becoming transnational in the process (Guidry, Kennedy, & Zald, 2000). Without the globalization of human rights issues, the spread of corresponding legal concepts, increasing personal connections and information networks, the mobilization of activists on domestic violence would not have taken place merely after a decade of the 1989 revolutions in Central Europe (see Colás, 2002; Keck & Sikkink, 1998 for explanations of the emerging transnational networks of civil society).

The new traveling nature of human rights reflects a different logic and praxis of the international system. Rights previously defined as national (in Western liberal frameworks) are becoming entitlements, globally legitimized on the basis of personhood. The normative framework for, and the legitimacy of, this model derive from transnational discourse and structures that choose to raise human rights as a world-level organizing principle. The expansion of political discourse beyond national closure establishes a “de-territorialized” (Scholte, 2000), or “post-national” (Soysal, 1994) polity. The global system shapes the parameters of membership: aspects that have been crucial in Central Europe’s reintegration to the European (EU), transatlantic (NATO) and global (UN, etc.) political, cultural, and economic currents through at least nominal democratization and the incorporation of human rights.

Even though a positive parliamentary decision recognizing domestic violence emerged under ambivalent circumstances in Hungary and Slovakia, the Hungarian government has not yet acted on this mandate as of February 2005, and in Poland, the Czech Republic, and Slovenia legal changes that would directly address domestic violence seem distant. In sum, the results of mobilizations to recognize the severity of domestic violence remain rather diverse as of 2004. The tedious contestations of how to define, prevent, and deal with domestic violence prove that the political discourse is only partially, and only under duress, willing to show a readiness for integrating voices that challenge the status quo of existing gender hierarchies. From the viewpoints of activists and victims of domestic violence, the political aim of accession to the European Union and the image of returning to the community of democratic nations that observe human rights have been proven at least partially helpful in their image because it enabled social movement activists to challenge dominant discourses more successfully.

The contested nature of dealing with domestic violence in Central Europe, and especially the fact that shelter NGOs have unequivocally encountered major opposition in their plight, demonstrate how low intensity is the current state of democracy particularly regarding women's issues and gender equality. Its general requirements can be qualified as establishing the common denominator in the form of regular electoral competition and it is exceedingly difficult to nudge publics and political representatives beyond this threshold. Social movements, most often taking the institutional form of NGOs (domestically and internationally) counter this "low-intensity" democracy to forge democracy from below. The social movements via various NGOs have implicitly developed a "high-intensity" version of democracy that provides a much broader alternative to the minimalist form by inviting a higher number of people to a more intense exchange of views and actions. Social movements accomplish this feat by connecting the domestic policy scene to other locations worldwide. The debates around the definition and policy of domestic violence present not just one more case study where the depth of democratization can be measured, they also provide us with evidence of the transformative power of global interactions.

The discourse about domestic violence in five neighboring post-communist Central European countries portrays globalization in a complex manner. Accounting for the many and often powerful international norms and institutions that influence Central European countries to confront domestic violence one could conclude that globalization could be conceptualized as deterritorialization, as Jan Art Scholte (2000) suggested. However, at least

two observations emerging from this study on domestic violence caution against an exclusive endorsement of this conceptualization of globalization. First, when we distinguish between global inputs and their outputs, the input of the diverse global influences about domestic violence in Central Europe may indeed correspond to the concept of deterritorialization, but the output recalls the image of globalization as modernization that implies the replication of the Western European and especially American (US) value orientations in this part of the world. Modernization as an effect of globalization can be traced in quite a few venues concerning how Central European countries have decided to deal with the new concept of domestic violence. For example, the emergence of the shelter movement in Central Europe has responded to and shaped itself according to Western foundations' and governmental institutions' criteria of concrete and achievable projects by leaving behind broad welfare calls and instead focus on single-item themes with a mostly professional staff. The US litigation-based social movement model has been unexpectedly effective in influencing policies regarding domestic violence in Central Europe, in spite of its uncomfortable fit with the legal and cultural practices of the region (Smolens, 2001). Second, there is a telling disequilibrium between the strong transformative power of global effects and the relatively weak and conditional regional feedback to these global norms and institutions. The global forces exert a much stronger influence in Central Europe regarding domestic violence (e.g., even prompting the 'discovery' of this issue!) than forces from this region can impact upon international norms and institutions. The interpretations and policies regarding domestic violence resemble so much of Western, especially American conceptualizations that it amounts to a hierarchy between global impacts, undermining the relatively mutual interference implied by the term deterritorialization.

The interactions between the Central European governments, domestic NGOs, and international organizations demonstrate that activist networks in the region could integrate their claims into the more established traditional political channels of parliament, law, and police. It is also important to note, however, that this success is only partial because recognition of domestic violence is still limited in the laws and barely implemented in jurisprudence and in the practice of the police. Institutionalization of the procedures recommended by NGOs' claims has hardly begun. This study can assist in discovering where the blockages to democratization lie when the social problem at hand is long neglected as domestic violence is, even though it impacts a large, and currently still largely silenced segment of the population.

## NOTES

1. See [White, Batt, and Lewis \(1998, 2003\)](#) as a particularly demonstrative example of the changing regional segregation. The narrowest definition of the region consists of Austria, Moravia, and Bohemia (the latter two form today's Czech Republic), while the broadest conception includes all the countries between the western- and southernmost countries of Europe and Russia. The term Central and Eastern Europe as consisting of Poland, the Czech Republic, Slovakia, Hungary, and Slovenia was developed here by navigating between these two extreme definitions and by basing it on recent political and economic processes, such as EU accession.

2. After the fall of communism, Poland, Hungary, and the then Czechoslovakia created the Visegrad countries based on some medieval tradition to inform each other and to coordinate their relations with the EU and NATO. After the dissolution of Czechoslovakia in 1992, Slovakia did not participate in these regular gatherings of prime ministers. A change of government eventually allowed Slovakia to start expedited negotiations with the EU and they were invited to rejoin the Visegrad group. Slovenia was also requested to join this group in spite of this country's stronger affiliation with the now (mostly) independent republics of the former Yugoslavia. See also [Dangerfield, 2001](#).

3. Regimes are coherent systems through which people signify and contest meanings. The rules of the regime establish political subject location and allow for a calculation of costs and benefits for individual and collective action. Policy regimes "are patterns across a number of areas of policy" ([O'Connor, Orloff, & Shaver, 1999](#), p. 12) and in the context of social provision regimes, they connote a system of policy interventions and regulation. A regime is differentiated from a belief system by its adherents commanding sufficient resources to reward and punish, for example by law, moral arguments, military, or money. Besides the rather limiting economic interest-based calculations, the rhetoric and the symbolism of regimes and regime changes are also recently gaining attention (see [Schimmelfennig, 2003](#); [Adams & Padamsee, 2002](#)).

4. The idealization of the home as the one reliably safe place in life supposedly created more of an alliance between men and women as they faced the state as a tyrant intruder during times of oppression in communism. This resistance was coined the "politics of anti-politics" ([Kondrád, 1984](#)). The deepest moral shocks about the depth of the state's infiltration emerged in the previous DDR and Romania where secret service documents showed that family members also (were forced to) spy against one another ([Childs & Popplewell, 1996](#); [Deletant, 1995](#)).

5. With the exception of Slovenia, the 2003 national campaigns were funded by the Women's Network of the New York based Soros Foundation's Open Society Institute.

6. In 2001, Philip Morris officials in the Czech Republic distributed an economic analysis concluding that cigarette consumption was helping the country's budget, in part because smokers' early deaths help offset medical expenses (<http://www.mindfully.org/Industry/Philip-Morris-Czech-Study.htm>). A firestorm of controversy erupted over the report and Phillip Morris was forced to apologize. ([http://www.cancer.org/docroot/NWS/content/update/NWS\\_1\\_1xU\\_Philip\\_Morris\\_Touts\\_Dying\\_Smokers\\_As\\_Savings\\_Benefit.asp](http://www.cancer.org/docroot/NWS/content/update/NWS_1_1xU_Philip_Morris_Touts_Dying_Smokers_As_Savings_Benefit.asp))

7. In *Thurman v. City of Torrington*, 595 F. Supp. 1521 (D. Conn. 1984), police protection was found differentially withheld from women victims assaulted by male intimates, denying such women equal protection of the laws on the basis of gender. In 1984, municipal governments across the USA took notice when Torrington, CT was ordered to pay \$2.3 million to Tracy Thurman (*Thurman*, 595 F. Supp., at 1528 n. 1.). The 1994 passage of the Violence against Women Act (VAWA), 108 Stat. 1796 (1994), was a sign of legislatively acknowledging violence such as rape and domestic battering as sex-based discrimination and considered serious enough to be granted federal jurisdiction. The 1994 VAWA represented a major achievement as the criminal justice system abdicated women to the extent that a new legal remedy in their own hands was systemically required. If existing criminal laws had protected victims of crime equally, this new provision, like so many civil rights laws passed by US Congresses before it, would not have been necessary. However, as Janet Reno's memo later showed, even the Attorney General remained unconvinced about the need to pursue domestic violence cases. This prosecutorial apathy toward gender-specific legislation already signaled a dwindling enthusiasm for supporting explicitly feminist causes at home, and especially, with US foreign policy and aid.

8. In the process of professionalization, NGOs may lose their connection to social movements. Shelters may become like state social service agencies, excluding most women from participation (Morgan, 1981). Similar tensions emerged between the broad issue-based grassroots organizations and NGOs in Latin America, where NGOs' international engagement has exacerbated the gap between those with skills in international diplomacy and the average activist population (see Geske & Bourque, 2001).

9. Meyer and Tarrow (1998) define institutionalization as a process that can "allow dissidents to lodge claims and permit states to manage dissent without stifling it" (p. 21).

10. Keck and Sikkink demonstrate that local activist networks can exert pressure on their own governments via their international connections. Local NGOs, when blocked by authoritarian rule or other obstacles to reach their own governments, contact their counterparts abroad, who in return enter into dialogue with their government. This foreign government then can exert direct leverage onto the original country's leadership in return, thereby finishing the return of the "boomerang."

## ACKNOWLEDGMENT

This research was made possible by the summer research grant of the National Endowment for the Humanities (FT-52529-04) and a short-term research grant by IREX.

## REFERENCES

- Acsády, J. (2004). *Emancipáció és Identitás (Emancipation and Identity.)* Ph.D. dissertation, Sociology Department, ELTE, Budapest, Hungary.

- Adams, J., & Padamsee, T. (2001). Signs and regimes: Re-reading feminist work on welfare states. *Social Politics*, 8(1), 1–23.
- Adams, J., & Padamsee, T. (2002). Signs and regimes revisited. *Social Politics*, 9(2), 161–186.
- Aslanbegui, N. (1994). New York: Routledge.
- Banaszak, L. A., Beckwith, K., & Rucht, D. (Eds.). (2003). When power relocates: Interactive changes in women's movements and states. In: *Women's movements facing the reconfigured state* (pp. 1–29). Cambridge, UK: Cambridge University Press.
- Beck, U. (2000). In: P. Camiller (Trans.), *What is globalization?* Cambridge: Polity Press.
- Brown, W. (1995). *States of injury: Power and freedom in late modernity*. Princeton, NJ: Princeton University Press.
- Brush, L. (2002). Changing the subject: Gender and welfare regime studies. *Social Politics*, 9(Summer), 161–186.
- Buzawa, E., & Buzawa, C. (2002). *Domestic violence: The criminal justice response*. Thousand Oaks, CA: Sage.
- Charlton, S. E. M., Everett, J., & Staudt, K. (Eds) (1989). *Women, the state, and development*. Albany, NY: State University of New York Press.
- Childs, D., & Popplewell, R. (1996). *The Stasi: The East German intelligence and security*. New York, NY: New York University Press.
- Colás, A. (2002). *International civil society*. Malden, MA: Polity Press.
- Cox, R. W., & Schecter, M. G. (2002). *The political economy of a plural world: Critical reflections on power, morals, and civilization*. London: Routledge.
- Dangerfield, M. (2001). Subregional cooperation in Central and Eastern Europe: Support or substitute for the return to Europe? *Perspectives on European Politics and Society*, 2(1), 55–77.
- Deanham, D., & Gillespie, J. (1999). *Two steps forward. one step back*. Canada: Family Violence Prevention Unit, Health Canada.
- Deletant, D. (1995). *Ceausescu and the securitate: Coercion and dissent in Romania, 1965–1989*. Armonk, NY: M.E. Sharpe.
- Dewar, J., Paliwala, A., Picciotto, S., & Ruete, M. (Eds) (1986). *Nuclear weapons, the peace movement and the law*. Houndmills: Macmillan.
- Diamond, L. (Ed.) (1999). *Developing democracy: Toward consolidation*. Baltimore: Johns Hopkins University Press.
- Dobash, E., & Dobash, R. (1992). *Women, violence and social change*. New York: Routledge.
- Dogan, M., & Pelassy, D. (1990). *How to compare nations: Strategies in comparative politics*. Chatham, NJ: Chatham House Publishers.
- Dougherty, P.J. (2004). The wealth of nations: A Publisher considers the literature on globalization. *Chronicle of Higher Education/The Chronicle Review*, 50(45) p. B6.
- Elman, A. R. (2003). Refuge in reconfigured states: Shelter movements in the United States, Britain, and Sweden. In: L. A. Banaszak, K. Beckwith & D. Rucht (Eds), *Women's movements facing the reconfigured state* (pp. 94–113). Cambridge, UK: Cambridge University Press.
- Elshtain, J. B. (1995). *Public man, private woman: Women in social and political thought* (2nd ed.). Princeton, NJ: Princeton University Press.
- Falk, R. (2003). Globalization-from-below: An innovative politics of difference. In: R. Sandbrook (Ed.), *Civilizing globalization: A survival guide* (pp. 189–205). Albany: State University of New York Press.
- Ferguson, Y., & Rosenau, J. (2003). Superpowerdom and before and after September 11, 2001: A postinternational perspective. Paper presented at the annual meeting of the International Studies Association, Portland, OR.

- Fink Hafner, D. (1993). Political modernization in Slovenia in the 1980s and the early 1990s. *Journal of Communist Studies*, 8(4), 210–226.
- Fodor, E. (2003). *Working difference: Women's working lives in Hungary and Austria, 1945–1995*. Durham, NC: Duke University Press.
- Fraser, N. (1989). *Unruly practices: Power, discourse, and gender in contemporary social theory*. Minneapolis: University of Minnesota Press.
- Friedman, E. (1995). Women's human rights: The emergence of a movement. In: J. Peters & A. Wolper (Eds), *Women's rights human rights: International feminist perspectives* (pp. 8–35). New York: Routledge.
- Friedman, T. (1999). *The lexus and the olive tree*. New York: Farrar, Straus, Giroux.
- Funk, N., & Mueller, M. (Eds) (1993). *Gender politics and post-communism: Reflections from Eastern Europe and the Former Soviet Union*. New York: Routledge.
- Gal, S., & Kligman, G. (2000a). *Politics of gender after socialism: A comparative historical essay*. Princeton, NJ: Princeton University Press.
- Gal, S., & Kligman, G. (Eds) (2000b). *Reproducing gender: Politics, publics and everyday life after socialism*. Princeton, NJ: Princeton University Press.
- Geske, M., & Bourque, S. (2001). "Grassroots organizations and women's human rights" meeting the challenge of the local-global link. In: M. Agosin (Ed.), *Women, gender, and human rights: A global perspective* (pp. 240–264). New Brunswick, NJ: Rutgers University Press.
- Giddens, A. (2000). *Runaway world: How globalization is reshaping our lives*. New York: Routledge.
- Goven, J. (1993). *The gendered foundations of Hungarian state socialism*. Ph.D. dissertation, University of California, Berkeley.
- Gramsci, A. (1971). *Selections from the prison notebooks*. In: Quintin Hoare, & Geoffrey Smith (Trans.). New York: Lawrence and Wishart.
- Gramsci, A. (2000). *The gramsci reader: Selected writings 1916–1935*. In: D. Forgacs (Ed.). New York: New York University Press.
- Grewal, I. (2004). *Transnational America: Feminisms, diasporas, neoliberalisms*. Chapel Hill, NC: Duke University Press.
- Guidry, J. A., Kennedy, M., & Zald, M. (Eds) (2000). *Globalizations and social movements: Culture, power and transnational public sphere*. Ann Arbor, MI: University of Michigan Press.
- Hanmer, J., & Itzin, C. (Eds) (2000). *Home truths about domestic violence: Feminist influences on policy and practice*. New York: Routledge.
- Heise, L., Pitanguy, J., & Germain, A. (Eds). (1994). *Violence against Women: The Hidden Health Burden*. World Bank Discussion Paper no. 255, World Bank, Washington, DC.
- Hemment, J. (2004). Global civil society and the local costs of belonging: Defining violence against women in Russia. *Signs*, 29(3), 815–840.
- Henderson, S. (2000). Importing civil society. *Demokratizatsia*, 8(1), 65–82.
- Herczog, M. (2004). Erőszak a családban (violence in the family). *Fundamentum: Az Emberi Jogok Folyóirata (Journal of Human Rights)*, 8(3), 82–85.
- Howard, M. M. (2003). *The weakness of civil society in post-communist Europe*. Cambridge, UK: Cambridge University Press.
- Hull, N. E. H., Hoffer, W. J., & Hoffer, P. C. (Eds) (2004). *The abortion rights controversy in America: A legal reader*. Chapel Hill, NC: University of North Carolina Press.
- Huntington, S. (1991). *The third wave: Democratization in the late twentieth century*. Norman, Oklahoma: University of Oklahoma Press.



- Inglehart, R., & Norris, P. (2003). *Rising tide: Gender equality and cultural change around the world*. Cambridge, UK: Cambridge University Press.
- Itzin, C. (2000). Gendering domestic violence: The influence of feminism on policy and practice. In: J. Hanmer & C. Itzin (Eds), *Home truths about domestic violence: Feminist influences on policy and practice – A reader* (pp. 356–380). New York: Routledge.
- Jalusic, V. (2002). *Kako smo hodile v feministično gimnazijo*. (How We Attended Feminist Gymnasium.) Zaloba /\*cf: Ljubljana, Slovenia.
- Jefferson, L. (2003). Refusing to go away: Strategies of the women's rights movement. *Human Rights Dialogue*, 2(10) (Fall). <http://www.carnegiecouncil.org/viewMedia.php/prmID/1060>.
- Jenness, V., & Grattet, R. (2001). *Making hate a crime: From social movement to law enforcement*. New York, NY: Russell Sage.
- Johnson, J. E. (2003). International norms or domestic feminism: Naming violence against women on postcommunist Russia. Paper presented at the 2003 annual convention of AAASSS, Toronto, CA.
- Johnson, J. E., & Brunell, L. (2007). The emergence of contrasting domestic violence regimes in post-communist Europe, Policy & Politics, Forthcoming.
- Kaplan, T. (2001). Women's rights as human rights: Women as agents of social change. In: M. Agosin (Ed.), *Women, gender, and human rights: A global perspective* (pp. 191–204). New Brunswick, NJ: Rutgers University Press.
- Keck, M., & Sikkink, K. (1998). *Activists beyond borders: Transnational activist networks in international politics*. Ithaca, NY: Cornell University Press.
- Kerr, J., & Sweetman, C. (Eds) (2003). *Women reinventing globalisation*. Oxford: Oxfam.
- Konrád, G. (1984). *Antipolitics: An Essay*. Translated from the Hungarian by Richard E. Allen. San Diego, CA: Harcourt, Brace, Jovanovich.
- Kotkin, S. (2001). *Armageddon averted: The soviet collapse 1970–2000*. Oxford: Oxford University Press.
- Landsberg-Lewis, I. (Ed.), (1998). Introduction. In bringing equality home: Implementing the convention on the elimination of all forms of discrimination against women. New York: UNIFEM. (pp. 1–12). Also available at [http://www.unifem.org/index.php?f\\_page\\_pid=151](http://www.unifem.org/index.php?f_page_pid=151).
- Langley, W. (Ed.) (1991). *Women's rights in international documents: A sourcebook with commentary*. Jefferson, NC: McFarland.
- Lister, R. (1998). *Citizenship: Feminist perspectives*. New York: New York University Press.
- Lockwood, C. E., & Ferguson, A. (Eds) (1998). *The international human rights of women: Instruments of change*. Washington, DC: American Bar Association, Section of International Law and Practice.
- MacKinnon, C. (1989). *Toward a feminist theory of the state*. Cambridge, MA: Harvard University Press.
- Mahoney, M. R. (1994). Victimization of oppression? Women's lives, violence, and agency. In: M. A. Fineman & R. Mykitiuk (Eds), *The public nature of private violence* (pp. 59–92). New York: Routledge.
- Marcus, I. (1994). Reframing domestic violence: Terrorism in the home. In: M. A. Fineman & R. Mykitiuk (Eds), *The public nature of private violence* (pp. 11–35). New York: Routledge.
- Marcus, I. (Forthcoming). Dark numbers: Domestic violence, law, and public policy in Russia, Poland, Romania, and Hungary. Manuscript.

- Mazur, A. (Ed.) (2001). *State feminism, women's movements, and job trainings: Making democracies work in a global economy*. New York, NY: Routledge.
- McGee, C. (2000). Children's and mothers' experiences of support and protection following domestic violence. In: J. Hanmer & C. Itzin (Eds), *Home truths about domestic violence: Feminist influences on policy and practice – A reader* (pp. 77–95). New York: Routledge.
- McMahon, R. (2005). Peripheral visions: Central and Eastern European states are bringing new energy to the human rights debate at the UN. *Transitions On-Line* (TOL) (<http://www.tol.cz>). January 26.
- Mertus, J., & Goldberg, P. (1994). A Perspective on women and international human rights after the Vienna Declaration: The inside/outside construct. *New York University Journal of International Law and Politics*, 26(78), 201–230.
- Meyer, D., & Tarrow, S. (1998). A movement society: Contentious politics for a new century. In: D. Meyer & S. Tarrow (Eds), *The social movement society* (pp. 1–28). New York: Rowman and Littlefield.
- Mills, L. (2003). *Insult to injury: Rethinking our responses to intimate abuse*. Princeton, NJ: Princeton University Press.
- Mittelman, J. (2002). Globalization: An ascendant paradigm? *International Studies Perspectives*, 3(1), 1–14.
- Mittelman, J. (2004). What is critical globalization studies? *International Studies Perspectives*, 5(3), 219–230.
- Morgan, P. (1981). From battered wife to program client: The state's shaping of social problems. *Kapitalistate*, 9, 17–39.
- Morvai, K. (1998). *Terror a családban: a feleségbántalmazás és a jog. (Terror in the family: Wife-battering and the law.)*. Budapest: Kossuth.
- Nikolic-Ristanovic, V. (2001). Violence against women in post-communist societies: Benefits and changes. Washington, DC: Woodrow Wilson Center East European Studies Papers.
- O'Connor, J., Orloff, A., & Shaver, S. (1999). *States, markets, families: Gender, liberalism and social policy in Australia, Canada, and Great Britain*. Cambridge: Cambridge University Press.
- Pateman, C. (1988). *The sexual contract*. Stanford, CA: Stanford University Press.
- Paxton, P. (2002). Social capital and democracy: An interdependent relationship. *American Sociological Review*, 67, 254–277.
- Penn, M., & Nardos, R. (2003). *Overcoming violence against women and girls: The international campaign to eradicate a worldwide problem*. Lanham, MD: Rowman and Littlefield.
- Peterson, V. S., & Runyan, A. S. (1999). *Global gender issues* (2nd ed.). Boulder: Westview Press.
- Phillips, A. (1991). *Engendering democracy*. University Park, PA: Pennsylvania State University Press.
- Pieterse, J. N. (2004). *Globalization and culture*. Boulder, CO: Rowman and Littlefield.
- Pollack, M. A., & Hafner-Burton, E. (2000). Mainstreaming gender in the European Union. *Journal of European Public Policy*, 7(1), 432–456.
- Putnam, R. (2000). *Bowling alone: The collapse and revival of American community*. New York: Simon and Schuster.
- Putnam, R. with R. Leonardi and R. Nanetti. (1993). *Making democracy work: Civic traditions in modern Italy*. Princeton, NJ: Princeton University Press.
- Regulska, J. (2003). Constructing supranational political spaces: Women's agency in an enlarged Europe. Paper presented at the 2003 annual convention of AAASSS, Toronto, Canada.

- Renzetti, C., Edleson, J., & Bergen, R. K. (Eds) (2001). *Sourcebook on violence against women*. Thousand Oaks, CA: Sage.
- Riley, D. (1988). *Am I that name? Feminism and the category of women in history*. Minneapolis: University of Minnesota.
- Risse, T., Ropp, S. C., & Sikkink, K. (Eds) (1999). *The power of human rights: International norms and domestic change*. New York: Cambridge University Press.
- Roskin, M. (2002). *The rebirth of east Europe*. Upper Saddle River, NJ: Prentice Hall.
- Rossilli, M. (2000). *Gender policies in the European Union*. New York: P. Lang.
- Roy, A. (2004). Peace and the new corporate liberation theology. (The 2004 Sydney Peace Prize Lecture), November 04, [http://www.usyd.edu.au/news/newsevents/articles/2004/nov/04\\_arundhatispeech.shtml](http://www.usyd.edu.au/news/newsevents/articles/2004/nov/04_arundhatispeech.shtml).
- Sáfrány, R. (2003). *Public and political discourse on domestic violence in Hungary: The prospects and limits of feminist strategies*, MA thesis, Central European University, Budapest.
- Sainsbury, D. (Ed.) (1999). *Gender and welfare state*. Oxford and New York: Oxford University Press.
- Sassoon, A. S. (Ed.) (1987). *Women and the state: The shifting boundaries of public and private*. London: Hutchinson Education.
- Schechter, S. (1982). *Women and male violence: The visions and struggles of the battered women's movement*. Boston, MA: South End Press.
- Schimmelfennig, F. (2003). *The EU, NATO and the integration of Europe: Rules and rhetoric*. Cambridge: Cambridge University Press.
- Scholte, J. A. (2000). *Globalization: A critical introduction*. New York, NY: St. Martin's Press.
- Sewell, W., Jr. (1992). A theory of structure: Duality, agency, and transformation. *American Journal of Sociology*, 98, 1–29.
- Silverstein, H. (1996). *Unleashing rights: Law, meaning, and the animal rights movement*. Ann Arbor, MI: University of Michigan Press.
- Smith, J., Chatfield, C., & Pagnuccio, R. (Eds) (1997). *Transnational social movements and global politics*. Syracuse, NY: Syracuse University Press.
- Smith, J., & Johnston, H. (Eds) (2002). *Globalization and resistance: Transnational dimensions of social movements*. Lanham, MD: Rowman and Littlefield.
- Smolens, S. (2001). Violence against women: Consciousness and law in four Central European emerging democracies: Poland, Hungary, Slovakia, and the Czech Republic. *Tulane Civil Law Forum*, 15–16, 1–42.
- Soyсал, Y. N. (1994). *Limits of citizenship: Migrants and postnational membership in Europe*. Chicago: University of Chicago.
- Stychin, C. (2003). *Governing sexuality: The changing politics of citizenship and law reform*. Oxford, UK and Portland, OR: Hart.
- Szász, A. (2001). A bántalmazott nők életét, érdekeit védő szervezetek (Organizations that protect battered women) *Esély: Társaság-és szociálpolitikai folyóirat* (Opportunity: Journal of Society and Social Policy), 12(3). <http://www.szochalo.hu/folyoiratok/hircentrum/article/101358/1299/>
- Thomas, D. C. (2001). *The Helsinki effect: International norms, human rights, and the demise of communism*. Princeton, NJ: Princeton University Press.
- Tierney, K. (1982). The battered women's movement and the creation of the wide beating problem. *Social Problems*, 29(3), 207–220.
- Tóth, O. (1998). In: K. Lévai, T. Gyulavári, R. Kiss (Trans.), *Erőszak a családban*. [Violence in the family] *Vegyesváltó* [Mixed Relay]. Budapest: Egyenlő Esélyek Alapítvány.

- Trägårdh, L. (Ed.) (2004). *After national democracy: Rights, law and power in America and the New Europe*. Oxford, England: Hart.
- Walby, S. (2004). *The cost of domestic violence*. Research Summary. United Kingdom Home Office Research Study 217. The full report is available at: <http://www.womenandequalityunit.gov.uk>
- Warrior, B. (1976). *Wife beating*. Somerville, MA: New England Free Press.
- Webster. (1961). *Webster's third new international dictionary of the english language unabridged*. Springfield, MA: Merriam-Webster Inc.
- Weldon, L. (2002). *Protest, policy, and the problem of violence against women: A cross-national comparison*. Pittsburgh: University of Pittsburgh Press.
- White, S., Batt, J., & Lewis, P. G. (Eds) (1998). *Developments in Central and East Europe*, (2nd ed.). Durham, NC: Duke University Press.
- White, S., Batt, J., & Lewis, P. G. (Eds) (2003). *Developments in Central and East Europe*, (3rd ed.). Durham, NC: Duke University Press.
- Young, I. M. (1995). Gender as seriality: Thinking about women as a social collective. In: B. Laslett, J. Brenner & Y. Arat (Eds), *Rethinking the political: Gender, resistance, and the state* (pp. 158–183). Chicago, IL: The University of Chicago Press.

## APPENDIX

### AREAS OF CHANGE BY DATE AND COUNTRY

|  | Czech Republic                                       | Slovenia  | Slovakia                                    | Poland  | Hungary   |
|--|--|---|---|---|---|
| Police/legal Professional Training                         | 2002 <sup>1</sup>                                    | 1999 <sup>5</sup><br>2001 <sup>6</sup>                      | 2000 <sup>3</sup>                           | 2000 <sup>4</sup>   | 1994 <sup>4</sup><br>2002 <sup>2</sup>                      |
| Hotline/shelters   | 2000 <sup>2</sup>                                    | 1989 <sup>1</sup><br>1996 <sup>4</sup>                      | 1992 <sup>6</sup>                           | 1995 <sup>2</sup><br>1999 <sup>4</sup><br>2000 <sup>4</sup> | 2002 <sup>2</sup>   |
| Government \$ support of NGOs                              | 2002 <sup>3</sup>                                    |   |   |   |   |
| Government-sponsored public awareness campaigns            | 1998 <sup>4</sup><br>2001 <sup>5</sup>               | 1993 <sup>3</sup>   |   | 1995 <sup>2</sup><br>1999 <sup>4</sup>                      |   |
| Creation of specific government offices for women's rights |  | 1992 <sup>2</sup>   | 1991 <sup>1</sup><br>1995/1996 <sup>2</sup> | 1986 <sup>1</sup>   |   |
| Bills, laws  | July 1997 <sup>6</sup><br>December 2003 <sup>9</sup> | 1993 <sup>8</sup>   | April 2002 <sup>5</sup>                     | April 1997 <sup>3</sup>                                     | 1997 <sup>3</sup>   |
| Social movements   | 1998 <sup>7</sup>                                    | 1994 <sup>7</sup><br>1999 <sup>6</sup>                      | 2001 <sup>7</sup>                           | 1999 <sup>4</sup>   | 1994 <sup>4</sup>   |
| TV/media awareness campaign                                | 2000 <sup>1</sup>                                    | 1992 <sup>7</sup><br>1996 <sup>6</sup><br>1998 <sup>7</sup> | 2001 <sup>7</sup>                           | 1998 <sup>5</sup>   | 1994 <sup>4</sup>   |
| Lobbying parliament for domestic violence laws             | 2002 <sup>8</sup>                                    |   | 2000 <sup>4</sup>                           | 2000 <sup>6</sup>   | 1994 <sup>4</sup><br>1997 <sup>3</sup><br>2002 <sup>1</sup> |
| Ratifies UN's CEDAW <sup>a</sup>                           | February 1987  | July 1992   | May 1993                                    | May 1980  | June 1980   |
| Ratifies CEDAW's optional protocol                         | 2001 <sup>10</sup>                                   | 2004  | 2000  | 2003  | 2000  |

<sup>a</sup>All dates provided by UN CEDAW. Available: <http://www.un.org/womenwatch/daw/cedaw/states.htm>.

#### Czech Republic Footnotes

<sup>1</sup>The Code of Criminal Procedure Act 265, regulating prosecution for domestic violence cases, was distributed to police. The Government initiated plans for a special training course for police on how to deal with victims of domestic violence. "Committee Experts Applaud Czech Republic's political will to implement Convention on elimination of discrimination against women." UN Press Release. August 9, 2002. Lexis-Nexis.

<sup>2</sup>The WCS and Czech TV produced a half-hour documentary about domestic violence. *Source*: <http://www.bkb.cz>. Referring to NGOs, the US State Department cited 107 state-supported shelters located in most major cities and towns that took in women who were victims of rape or abuse in 2003. Bureau of Democracy, Human Rights, and Labor. 2004. *2003 Country Reports on Human Rights Practices* February 25. <http://www.state.gov/g/drl/rls/hrrpt/2003/27833.htm>.

<sup>3</sup>NGOs (shelters) received government subsidies. UN CEDAW Report: Brief Comments on the Czech Republic. 1998. *Source*: <http://www.un.org/womenwatch/daw/cedaw/18report.pdf>.

<sup>4</sup>Press Notes – "Committee Experts Applaud Czech Republic's political will to implement

Convention on elimination of discrimination against women.” UN Press Release. August 2002.

<sup>5</sup>UN CEDAW Report: Brief Comments on the Czech Republic. 1998. *Source*: <http://www.un.org/womenwatch/daw/cedaw/18report.pdf>.

<sup>6</sup>Description of Program: White Circle of Safety. International Victimology Website. *Source*: <http://www.victimology.nl/onlpub/national/cz-basic.doc>.

<sup>7</sup>Championed by the White Circle of Safety. *Source*: <http://www.victimology.nl/onlpub/national/cz-basic.doc>.

<sup>8</sup>*ProFem*, NGO. “Group pushes for Domestic Violence Law.” *The Prague Post*. 6 November, 2002. *Source*: <http://www.praguepost.com>.

<sup>9</sup>On December 11, Parliament amended the Criminal Code to recognize domestic violence as a distinct crime, punishable by up to 8 years in prison. The bill goes into effect on June 1, 2004. Prior to the amendment, the law did not specifically address spousal abuse; however, the Criminal Code covered other forms of domestic violence. An attack was considered criminal if the victim’s condition warranted medical treatment for 7 days or more and caused the victim to miss work. If medical treatment was necessary for less than 7 days, the attack was classified as a misdemeanor and punished by a fine of not more than approximately \$109 (3,000 crowns), an amount roughly equivalent to a quarter of the average monthly wage. Repeated misdemeanor attacks did not result in stricter sanctions against the abuser. Bureau of Democracy, Human Rights, and Labor. 2004. *2003 Country Reports on Human Rights Practices* February 25. <http://www.state.gov/g/drl/rls/hrrpt/2003/27833.htm>.

<sup>10</sup>*Committee Experts Applaud Czech Republic’s Political Will to Implement Convention on Elimination of Discrimination against Women*. Committee on Elimination of Discrimination against Women 573rd And 574th Meetings (Am & Pm). Press Release Wom/1354, 08/08/2002. <http://www.un.org/News/Press/docs/2002/wom1354.doc.htm>.

#### Slovenia Footnotes

<sup>1</sup>*Source*: SOS Help-line Online: <http://www.drustvo-sos.si/english/background.htm>.

<sup>2</sup>*Source*: SOS Help-line Online: <http://www.drustvo-sos.si/english/programs.htm>.

<sup>3</sup>*Source*: IRAW Country Report: <http://iraw.igc.org/publications/countries/slovenia.html>.

<sup>4</sup>*Source*: Women’s Policy Office: <http://www.uem-rs.si/eng/violence/>.

<sup>5</sup>*Source*: SOS Help-line Online: <http://www.drustvo-sos.si/english/programs.htm>.

<sup>6</sup>*Source*: Women’s Policy Office: <http://www.uem-rs.si/eng/violence/>.

<sup>7</sup>*Source*: Women’s Policy Office: <http://www.uem-rs.si/eng/violence/>.

<sup>8</sup>Debate on proposed legislation, though unsure if bills became law. *Source*: Women’s Policy Office: <http://www.uem-rs.si/eng/violence/>.

#### Slovakia Footnotes

<sup>1</sup>Government organization known as *The Governmental Committee for Women and the Family*. *Source*: “The National Action Plan for Women of Slovakia.” An official response by the government of Slovakia. September 1997. *Source*: <http://www.un.org/womenwatch/>.

<sup>2</sup>Government organization known as *Coordinating Committee for Women’s Affairs*. *Source*: “Country Profile: Slovakia.” A Report by IRAW. <http://iraw.igc.org/publicrelations/countries/slovakia.html>.

<sup>3</sup>*Source*: “Slovakia: Taking Domestic Violence out of the Closet.” Article by Ed Holt of the Inter Press Services. May 7, 2002.

<sup>4</sup>*Source*: “Slovakia Report Women 2000.” A report by the International Helsinki Federation

for Human Rights. Published 2000.

<sup>5</sup>Source: "Slovakia: Taking Domestic Violence out of the Closet." Article by Ed Holt of the Inter Press Services. May 7, 2002.

<sup>6</sup>*The Bratislava International Centre for Family Studies*. Source: <http://www.bicfs.sk>.

<sup>7</sup>NGO: *Initiative Fifth Women*. Source: <http://www.osi.hu/vaw/propbycount.php?count=slovakia>.

#### Poland Footnotes

<sup>1</sup>*Governmental Plenipotentiary for Family*. Source: "A Perspective on the Status of Women in Poland." Women's Rights Center, Warsaw. April 2000.

<sup>2</sup>*The Blue Line*. Source: "A Perspective on the Status of Women in Poland." Women's Rights Center, Warsaw. April 2000.

<sup>3</sup>"A Perspective on the Status of Women in Poland." Women's Rights Center, Warsaw. April 2000.

<sup>4</sup>"Government Plenipotentiary for the Family Affairs: A Report to the UN." Published November 1999. Source: <http://www.un.org/womenwatch/daw/followup/poland.pdf>.

<sup>5</sup>*The Blue-Line Program. A Perspective on the Status of Women in Poland*. Available: <http://www.free.ngo.pl/temida/status.pdf>.

<sup>6</sup>*Lobbying by the Women's Rights Center for a restraining order-like bill*. Source: "Progress Report 2000: Detailed Information about the Women's Rights Center's Programs and Activities." Available: <http://www.free.ngo.pl/temida/activities.htm>.

#### Hungary Footnotes

<sup>1</sup>Actions taken by the Ministry of Social and Family Affairs. Source: "UN Anti-Discrimination Committee Hears Hungary's Reports." UN Transcript. August 2002.

<sup>2</sup>A report published in this year indicates that such programs were in existence at the time of publication, though does not specifically list exactly when they came into being. Source: "UN Anti-Discrimination Committee Hears Hungary's Reports." UN Transcript. August 2002.

<sup>3</sup>This law and these lobbying efforts by unnamed Hungarian NGOs deal specifically with marital rape. Source: "Safe Haven? An Interview with Professor Krisztina Morvai on domestic violence in Hungary"—Central European Review

<sup>4</sup>These programs are run by NaNE! and The Feminist Network, prominent NGOs in Hungary. They have organized social movements with media coverage, educated government officials and lobbied for legal reform. Source: "Women and violence: The domestic and sexual violence project," Katalin Koncz, WIN News. Lexis-Nexis. Published fall 1994.

# WATERY SPACES, GLOBALIZING PLACES: OWNERSHIP AND ACCESS IN POSTSOCIALIST CROATIA

Pamela Ballinger

## ABSTRACT

*Many scholars have characterized political and economic globalization as entailing deterritorialization, a radical decentering of place and the erasing of various kinds of borders. This paper argues instead for an alternative view of globalization as reterritorialization, a process in which meanings of place remain salient (and in some cases become even more pronounced) but are reconfigured. The analysis focuses on transformations of understandings of territory and ownership in coastal Croatia, examining diverse Croatian responses to the privatization of the tourist industry and the speculative boom in vacation properties. In particular, the paper considers how the politics of European integration and Croatia's aspirations for EU membership – together with the heritage of Croatia's recent past of nationalist warfare – shape Croatia's economic transition from a regime of “social property” under socialist Yugoslavia to a neoliberal regime of private property. The chapter also examines the metaphors of fluidity in vogue for describing globalization, using understandings of actual property in (and on) water to reflect critically on conceptual models of globalization.*

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 153–177  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88007-1



A cold, windy day in February, 2002. I pick my way along the picturesque waterfront of Rovinj, a town on the western coast of Croatia's Istrian peninsula, en route to my rented apartment. Because it is winter, parking spaces can still be found on the narrow street in front of my apartment and gangs of feral cats luxuriate in the sun and roll on the dirt on the side of the street. In the summer, by contrast, the cats find their spots completely taken up and shaded by cars of tourists who frequent Rovinj's Venetian-style Old Town. ITALY – AUSTRIA – GERMANY read the license plates, and on the newer ones, the stars signifying the European Union stand out. Yet not all these cars belong to summer tourists renting in the Old City. Instead, many belong to the new owners of apartments and flats in Rovinj, who may spend but a few weeks out of the year at their "dream" apartment by the sea in Croatia. Indeed, on the February day that I come back to my temporary home, I glance up at the building where I am staying. My window has the only open shutters. The other owners in the palazzo are Italians, Croats from Zagreb (also considered foreigners by the locals), and yet more Italians. When I look at the building next door, I see the light that indicates that my friend Maja is at home. She, too, is the "sole" resident of a ghostly building. When I return to the United States the following month and close my shutters for good, Maja remains in her lonely status as sole "local" – even sole resident – of "our" neighborhood.

This vignette of daily life in a small town in coastal Croatia highlights just some of the social effects of Croatia's ongoing transition from a regime of social property (under Yugoslavia) to one of private property integrated into international markets. In many of Croatia's seaside towns, what appears at first glance a mark of decline – deserted city centers and shuttered buildings in the off season – may in fact be read as a sign of Croatia's "advancement" on the road to privatization and incorporation into larger circuits of capital. As Maja's loneliness in the Old Town suggests, however, such processes come at a price and may prompt negative responses on the part of average citizens who must shoulder the costs – social, economic, and political – of these processes of inclusion into ever wider circuits. Drawing upon ethnographic fieldwork in Croatia conducted between 2002 and 2005, in this paper I examine how some Croats are navigating the "sea of (global) capital" by looking at ongoing transformations of territory and ownership along an actual sea, that of the eastern Adriatic. Croatia's coast proves a rich site from which to consider responses to globalization and its effects, in particular the privatization of valuable tourist enterprises, the speculative boom in vacation properties, and the politics of European Union candidacy.

## 1. ON THE SEA OF GLOBAL CAPITAL

The authors of both popular and scholarly accounts of globalization often employ watery metaphors – of flows, fluidity, circulations – in an effort to

capture the increasing unboundedness of movements of capital, communications, and persons. The sea and its qualities thus come to symbolize the growing permeability of borders in a globalizing world, even as the oceans themselves literally represent both medium and site of globalization (Tangredi, 2002). Journalist William Langewiesche, for example, writes of the heightened difficulties of enforcing international law or sovereignty on the seas, looking at cases of modern day piracy and the shell companies that flag, sell, and ultimately break ships. He moves from these examples of maritime lawlessness to conclude, “our world is an ocean world, and it is wild” (2004, p. 8). Other writers use the metaphor of the sea even more abstractly, as when they characterize the new global condition as one of a “cruel sea of capital” (Crook, 2003). Sociological and anthropological treatments of global “flows” of various sorts also draw on familiar watery notions, such as those of water carving and remaking channels (Tsing, 2000, p. 327; see also the riverine imagery of Raffles, 2002); more originally, Maurer (2000) invokes the killifish, whose embryonic development can halt and recommence, troubling stories of steady ontogenies and unfoldings in the global march of capital.

The current popularity of the sea as metaphor/metonym in social science work on globalization builds upon Ferdinand Braudel’s pioneering work (Braudel, 1972a, 1972b) on the Mediterranean as a conceptual unit, as well as on the use of a world systems frame by those, like Mintz (1985) and Gilroy (1993), interested in an Atlantic space traversed by ships, slaves, sugar, and other flows. From their reading of the histories of specific seas, Braudel and Mintz proposed conceptual models through which to understand previous moments of globality: i.e. the shifts from a world economy centered on the Mediterranean to one focused around the Atlantic. In this spirit but with much more modest aims in mind, I examine contemporary economic and political transformations focused around a particular watery space – coastal Croatia – and then situate those transformations within larger frameworks, notably those of the European Union (EU) and the politics of accession. I consider the transition out of Yugoslav socialism and into a market economy oriented toward the EU as aspects of globalization, following the minimalist definition used by Dorothee Heisenberg (this volume). In Heisenberg’s definition, globalization refers to “increasing economic interdependence between noncontiguous countries.” Or, to use another common definition, (economic) globalization often refers to the increasing integration of national economies into global markets.

In my analysis of debates over ownership and access along the Croatian coastline, I argue against a popular scholarly view that characterizes

globalization as entailing *detrterritorialization*, a radical decentering of place and the erasure of various kinds of borders. Rather than adopt a qualified approach along the lines of what Jan Aart Scholte (2000) deems *suprateritoriality* or *relative detrterritorialization*, I take an alternative view of globalization as *reterritorialization*, a process in which meanings of place – for the case examined here, coastal places and watery spaces – remain salient (and in some instances become even more pronounced) but are reconfigured (see Bestor, 2001, on reterritorialization of markets). The integration of the EU offers an obvious example of how some boundaries become less meaningful (such as the internal territorial borders between member states) even as other boundaries – like that of EU/non-EU – acquire tremendous power. In the Croatian context, the country's candidacy status for EU membership raises pointed questions about how meanings of place shift as Croatia prepares to bring its legislation in line with the requirements of the EU *acquis communautaire*. The prospects of EU membership, in turn, render the Croatian coastline ever more attractive to foreign investors, thereby heightening questions of place and ownership.

Croatia's current penetration by foreign capital and its openness to EU integration reflect dramatic shifts in the country's political economy since the death of independent Croatia's first President, Franjo Tudjman, and the subsequent election of a democratic coalition in 2000. Under Tudjman's leadership, Croatia had pursued a nationalist approach, with the regime deriving much of its legitimacy from its defense of national sovereignty by means of the "homeland war" fought against the Yugoslav National Army. The transformation of land into a commodity to be bought and sold on an open market in which foreign investors are snapping up properties in a speculative rush before Croatia enters the EU thus creates additional, sometimes conflicting, meanings for territory permeated with competing claims of kinship, region, and nation. Though coastal development issues might seem peripheral to issues surrounding Croatia's "transition," in reality they offer a penetrating lens through which to examine the new property regimes emerging in postsocialist Croatia.

## 2. REGIMES OF PROPERTY IN AND ON WATER

As work in maritime anthropology focused on marine resources has demonstrated, looking at meanings of property in and around water sharpens critical theoretical understandings of ownership and access. Though property is often conceived of in terms of land and territory whereas the vast

watery spaces of the seas appear inimical to ownership, the notion of the “high seas” as free dates only to the 17th century.<sup>1</sup> Together with this image of the seas as theoretically belonging to no one (yet in reality dominated by the maritime powers) went an equally fallacious view, sadly disproved in the 20th century by the crash of fish stocks around the world, that the ocean represented an infinite resource. As the error of such thinking became painfully obvious, states like the United States moved to institute 200-mile economic zones in order to regulate and control fishing by trawler ships from countries such as Russia and Japan. The institution of the 200-mile economic zone did not always help further sustainable resource use; what happened in an industry like that of the cod was that the formation of an economic zone now made it possible for American trawlers, rather than foreign ones, to devastate the resource.

Stories like that of the cod have reinforced a view of the seas as a watery commons with the all too real potential for the tragedy of the sort described by Hardin (1968) in his landmark article. Scholars following Hardin’s argument treat the sea as a common resource inviting overexploitation owing to an assumed “natural” selfishness driving human action. Anthropologists have had much to contribute to this debate about common resources, showing by means of detailed empirical work that people understand ownership in relation to ocean resources in ways having less to do with a putatively universal principle of maximizing self interest and more to do with local systems of cultural meaning, as well as global processes as colonialism and capitalism. As the Icelandic maritime anthropologist Gisli Pálsson (1991) contends, “Hardin’s thesis ... fails to recognise the social nature of production, assuming that the users of commons are autonomous, selfish individuals trying to maximise short-term gains and that the commons dilemma can only be solved through the ‘technical’ intervention of an external authority, the state” (p. 16) or, alternatively, through the installation of a regime of private property rights.

The commons model thus conflates understandings of property in *common* (which may have precise rules about access and exclusivity) with those of *common property* or *open access*. Indeed, maritime anthropologists have demonstrated that “in many fishing societies people have developed indigenous means of regulating access to fishing grounds” (Pálsson, 1991, p. 44). Anthropologists often talk about what they call sea *tenure* or, in the words of Cordell and McKean (1992), “collectively managed informal territorial use rights in a range of fisheries previously regarded as unownable. ... Sea tenure is concerned with ways in which inshore fishermen perceive, name, partition, own, and defend local sea space and resources” (p. 183).

Anthropological studies of these varied practices of sea tenure deflate claims to the universality of the wide-open commons concept, underscoring that the idea of the oceans as a commons – allied with the notion of the sea as an extraterritorial space – is a recent, and European, one. At the same time, however, anthropological work within European maritime communities also raises serious questions about the universal applicability of the commons notion even for the European context (McCay, 1987; Sharp, 2005).<sup>2</sup>

All this is to say that although certain ways of viewing property and resources – whether on land or in water – have become hegemonic, they cannot be taken as normative or natural. Part of anthropology's value lies in its attention to the cultural systems of meaning in which particular practices are located or imported. Even if Croatia has (re)instituted a system of private property rights, for example, one should not assume that various actors in Croatia necessarily understand property in the same way as in the United States or western Europe. Nor should one assume that there exists a unitary standard or framework through which property rights are understood in a place like Croatia. The research of German anthropologist Carolin Leutloff-Grandits on property restitution in Croatia's Krajina region, inhabited by an ethnic Serb majority until the 1995 ethnic cleansing of the area, illustrates this well. Leutloff-Grandits found that Serb owners demanding return of their properties and Croatian settlers living on those properties made recourse to different regimes of property, respectively, an individual private property regime and a Croatian "national property" regime. In studying how individuals negotiated their particular claims within these different frameworks, Leutloff-Grandits (2002) attended not only to "the legal level of property rights ... but also to the institutions and procedures supporting the implementation of these laws and general property policies, that is, the public discourses, norms and values which give legitimization to one property regime or another" (p. 4). Woe to the scholar (or the investor) who does not follow Leutloff-Grandits' lead.

As this example indicates, anthropology's typically more micro focus on the local contexts in which actions are given meaning can offer much for the study of seemingly vast processes like globalization and privatization. In *The Vanishing Hectare*, a study of the decollectivization of agricultural property in Romania, Katherine Verdery (2003) asserts that anthropology's attention to the micro-level enables scholars,

There we can see more clearly how it is that policies made at the top are subverted or modified, thereby constraining what is possible at the top. In the context of institutional instability [in postsocialist Romania], local actors had to find ways of stabilizing their existence that might not accord with those planned in national and international politics.

By concentrating on cultural understandings and social relationships at the micro level and by getting inside daily practices through which new property arrangements can take shape, anthropology contributes ways of understanding property change that institutional approaches miss. It also greatly complicates the assessment of costs and benefits that might enter into 'rational calculation' (p. 28).

In the Croatian case, an anthropological approach offers insight that a more top down approach, focused on the Croatian government's efforts to bring legislation regarding property into agreement with EU demands for market economy principles or on the government's targeting of tourism as a key priority, might miss. Certainly, the stakes of privatization for tourism – both from the top down and the bottom up – remain high in Croatia; unlike many other former socialist states, a good portion of socialist Croatia's capital resided in the hotel industry.<sup>3</sup> The possibility for non-citizens to buy property in contemporary Croatia (albeit through complicated bureaucratic processes) has also meant a rush by foreigners – a rush made even keener by the prospects of eventual EU membership – to buy coastal properties ranging from modest homes and apartments to hotels and other large tourist ventures. In studying Croatia's transition, then, coastal tourism and related questions of coastal development/access clearly proves a central topic, one too little studied in the context of "transition."

In addition, questions about sovereignty and territorial integrity remain extremely important and sensitive for a new nation "forged" in ethno-national violence, strongly influencing how Croats respond to the demands of the EU, as well as to those of investors desiring to buy properties and companies in the country. From the other direction, of course, the perceived economic and political necessity of being accepted into the EU and by the larger international community helps discipline these Croatian responses to globalization. One of the areas in which the sovereignty question proves most acute concerns the maritime border between Slovenia and Croatia, still unresolved a decade and a half after independence. This issue lay at the heart of heated exchanges in the 2004 Slovene electoral campaign and prompted Croatia to declare unilaterally a fishing-ecological zone extending far into the Adriatic over the protests of neighboring Slovenia and Italy. These disputes over the sovereignty of and access to the marine resources of the Adriatic reflect, even as they impact, the EU integration process, since Italy and now also Slovenia are on the "right" side of the EU border. Given that Croatia's coastal and maritime resources are among the most valuable that the country has, unpacking the tangle of issues around the maritime border, fishing, tourism, and vacation homes offers productive insight into broader processes of globalization.

### 3. PROPERTY IN TRANSITION: FROM YUGOSLAVIA TO CROATIA, FROM “GLOBALIZING” TO NATIONALIZING (AND BACK)

Throughout the 1990s, political debate in Croatia and observations (scholarly and otherwise) about the newly independent state focused on the most explosive issues following out of the wars: the centralizing nationalism and authoritarian rule of Croatia’s first President Franjo Tudjman and his ruling party, the Croatian Democratic Union (HDZ), problems of refugee resettlement and return; the need to de-mine large areas of Croatia; and the rebuilding of damaged infrastructure and housing. The wars of Yugoslav succession thus made Croatia’s “transition” out of socialism different from those in the other former socialist countries of eastern Europe. In contrast to much of eastern Europe, where intense interest in the dual transition to a market economy and democratic political system generated a field of studies known as “transitology,” most of the scholarly work on Croatia focused on understanding and dealing with the consequences of the divisive ethno-nationalisms that had brought about the wars. Issues like privatization – key on agendas in other parts of the socialist world – and the integration of Croatia into global markets have received much less attention. The relative invisibility of the privatization process in studies of Croatia reflected a bias in the literature but also the slow pace with which the Tudjman regime initially undertook privatization. This protracted privatization process reflected the challenges created by the wars of succession, as well as the peculiarities of Yugoslav socialism.

Although socialist Yugoslavia initially followed the Stalinist model of a highly centralized command economy, political differences between the USSR and Yugoslavia led to the latter’s expulsion in 1948 from the Cominform. Making a virtue out of necessity, Tito and his collaborators proclaimed that Yugoslavia could offer a “Third Way,” i.e. a new kind of socialist state true to Marxism. The ideological centerpiece of this new brand of socialism was the system of workers’ self-management. Introduced in 1953, self-management rested on a concept of social property that replaced that of state property. In theory, social property belonged to the entire society. Socialist enterprises thus held not property rights but rather “the right to use socially-owned assets and to appropriate their product” (Uvalić, 1992, p. 6); within these enterprises, workers’ councils gave employees a role in decision making, hence the term self-management. This coincided with greater economic and political decentralization, which was

furthered by the reforms carried out between 1963 and 1967. These reforms included the extension of the right to self-management to all types of organizations, the lodging of investment decisions within firms, decentralization of the banking sphere, and increased power at the level of the local communes and the republics. These developments led many observers to deem Yugoslavia an example of “market socialism” (Uvalić, 1992, p. 6). Yugoslavia’s relative openness also manifested itself in membership in international economic institutions, including the International Monetary Fund (IMF), General Agreement on Tariffs and Trade (GATT), and Organization for Economic Cooperation and Development (OECD), and a privileged relationship with the European Community from the 1970s on (*ibid.*, p. 9). This relative economic openness co-existed with relative freedom of movement, with Yugoslavs permitted to travel abroad and foreigners encouraged to visit Yugoslavia.

Mass tourism, established in socialist Yugoslavia during the mid-1960s, provided valuable hard currency and also offered individual Yugoslavs limited entrepreneurial activities. Income from renting apartments to tourists and easy credits from the government to build such apartments made for a building boom, particularly along the Adriatic coast. Foreigners, however, could not buy or own property. Tourism rendered newly prosperous areas that previously had suffered from isolation and economic underdevelopment, including many of the Dalmatian islands and the Istrian peninsula. Prior to the 1991 war, roughly 80% of all Yugoslav tourist revenues came from activity in Croatia and, of that, 50% came from Istria alone (Betti, 1997, p. 22). This unbalanced picture of tourism reflected larger economic disparities between the westernmost Republics – Slovenia and Croatia – and the rest of the Yugoslav federation.

These economic inequities increasingly came to the fore as Yugoslavia descended into economic crisis in the 1980s and many voices in Slovenia and Croatia complained about being held hostage to an inefficient center that drained their hard won earnings (Bakić-Hayden & Hayden, 1992; Bakić-Hayden, 1995). “Globalization,” understood here in terms of Yugoslavia’s economic relationships with international lending institutions and noncontiguous states, played a key role in Yugoslavia’s dissolution. During the 1970s, the Yugoslav government increasingly turned to foreign loans in order to counter a growing trade deficit and balance of payments problems (aggravated by the oil shocks of the 1970s). By 1980, the year of Tito’s death, Yugoslavia’s external debt hovered at around \$18 billion. Western governments and international institutions offered stand-by loans and an IMF austerity package; the restrictive policies demanded by the IMF,



combined with skyrocketing inflation, resulted in lowered standards of living and shortages, together with growing political unrest (Uvalić, 1992, pp. 9–14). In the final years of Yugoslavia's existence, the government attempted to liberalize the economy. New possibilities were created for opening private businesses and for foreign investment. Indeed, privatization actually began under federal Yugoslavia, with each republic establishing its own Privatization Agency and Development Fund.

In February 1991, four months before Croatia declared independence, the Law on the Transformation of Social Enterprises set the framework for privatization in Croatia and made the abolition of "social property" mandatory (Bartlett, 2004, pp. 92–93). The initial privatization laws in Croatia and Slovenia in effect made for "tacit nationalization, as a tendency of both governments to first renationalize (partly or fully) social property in order to proceed with privatization later, to implement it gradually" (Uvalić, 1992, p. 190). The desire of the republican government to control privatization carried over into the post-Yugoslav era in Croatia, where privatization under Tudjman initially entailed the state assuming *more*, rather than *less*, control over the economy. The government established a one-year deadline in which firms had to devise and have approved their privatization plans; by the end of the deadline, only 119 out of 35,000 socially owned firms had submitted plans that received state approval. As a result, 97% of such firms were placed in the portfolio of what became known in 1993 as the Croatian Privatization Fund. From this fund, the regime doled properties out to supporters and members of the HDZ, thereby consolidating the party's hold on power (Ottaway, 2003, p. 115; Bartlett, 2004, p. 52). This created a new class of so-called "tycoons." Privatization nonetheless proceeded slowly until the Dayton Accords, soon after which a new act initiated wide-scale privatization on the basis of vouchers. At that time, an estimated 70–80% of all capital still remained state property (Betti, 1997, p. 15).

The wars of succession further complicated the situation for privatization, as refugees from Bosnia-Herzegovina and occupied areas of Croatia (like Slavonia) arrived on the coast in Istria and Dalmatia, brought there by the Tudjman regime ostensibly because there existed a large number of hotels (from the days of socialist mass tourism) that could house refugees. The hotels were only temporary solutions, however, and many refugees (encouraged by the authorities) expropriated empty apartments and houses that belonged to individuals from the other republics that had made up Yugoslavia. In Istrian resort towns like Rovinj, for example, many vacation homes and flats belonged to intellectuals and artists from Serbia; frequently, refugee squatters broke into and began living in these flats. The refugees

often expressed a sense of having a moral and – as time wore on and they lived in them over a period of years – *use* right to these properties. Yet many of these properties seized by refugees in Istria had once belonged to ethnic Italians who had seen their property confiscated or nationalized or who had simply abandoned them when they fled in the years between 1945 and 1954. Yugoslavia's break-up in 1991 revived these contentious claims by Italians who had left Istria when the peninsula passed from Italian to Yugoslav control after World War II (on this troubled history, see Ballinger, 2003).

In 1996, the Croatian government did pass a law returning property to “victims of communism” (Jeffries, 2002, p. 50). This law only applied to citizens of Croatia, however, and thus excluded the contentious claims of non-citizens. Socially owned housing that once belonged to Italians, Serbs, or other claimants who were not citizens of Croatia quickly underwent privatization from 1991 on. The individuals occupying such houses or apartments were given the chance to buy these properties at very low rates, with the price discounted up to 70% of the property value. This privatization of housing thus largely recognized occupancy rights of post-1945 and post-1991 residents, though the post-Tudjman era has seen a reversal of some of these cases.

From the beginning of its independence, then, post-socialist Croatia found itself confronted with a difficult task of untangling to whom such properties legally and morally “belonged.” The two-fold challenge of “*restitution of property rights*” – that is, reassigning property rights to formerly nationalized or socialized properties – and of “*private property creation*” – the establishing of property rights where “the objects in question had never been held privately” (Verdery, 2003, p. 5), as with the assets of most socialist era state enterprises – has yet to be fully resolved, almost 15 years after Croatia became independent.

For much of the 1990s, then, a protectionist and nationalist tendency dominated the ruling HDZ party, with the result that Croatia failed to successfully integrate into larger economic networks (Bartlett, 2004, p. 65). Indeed, one could argue that Croatia became *less* globalized than it had been under Yugoslavia in the 1970s and 1980s. The end result of Tudjman's economic policies was a dramatic growth in inequality, “well in excess of the level observed in other transition economies in Central Europe” according to William Bartlett (*ibid.*, p. 127). Given this, some scholars have labeled the post-Tudjman era – marked by Tudjman's death in 1999 and the election of a new left-center coalition in January 2000 – as inaugurating a “second transition” out of socialism (Ottaway, 2003), the phase in which Croatia finds itself today.

#### 4. THE SECOND TRANSITION: MARKET, DEMOCRACY, EUROPEAN UNION

The Copenhagen Conditions

1. Membership [in the EU] requires that the candidate country achieve stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities.
2. Membership requires the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.
3. Membership presupposes the candidate's ability to take on the obligations of membership, including adherence to the aims of political, economic, and monetary union (in Grabbe, 2003, p. 73).

The first post-Tudjman coalition, elected in 2000, demonstrated its break with the recent past by expressing its openness to international bodies such as the World Bank and the International Monetary Fund (IMF) in promoting financial recovery and stating its eager desire to join the EU. Croatia's leaders, in turn, received pledges of support from many EU member states and international institutions that had been wary of the Tudjman government's nationalism and human rights abuses. The new government quickly set about reorganizing the Privatization Fund and establishing new priorities. In place of Tudjman's nationalist protectionism came a stated desire for increased foreign investment, structural adaptation of the economy to the standards of the EU, greater legal transparency, and recovery and revitalization of the tourist industry. (Despite this, for foreign individuals buying properties in Croatia, there still exists no clear and fool-proof means by which to establish title; it can happen, and indeed has, that an unsuspecting buyer opens the door one day to come face to face with a long lost relative with a legal claim on a property.) Although a more centrist HDZ party returned to power in 2003, fears that this would signal a return to the more closed nationalist policies of the Tudjman era have not been borne out at this time.

Current Prime Minister Ivo Sanader has instead overseen Croatia's approval for EU candidate status, as well as supported the reorganization of the Croatian Privatization Fund.<sup>4</sup> The EU negotiations proved tricky, as Italy raised yet again the issue of settlement of the question of Istrian Italians' lost properties, Slovenia made demands about settling the maritime border [neither of which have been resolved at this writing], and non-adjacent EU states pushed Croatia to participate fully with the International

War Crimes Tribunal. A large list of contentious issues thus awaits resolution and has already halted or slowed the accession negotiations more than once.

To what degree does the desire of Croatia's governing class to join the EU, together with the reality that the EU holds the upper hand in any such negotiations, shape the ways in which Croatia deals with these unresolved issues and responds to larger processes of globalization? Entry into the EU constitutes a disciplining process of sorts, even if "[i]n its dealing with developing countries and countries in transition, the EU has shown a preference for using carrots rather than sticks, and conditionality has not always been applied consistently" (Grabbe, 2003, p. 72). At the same time,

The EU is the arbiter of what constitutes meeting the conditions and when benefits will be granted, but it also can and does repeatedly change the rules of the game ... Because the EU is both referee and player in the accession negotiations, it can and does defend the interests of its existing members. From the point of view of the applicant countries, this makes the whole game look rigged (*ibid.*, pp. 72–73).

Not surprisingly, many citizens of the states seeking membership or in the process of accession negotiations have mixed or outright negative feelings about their country joining the European club. A sociological study based on surveys done in 2001, for example, demonstrated that in Estonia – at that time not yet a member of the EU but widely perceived as the Baltic state the closest to meeting accession requirements – 57% of informants questioned would vote “no” were a referendum on EU membership held (Ozoliņa, 2003, p. 226). Recent Eurobarometer polls have also found strong public opinion against EU membership in Croatia. A common saying in Croatia reflects widespread cynicism regarding the EU, as well as indifference to the tumult caused by the French and Dutch rejections of the EU constitution: “The Balkans will enter Europe only once the rest of Europe has left it” (Safitch, 2005).

This cynicism suggests the ways in which, for Croatia and many Croats, becoming “European” shares strong parallels to the processes by which the transition to a market economy in Eastern Europe sought to remake socialist workers into flexible employees responsible for managing an autonomous self. In arguing this, I draw on the research of anthropologist Elizabeth Dunn (2004), whose fieldwork consisted in working at various jobs inside a Polish baby food plant that was bought after 1989 by the multinational Gerber Company. Dunn chronicles how Alima Gerber's managers aimed to institute Total Quality Management (TQM) techniques designed to make workers more accountable and self-auditing. Workers needed to become “possessive individuals” in the sense used by MacPherson, i.e. the owner of him or herself.

In this sense, 'possessive' and 'individual' are mutually constituting and the self becomes a kind of private property. ... If consumers in a market economy are 'entrepreneurs' of themselves, they must also be 'owners' of themselves ... The privatization of persons thus also privatizes regulation, making subjects – not the state – the agents who ensure that their behavior is consonant with the reproduction of the economic order. (Dunn, 2004, pp. 126, 128, 169)

Dunn argues that the market system and companies like Gerber thus brought with them expectations of a very different model of personhood and self from that which had prevailed under state socialism.

In like manner, the EU offers quite different models of statehood and governance, as well as economy, when compared to those available under socialism. As laid out in the 1993 Copenhagen Conditions for accession, the EU member states seek to remake formerly socialist states and their citizens into *European* ones that are ultimately accountable and self-auditing – not through TQM but through the rule of law, democratic procedure, human and minority rights protection, and a regime of private property rights and market economy.<sup>5</sup> In a 2004 address at Harvard University, Croatian Prime Minister Sanader recognized as much when he asserted that the EU represents values such as freedom, democracy, and the philosophy of the market economy. Sanader knew, of course, that the leader of any state desiring to join the EU needs to express respect and admiration for these values (regardless of their resonance with the socio-cultural specificity of the applicant state), reflecting the degree to which the EU determines the discourse for its applicants. Just as the relationship between Gerber and its workers was an unequal one, so too is the relationship between the EU and its aspirants. Gerber had the power to hire and fire; the EU has the power to decide on membership and the conditions for attaining it. (Yet Sanader and other Croatian politicians, as I will discuss below, also know how to turn the EU discourse to their own advantage in domestic politics.<sup>6</sup>) In light of this, Slovenia, now on the right side of the EU border, has used both the carrot and the stick to discipline Croatia to resolve the maritime and fishing disputes between those two countries.

## **5. THE GULF WAR BETWEEN SLOVENIA AND CROATIA: IN THE SHADOW OF THE EU**

During the 2004 electoral campaign in Slovenia, the demand that Croatia settle the contentions on Slovenia's terms was increasingly linked with the threat that otherwise Slovenia would not cooperate with or would even

actively work against Croatia's bid for EU membership. Behind this political posturing lay the renewal of a "fisherman's war" between Croatian and Slovene fishers in the Gulf of Piran, the body of water in dispute. The Slovene government has repeatedly demanded that the line of demarcation be drawn so as to award Slovenia 80% of the gulf and thereby create a corridor allowing access to international waters. Many in Croatia instead insist upon splitting the gulf 50/50, in keeping with the stipulations of Article 15 of the 1982 UN Kingston Convention regarding international maritime rights. Although the Badinter commission of 1991 declared that the borders of the republics of the former Yugoslavia as they stood at the time of Yugoslavia's dissolution would not be altered, no clear maritime boundary between Slovenia and Croatia existed under Yugoslavia. Administratively, the Slovene police patrolled all of the Gulf at the time of Yugoslavia's dissolution, a fact that some in Slovenia take as proof that the Gulf rightfully "belongs" to them. The Croatian side has repeatedly pressed for international arbitration of the issue, something Slovenia rejects in favor of bilateral agreements. Slovenia further insists on the validity of a 2001 accord brokered by Croatia's previous Prime Minister Ivica Račan and then-Slovene Prime Minister Drnovšek to award 2/3 of the gulf to Slovenia, an accord that the Croatian parliament never ratified.<sup>7</sup>

Račan's participation in this accord demonstrates how, at least in 2001, key figures in the Croatian government proved willing to put good diplomatic relations with Slovenia (then on the fast track to EU entry) above the demands of their citizens who fished those waters. Račan's 2001 agreement catalyzed long-standing tensions at the local level. Croatian fishermen rapidly mobilized against the agreement. A fleet of 80 boats blocked the Istrian port of Novigrad in April, 2001. On June 25, 2002 (the day commemorating Croatia's independence in 1991), the fishermen backed down from a planned protest only after the Croatian special forces arrived to prevent the fishermen's announced aim of planting a Croatian flag on a floating marker in the middle of the bay. An informal provisional agreement made in 2002 allowed for 140 boats from Slovenia to take fish on the Croatian side and vice versa, reiterating a principle of reciprocity enshrined in a 1997 accord that the Croatian fishermen had never accepted as valid. The Croatian fishermen expressed more anger over this agreement toward the Croatian government, which they saw as having "betrayed" them and having sold out their interests, than against their Slovene counterparts.

In the Istrian fishermen's dispute, then, we find contrasting notions of ownership and access between the competing fishermen – Slovene fishermen, for example, embrace the principle of reciprocal fishing rights whereas

Croatian fishermen do not – and between fishermen and their state representatives. We also find competing understandings of what stewardship over the environment consists in, given concerns expressed by both Croatian fishermen and marine biologists regarding the potential for stripping a fragile marine ecosystem as a result of granting 140 licenses to each side. In Croatia, then, it is not local resource users (those usually blamed for the “tragedy of the commons”) but the state that appears to threaten the basis of the ecosystem, given that the Croatian government granted a disproportionately large number (140 on each side – a number exceeding that of all Slovene fishing boats total) of fishing licenses within a small area. Just as in Iceland, where the introduction of individual transferable quotas (ITQs) into a system of traditional, non-market based fishing relationships resulted in a discourse centered on questions of equity and even the morality of transferable fishing licenses (Pálsson, 1991, pp. 132–155), here the state’s promotion of a potential overfishing of Croatian waters has prompted intensive discussion among local fishermen about the inherent immorality of the postsocialist regime of property rights and its negative effects in terms of both the environment and social relationships. The fishermen and their supporters, in turn, view this disregard for both their livelihood and the larger resource base as part and parcel of the politics of European integration.

A number of the Croatian fishermen from Istria have organized themselves politically in order to challenge the decisions of both Slovenia and Croatia. As Danilo Latin, the outspoken former leader of the Association for the Integrity of the Croatian Sea, told me in 2002, in Croatia concern for the environment exists “only in the service of politics.” In his view, the regionalist party that has held power in the county of Istria since Croatia’s independence has given lip service to trans-border agreements to protect the Adriatic maritime space shared between Italy, Slovenia and Croatia only in order to gain European credentials. Danilo and fellow fishermen I interviewed in the autumn of 2002 argue that the regionalists have diminished and downplayed the *actual* problems afflicting the gulf. The president of the regionalist party, Ivan Jakovčić, for instance, has declared that this dispute remains “just a problem of five fishermen.”

Jakovčić also denigrated the fishermen for possessing a supposedly Balkanic mentality, commenting “these war cries [by the fishermen] are not part of our mental habits and instead look toward other regions, other times, other men. Unfortunately, the fishermen are not politically mature, nor are they capable of resolving the dispute.” The Croatian Prime Minister Racan made similar statements. Such comments reflect the continued prevalence of an Orientalizing rhetoric within Croatia, where behavior labeled anti-European

refers to a complex of notions about Balkanness and Eastern backwardness. The anti-European label serves as a powerful means with which to delegitimize one's opponents. Thus, Europe as an *idea*, not just as a set of institutional arrangements embodied in the EU, also becomes a means to discipline within the context of Croatian politics. In the formulation of Jakovčić, for example, the Croatian fishermen figure as nationalists whose defense of a small area of maritime territory threatens to shipwreck good relations with neighboring Slovenia and, by extension, Croatia's passage onto the SS Europe.

At first glance, Jakovčić's reading of the Croatian fishermen's concerns as typical of the logics of nationalism in former Yugoslavia, i.e. as symptomatic of a pervasive xenophobia toward others and a concern with defending the borders of the nation, might seem reasonable and (sadly) predictable. The discourse of the fishermen of the Umag and Savudrija area I spoke with in 2002, however, suggests that reading events in and around the Gulf of Piran *only* as a problem of ethno-nationalism or of "political immaturity" misses broader questions of property relations that have become acute as a result of Croatia's integration into broader economic and political networks. As the Istrian fishermen see it, their local and national political representatives have privileged larger interests (i.e. facilitating entry into Europe by placating Slovenia) at the same time that they have taken advantage of the opportunities for personal profit opened up by Croatia's privatization process.

In the Istrian region, the terrestrial landscape is marked – locals would say blighted – by private weekend houses, many of them owned by Slovenes (with use ownership frequently dating from the Yugoslav period). Structures built since Croatian independence have often been completed without all the requisite permits and permissions. In addition, massive new apartments and tourist residences financed with Slovene and other foreign capital also dot the landscape. When I snapped a few photos of one of the most conspicuous of these new residence complexes – the Costa Brava style "Skipper" project near Savudrija (on the Croatian–Slovene border) – I found my car blocked by a security guard, who demanded to know why I was taking the pictures and who informed me that photos were forbidden. The manager of the project came out to investigate and told me that the owner did not want pictures taken, a rather surprising attitude in the face of an obvious foreigner (they initially thought I was German) who was asking about investment possibilities. This nervous attitude likely reflects the tension in the area surrounding such projects, as well as the fact that such investments may be semi-legal, at best. A spoils system of rewards exists at the local and regional



level by which foreign interests reward local political sponsors who enable privatization and building to go forward by sidestepping the complicated bureaucratic channels an average Croatian citizen would face to purchase property or modify/build certain structures. The Skipper project has, in fact, become embroiled in a number of scandals.

For locals like Danilo Latin, who do not count themselves among those Istrians profiting from this privatization process, the real problem in the Gulf of Piran remains not a question of borders and their nationalistic defense, then, but one of political interests. In the opinion of Latin, on the one hand Slovene investors happily “gobble up Croatian interests” and, on the other, Croatian politicians prove complicit in sacrificing Istria and the interests of its common people. Latin, as well as other individuals from the Savudrija area I interviewed, maintained that the primary problem is the corruption endemic to postsocialist Croatia and epidemic to the system of privatizing former state enterprises. At the same time, runs this line of argument, certain abuses by Slovene investors and fishermen are tolerated not just because local individuals profit, but also because Croatia is held “hostage” to its politically and economically more developed neighbor, whose tourists boost the local Istrian economy and whose leaders do not hesitate to use the cudgel of harming Croatia’s EU prospects. The price to be paid for admission into the European club, fear fishermen and other locals in Istria, will be that access to and ownership of the Croatian sea and coastline ends up in the hands of outsiders. With the exception of those greasing the wheels of the privatization process, locals will lose all control over the future development of their territory. Such fears do not prove unique to Croatia, of course, and there exist many examples of coastal areas around the world under similar development pressures. The specificity of the postsocialist Croatian situation, however, means that this “buy out” is taking place extremely quickly and is explicitly perceived as bound up with EU politics. Speaking about the many unresolved issues of property and the arrival of foreign buyers in her town of Rovinj, my neighbor Maja (with whose experience I began this article), has echoed the fishermen in her views, “I don’t want to enter the European Union!”

In the time since the reformed HDZ coalition led by Sanader defeated the left-center government of Racan, things have shifted a bit. Sanader’s government, for example, does not accept the Racan agreement that recognized Slovene demands to the Gulf of Piran. Yet Sanader must walk a thin line between the demands of EU member states and issues of domestic politics. In July 2004, fisherman leader Danilo Latin warned, “If the State won’t protect our interests, we’ll do it ourselves.” Not surprisingly, incidents

between the Croatian fishermen and Slovene police continued to heat up during that summer as the result of divergent interpretations of where the line in the Gulf rightfully lies. Daniele Kolec, another of the Croatian fisherman I interviewed, participated in one such “provocation” in July, 2004, when the fishermen of the Sargus co-operative installed a system of signaling buoys; the buoys were placed north of the line considered Slovene waters by Ljubljana, prompting the Slovene police to intervene. The Sanader government sent notes of diplomatic protest to Slovenia, signaling a firmer stance than that taken by the previous government. At the same time, Sanader pressed for an EU-wide solution to the issues troubling the Adriatic’s waters, not a trilateral one between Slovenia, Croatia, and Italy.

The responses of the Sanader government and, more specifically, of the Croatian fishermen help us to extend the parallel drawn to the case of privatization studied by Dunn in Poland. Although the power relationship between Gerber and its workers was an inherently unequal one, workers nonetheless invoked other kinds of discourses to counter those promoted by Gerber. Key oppositional discourses stressed kinship and morality (associated with Catholicism, the Solidarity movement, and socialist notions of workers’ rights) as a means of underlining that workers were not just autonomous employees but rather parts of larger social and moral communities.<sup>8</sup> Workers who saw socialism denigrated by the Gerber managers for having produced rigid, inflexible workers subverted the management discourse and instead argued that the conditions of socialist production had demanded great flexibility; socialist workers, they argued, rapidly shifted jobs in response to whatever materials were available and made products ranging from baby food to fruit juice to liquors on the basis of what they found available to work with (Dunn, 2004, p. 84). Predictably, Gerber executives discovered that their expectations or understandings often did not match those of its employees, as when Gerber offered employees the chance to buy stock in the company. Workers did so with enthusiasm. Whereas Gerber believed that having property in the company would provide an incentive for self-discipline and a desire to make the company profitable, however, workers interpreted this stock ownership as a means by which to have an active say in the company’s decision-making processes. When this became clear, Gerber quickly bought the shares back (*ibid.*, p. 47).

Like Gerber’s Polish employees, a Croatian state disciplined by the EU and European Union-ism nonetheless resists some of the disciplining, within the limits of the possible. Sanader, for example, has declared that Croatia offers a model for the other aspiring states of Southeastern Europe to look to and follow at the same time that he proudly defends the record of the

Tudjman era, thus refusing to take a line that depicts everything that preceded Croatia's current EU candidacy as pathological. Furthermore, Sanader states – almost as a warning – that the “dream” of the EU cannot be realized without those countries currently outside of the EU framework.<sup>9</sup> If we need the EU, he implies, the EU also needs us. At the same time, by proposing an EU-wide solution for the contentions in the Adriatic, Sanader indicates how Croatia can try to use the EU framework to its advantage, rather than be held hostage by its two immediate EU member neighbors. At the same time, Croatian political elites – from the highest level to the most local – also turn the prospects of EU integration to their advantage in domestic politics, as when they delegitimize the demands of the fishermen.

Oppositional voices in this domestic political arena, however, also play with and attempt to use the language promoting European integration. Fishermen in Istria undergoing disciplining *within* Croatia with the discourse of “European behavior” and the demands of EU membership, for example, subvert a language employed to talk about common environmental protection in a future EU Adriatic zone. In using this language, the fishermen denounce the ways in which the environment, as well as the economic well-being of average Croats, becomes sacrificed to the politics of integration. The fishermen of Croatian Istria render synonymous “moral” and “territorial” integrity, with territory here understood as both maritime and terrestrial. As Danilo Latin put it, “one square meter of land is equal to one cubic meter of sea.”

In postsocialist Croatia, then, concerns about ownership in and around water (as well as access to marine/coastal resources) prove inextricably bound up with concerns about ownership in land, as the fishermen's explicit linkage of the maritime border with issues of vacation properties suggests. In turn, these unresolved difficulties with Slovenia at the diplomatic level and the pervasive anti-Slovene sentiment on the ground in Croatia have impacted the privatization process in any number of ways. One now infamous case involved the Slovene company Terme Čatež, which won the bid from the Croatian Privatization Fund (CPF) for a tourist complex on the island of Hvar. When this became known, both islanders and local politicians collected signatures for a petition protesting the sale. This opposition centered on the links between Terme Čatež and (the now defunct) Ljubljanska Banka, which froze the assets of Croatian citizens and refused to return them after Yugoslavia dissolved. More generally, though, the protest gave voice to the pervasive belief that the privatization bidding process proves inherently biased. The charge that the CPF had unfairly advantaged Terme Čatež in the bidding process resulted in months of

parliamentary debate over the case, with the decision to award the tourist complex to the Slovenes of Terme Čatež nullified.

## 6. REFLECTIONS

In this article, I have highlighted culturally specific meanings of ownership, sovereignty and access along Croatia's coastline as a way to understand crucial aspects of that country's ongoing integration into wider economic and political structures. In examining European responses to globalization, this volume's editors asked authors to address the question, "To what extent are political and economic processes and decisions in Europe driving globalization, or being driven by globalization?" For countries like Croatia, geographically within Europe but outside of the institutional framework of the EU, the politics of European integration crucially shape processes of globalization and internal perceptions of those processes. As Croats respond to and, in turn, attempt to exert agency over these processes of transformation, they invoke a range of meanings and understandings of property/territory. Though not always complementary, these understandings of property (related to issues of both sovereignty and access) reveal the ways in which place and space do not necessarily lose salience in the advent of globalization but, in this case, actively inform debates over Croatia's "future" in an era of globalization. Indeed, if the disputes over where to draw the line in the Bay of Piran or to whom to award the tourist complex on the island of Hvar demonstrate anything, it is that scholars need to think about place creatively – not just as "land" but as space (watery, solid or otherwise) invested with historically specific meaning. I hope to have suggested here how an anthropological approach emphasizing local contexts and detailed field-based research demonstrates the reconfiguration, rather than the erasure, of space as a response to processes of globalization in specific sites like that of coastal Croatia.

In thinking about how scholars might productively study European responses to globalization, I have also suggested how an anthropological perspective offers the potential for ethnographically rich accounts that, in *Daphne Berdahl's* words, "both complement and challenge [the] macro level analyses" (2000, p. 3) that have predominated in studies of the transition out of socialism and of globalization more generally. Yet most of the anthropological work on the transition – particularly that on property rights – has been extremely terrestrialized, with a prevalent focus on the process of rural decollectivization, to the neglect of industrial enterprises or watery issues

like those percolating in the Adriatic. This article represents an initial effort to fill this gap in the anthropological literature, even as it also seeks to bring anthropological methods and debates into greater dialogue with other disciplinary modes of studying European reactions to globalization.

Whereas many accounts of globalization draw on images of water as metaphors for the increasing porosity of borders, few have looked at seas as historically specific spaces.<sup>10</sup> Thinking about actual watery spaces, not just watery metaphors, can further our understanding of globalization in Croatia, Europe, and beyond. The sea is not the blank space, devoid of history, as it is so often imagined to be. The fishermen of Istria know this and, when accused of being politically infantile, might respond with the lines from Derek Walcott's poem (in Klein & Mackenthun, 2004, p. 3), "The Sea is History,"

That child who puts the shell's howl to his ear,  
Hears nothing, hears everything  
That the historian cannot hear ...

## NOTES

1. Historically, those maritime nations like Great Britain and Holland whose fortunes rode on the ability to cross vast expanses of watery space without having passage controlled or halted in key straits developed and advocated this notion of the high seas as free. The international principle that states have only a three mile limit of jurisdiction over the waters along their coasts – the so-called territorial sea – originated in the 1600s. Most states extended this limit to 12 nautical miles in the 1980s, although the United States continued to insist on the doctrine of the freedom of the seas. On Euro-American conceptions of the sea, consult Langewiesche (2004) and Sharp (2005).

2. The discussion here of anthropological work on the commons has been developed in collaboration with Stefan Helmreich.

3. Tourism played a key role in the economy of the Republic of Croatia under socialist Yugoslavia. With tourist infrastructure destroyed and tourists fearful of traveling to the region, Croatia lost perhaps as much \$6.8 billion USD in tourist revenues for the period from 1991 to 1995. Tourism began to recover only to crash again in 1999 as the conflict in Kosovo scared tourists off. "Some estimates put the foreign exchange losses [from tourism during the Kosovo war] as high as \$1.5 billion, or 1 percent of GDP" (Bartlett, 2004, p. 117).

4. Croatia first applied for membership in the EU in February 2003 and the European Commission gave it a favorable opinion regarding the application in April 2004. A Stabilization and Association agreement, signed on December 21, 2004, came into effect in February 2005. Though accession negotiations were to begin on

March 17, 2005, they were held up temporarily by demands for extradition to the Hague of General Gotovina, indicted by the International War Crimes Tribunal.

5. For the general guidelines to enlargement, go to <http://europa.eu.int/comm/enlargement/negotiations/chapters/index.htm>. The Copenhagen Conditions for accession have been followed by more stringent enunciations of the accession process, including the European Commission's 1995 White paper on "Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union," the Agenda 2000 (a 1997 document), and specific Accession Partnerships. Notes Lynn Tesser, "While the Accession Partnerships do not have a base in any treaty or bilateral agreement (as they are entirely EU-initiated), they have made the Copenhagen conditions 'quasi-legal' by creating a series of sanctions and a control procedure and have ultimately become the main documents orienting CEE–EU relations" (2005, p. 18).

6. In this sense, my reading of EU enlargement processes as inherently unequal proves sympathetic to the approach of the new institutionalism in organizational theory. This perspective contends "that the coercive and normative influences of the international political community are the chief determinants of state building. Political elites who want to see their state gain access to a particular international community adopt institutions and policies resembling those typically found within the community. This is because they are coerced into doing so by community members in exchange for access and important resources; because they participate in international networks through which a common set of institutional and policy models are diffused; and because they hope that by adopting internationally accepted institutions and policies their state's chances of gaining admission later into the community will be enhanced" (Campbell, 1996, p. 48; on European integration, see also Fligstein & Sweet, 2002). At the same time, my approach differs significantly from institutionalism, given my use of a bottom up, micro perspective that considers not only institutional procedures and formal rules but also everyday life.

7. For a summary of the contention over the Gulf between 1991 and 1998, see Antonio Dal Borgo (2002, pp. 18–21).

8. The use of kinship metaphors to counter those of the market proves common in Europe and beyond. Note anthropologists John Borneman and Nick Fowler, "As European powers interact [in the EU], two other metaphors have become particularly prominent: markets, projecting exchangeability and the freedom of choice on which consumer identities depend ... and marriage, projecting domestic stabilization and encompassment into a harmonious whole, the model around which affective life and security are organized ... But these metaphors work in two opposite directions, the former to globalize, the latter to localize. ... As states increasingly yield control of their own financial markets to supranational institutions, like the EU, market metaphors become globally rather than nationally inflected identifications. Alternately, marriage – the uniting of a man and a woman into a privileged whole – remains the state's major legal instrument and nexus for regulating kinship and analogizing socially sanctioned relations between self and other" (1997, p. 494).

9. Address given by Ivo Sanader at the Kennedy School, Harvard University, October 2004 (author's notes).

10. Despite a growing body of literature that treats the seas and coasts as culturally constructed spaces, little of this work explicitly addresses contemporary

debates about globalization. For a notable exception in the literature on the “idea of Europe,” see Mollat du Jourdin’s (1993) *Europe and the Sea*.

## REFERENCES

- Bakić-Hayden, M. (1995). Nesting orientalisms: The case of former Yugoslavia. *Slavic Review*, 54(4), 917–931.
- Bakić-Hayden, M., & Hayden, R. (1992). Orientalist variations on the theme ‘Balkans’: Symbolic geography in recent Yugoslav cultural politics. *Slavic Review*, 51(1), 1–15.
- Ballinger, P. (2003). *History in exile: Memory and identity at the borders of the Balkans*. Princeton: Princeton University Press.
- Bartlett, W. (2004). *Croatia: Between Europe and the Balkans*. London: Routledge.
- Berdahl, D. (2000). Introduction: An anthropology of postsocialism. In: D. Berdahl, M. Bunzl & M. Lampland (Eds), *Altering states: Ethnographies of transition in eastern Europe and the former Soviet Union* (pp. 1–13). Michigan: University of Michigan Press.
- Bestor, T. (2001). Supply-side sushi: Commodity, market, and the global city. *American Anthropologist*, 103(1), 76–95.
- Betti, L. (1997). *La Transizione economica in Croazia. Apertura o isolamento?* Europe and the Balkans. Occasional Paper, no. 12. Ravenna: Longo Editore.
- Borneman, J., & Fowler, N. (1997). Europeanization. *Annual Review of Anthropology*, 26, 487–514.
- Braudel, F. (1972a). *The Mediterranean and the Mediterranean world in the age of Phillip II* (Vol. I). New York: Harper & Row.
- Braudel, F. (1972b). *The Mediterranean and the Mediterranean world in the age of Phillip II* (Vol. II). New York: Harper & Row.
- Campbell, J. (1996). An institutional analysis of fiscal reform in postcommunist Europe. *Theory and Society*, 25(1), 45–84.
- Crook, C. (2003). A cruel sea of capital. Survey: global finance. *The Economist*, 367(8322), 3–5.
- Cordell, J., & McKean, M. A. (1992). Sea tenure in Bahia, Brazil. In: D. Bromley (Ed.), *Making the commons work: Theory, practice, and policy* (pp. 183–206). San Francisco: Institute for Contemporary Studies Press.
- Dal Borgo, A. (2002). *Relazioni inquiete. I Rapporti Sloveni-Croati all’indomani dell’indipendenza*. Occasional paper, no 18. Ravenna: Longo Editore.
- Dunn, E. C. (2004). *Privatizing Poland: Baby food, big business, and the remaking of labor*. Ithaca: Cornell University Press.
- European Commission. (2004). *Enlargement of the European Union*. Guide to the negotiations chapter by chapter. <http://europa.eu.int/comm/enlargement/negotiations/chapters/index.htm>.
- Fligstein, N., & Sweet, A. S. (2002). Constructing polities and markets: An institutional account of European integration. *American Journal of Sociology*, 107(5), 1206–1243.
- Gilroy, P. (1993). *The black Atlantic: Modernity and double consciousness*. Cambridge: Harvard University Press.
- Grabbe, H. (2003). Challenges of EU enlargement. In: A. Lieven & D. Trenin (Eds), *Ambivalent neighbors: The EU, NATO, and the price of membership* (pp. 67–89). Washington, DC: The Carnegie Endowment for International Peace.
- Hardin, G. (1968). The tragedy of the commons. *Science*, 162(3859), 1243–1247.

- Jeffries, I. (2002). *The former Yugoslavia at the turn of the Twenty-first Century*. London: Routledge University Press.
- Klein, B., & Mackenthun, G., (Eds), (2004). Introduction: The sea is history. In: *Sea changes: Historicizing the ocean* (pp. 1–12). New York: Routledge.
- Langewiesche, W. (2004). *The outlaw sea: A world of freedom, chaos, and crime*. New York: North Point Press.
- Leutloff-Grandits, C. (2002). Ethnic property conflicts in Croatia: The example of Knin. Paper presented at the Martin Luther University, Halle/Saale, Germany (November 19).
- Maurer, B. (2000). A fish story: Rethinking globalization on Virgin Gorda, British Virgin Islands. *American Ethnologist*, 27(3), 670–701.
- McCay, B. J. (1987). The culture of the commoners: Historical observations on old and new world fisheries. In: B. J. McCay & J. M. Acheson (Eds), *The question of the commons: The culture and ecology of communal resources* (pp. 195–216). Tucson: University of Arizona Press.
- Mintz, S. (1985). *Sweetness and power: The place of sugar in modern history*. New York: Penguin Books.
- Mollat du Jourdin, M. (1993). *Europe and the sea*. Oxford: Blackwell.
- Ottaway, M. (2003). *Democracy challenged: The rise of semi-authoritarianism*. Washington, DC: Carnegie Endowment for International Peace.
- Ozoliņa, Z. (2003). The EU and the Baltic States. In: A. Lieven & D. Trenin (Eds), *Ambivalent neighbors: The EU, NATO, and the price of membership* (pp. 205–229). Washington, DC: The Carnegie Endowment for International Peace.
- Pálsson, G. (1991). *Coastal economies, cultural accounts: Human ecology and Icelandic discourse*. Manchester, England: Manchester University Press.
- Raffles, H. (2002). In *Amazonia: A natural history*. Princeton: Princeton University Press.
- Saftich, D. (2005). I Balcani enteranno nell'UE quando il resto dell'Europa sarà uscita. *La Voce del Popolo [Rijeka]*, 31(May).
- Scholte, J. A. (2000). *Globalization: A critical introduction*. Houndsmith: Palgrave.
- Sharp, N. (2005). *Saltwater people: Waves of memory*. Toronto: University of Toronto Press.
- Tangredi, S. J. (Ed.) (2002). *Globalization and maritime power*. Washington, DC: National Defense University Press.
- Tesser, L. (2005). Enough about democratization: The implications of exporting 'EU liberalism' to Central Europe. Paper presented at the Annual World Convention for the Association for the Study of Nationalities. Columbia University, New York (April 2005).
- Tsing, A. (2000). The global situation. *Cultural Anthropology*, 15(3), 327–360.
- Uvalić, M. (1992). *Investment and property rights in Yugoslavia: The long transition to a market economy*. Cambridge: Cambridge University Press.
- Verdery, K. (2003). *The vanishing hectare: Property and value in postsocialist Transylvania*. Ithaca: Cornell University Press.



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# THE WORLD TRADING SYSTEM: IN THE FOG OF UNCERTAINTY

Sylvia Ostry

## ABSTRACT

*This paper explores how European leadership in post-war international trade negotiations has both produced and attempted to respond to systemic conditions of uncertainty. Ostry argues that the initial pre-eminence of Europe, along with the U.S., in these negotiations stimulated unforeseen responses that now challenge the ability of Europe to retain its dominant position. European leadership inadvertently contributed to mobilizing interest groups focusing on the “new issues” of trade in services, intellectual property and investment; coalitions of developing world countries; and new advocacy NGOs (non-governmental organizations), all of which seek to recast global trade policy along lines initially neither envisioned nor necessarily desired by European negotiators.*

## 1. INTRODUCTION

When I was chief economist at the OECD in the early 1980s I became aware that after we issued our forecast, many private sector firms factored it into their decisions and thus influenced the outcome and hence the forecast. I asked a research assistant if he could get me a layman’s definition of

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 179–193

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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88008-3

Heisenberg's uncertainty principle. He did so with great alacrity and I used it at my next press conference as a cautionary note about forecasting. The definition was very crisp and clear: you can know where you are but not where you are going, or you can know where you are going but not where you are. In thinking about the world since 9-11, I have coined a new definition of uncertainty. I call it Heisenberg squared: you do not know where you are or where you are going. What is most interesting to me is how little attention has been paid to the profoundly significant issue of how to factor uncertainty into the decision-making process. Granted, that would not be easy. But uncertainty played an important role in the shift in the power dynamics of the global trading system. And although one can speculate on the evaluation of that system, the future is clouded with the fog of uncertainty.

I shall start with an account of the unintended consequences of the Uruguay Round and then focus on the North–South divide and the emergence of new actors on the world stage of trade negotiations.

## 2. URUGUAY ROUND: UNINTENDED CONSEQUENCES

It could perhaps be plausibly argued that in all significant government policies the unintended consequences overwhelm the original policy objectives (i.e. you may know where you are but not where you are going!). The Uruguay Round is a particularly striking example of this dictum.

The Uruguay Round was the eighth negotiation under the auspices of the GATT (General Agreement on Tariffs and Trade), created in 1948 as part of the post-war international economic architecture. The primary mission of GATT was to reduce or eliminate the border barriers that had been erected in the 1930s and that contributed to the Great Depression and its disastrous consequences. The GATT reflected its origins in the post-war world in that it provided rules to buffer or interface between the *international* objective of sustained liberalization and the objectives of *domestic policy*, primarily full employment and the creation of the welfare state. This paradigm appeared to be based on a consensus among the major players termed “embedded liberalism” Ruggie (1982). But there was less of a consensus between the Europeans and the U.S. than appeared at the creation, a point to which I return below.

Before the Uruguay Round, GATT worked very well. Tariffs and non-tariff barriers were significantly reduced and trade grew faster than output

as each fed the other. From the 1960s on the rounds were essentially managed by the European Community (E.C.) and the U.S. (The Big Two); although smaller countries were able to play a useful mediating role, the developing countries were largely ignored as players until the 1970s. Agriculture was virtually excluded from negotiations. The Common Agricultural Policy (CAP) of the E.C. was enshrined in the Treaty of Rome in 1957 and regarded as the heart of European integration, an implicit contract between France and Germany. Furthermore, the U.S. secured a GATT waiver for its agricultural support schemes. So the transatlantic alliance, sans agriculture and helped by the Cold War's constraint on trade frictions, was the effective manager of the international trading system.

The Uruguay Round was a watershed in the evolution of the system. Agriculture was at the centre of the negotiations. The French–German “deal” (French agricultural products for German manufactured products) was increasingly tenuous. The German market was simply not big enough for the vastly expanded European production nurtured by the CAP intervention on prices and incomes, and so exports became the “solution.” By 1979 the Community became a net exporter of temperate foodstuffs, but exports required subsidies because of oversupply engendered by high internal prices, and this required considerably more import protection. And so by the 1980s, the Community's insulation from world trade ended. The honeymoon with the Americans ended as U.S. exports to the E.C. diminished and E.C. exports flourished and even penetrated the American market. Anger at the “unfair competition” of subsidized products exploded. For the U.S. government, there was only one answer – the CAP had to be reformed – and there was only one way to do it: with a multilateral trade negotiation.

That was much easier said than done. A U.S. call for negotiation started in 1981, but the Uruguay Round was launched at Punta del Este only in September 1986. The delay was due to the endless foot-dragging by the Community involving complex maneuvers in not only the GATT but also the OECD and the Economic Summit. This foot-dragging spawned a new single-interest coalition, the Australia-led Cairns Group, which included Southern Countries from Latin America and Asia determined to ensure that liberalization of agricultural trade would not be relegated to the periphery as it always had in the past (and this provided a glimpse of the future, as we shall see below).

But the role of a group of developing countries, tagged the G10 hardliners and led by Brazil and India, was in many ways even more important in the Uruguay Round's transformation of the system. The G10 was bitterly opposed to the inclusion of the so-called “new issues” – trade in services,

intellectual property and investment – central to the American negotiating agenda.

Although the “new issues” are *not* identical – obviously negotiations on telecommunications or financial services differ from intellectual property rights – they do have one common or generic characteristic. They involve not only the border barriers of the original GATT, but also domestic regulatory and legal systems embedded in the institutional infrastructure of the economy. The degree of this intrusiveness into domestic sovereignty bears little resemblance to the shallow integration of the GATT with its focus on border barriers and its buffers to safeguard domestic policy space. Thus, for example, the barriers to access for service providers stem from laws, administrative actions or regulations that impede cross-border trade and investment. Intellectual property negotiations covered comprehensive standards for domestic laws, private property rights of legal persons and also detailed provisions for enforcement.

The inclusion of the new issues in the Uruguay Round was an American initiative and this policy agenda was largely driven by American MNEs (multinational enterprises), which were market leaders in the services and high tech sectors. These corporations made it clear to the government that without a fundamental rebalancing of the GATT they would not continue to support a multilateral policy but would prefer a bilateral or regional track. But they did not just “talk the talk”; they also walked the walk, organizing business coalitions in support of services and intellectual property in Europe and Japan as well as some smaller OECD countries. The activism paid off and it is fair to say that American MNEs played a key – perhaps even *the* key – role in establishing the new global trading system. This merits a brief digression.<sup>1</sup>

While initially opposed to the inclusion of the new issues, the E.C. later came to support negotiations especially in services and trade-related aspects of intellectual property rights (TRIPS). This change was almost entirely due to the policy activism of the American private sector. In Europe, the role of MNEs was far weaker at the level of the European Commission and was largely directed to national governments. For the E.C. the most important issue was to “broker” the policy pressures emanating for member states not private interest groups. This inward-directed focus became even stronger because of the Europe 1992 project to create a single market.

In the United States, the private-sector advisory process established in the 1970s for the Tokyo Round of Multilateral Trade Negotiations was designed to cope with or broker interest group pressures acting on Congress. But in the Uruguay Round its impact spread well beyond its original

objective. The U.S. service sectors were world leaders and the same was true in investment and technology. American MNEs controlled 40% of the world's stock of foreign investment at the outset of the 1980s and the American technology balance of payments was well over \$6 billion, while every other OECD country was in deficit. This was high-stakes poker and the MNEs launched the game. The U.S. Advisory Committee for Trade Policy and Negotiations (ACPTN), in cooperation with other U.S. business groups, undertook the task of convincing European and Japanese corporations to lobby for the new issues. In the services sector, U.S. activism extended well beyond the two trading powers. Nine country service coalitions were organized and met regularly with the GATT secretariat. In the case of intellectual property the U.S. group, called the Intellectual Property Rights Committee or IPC, working through UNICE (Union of Industries of the E.C.) and the Keidanren in Japan, persuaded their counterparts to table a detailed trilateral proposal in Geneva for an intellectual property agreement drafted by American legal experts. This bore a remarkable resemblance to what came out of the Uruguay Round. Be that as it may, it is important to note that only in these two instances, services and intellectual property, did European business play a role in the Uruguay Round negotiations. The high profile of the American MNEs, however, was later to have some unintended consequences.

If the word tortuous is not too strong for the launch it could also describe the negotiations. The Round almost collapsed at a mid-term Ministerial in 1988. It was supposed to be concluded by 1990 at a Ministerial in Brussels. The transatlantic divide over agriculture was at the heart of the problem. But by the onset of the 1990s the G10 had disappeared, decimated by the debt crisis of the 1980s and chastened by the IMF (International Monetary Fund) and the World Bank. French opposition to any reform of the CAP was finally overcome in Washington with the so-called Blair House Accord on agriculture between the E.C. and the U.S. at the end of 1992.

The Uruguay Round was completed in the following year. What might be called a North–South Grand Bargain was completed and was quite different from old-time GATT reciprocity – I'll open my market if you'll open yours. It was essentially an implicit deal: the opening of OECD markets to agriculture and labor-intensive manufactured goods, especially textiles and clothing, for the inclusion into the trading system of trade in services, intellectual property and (albeit to a lesser extent than originally demanded) investment. Also included – as virtually a last minute piece of the deal – was the creation of a new institution, the WTO, with the strongest dispute settlement mechanism in the history of international law and with virtually no

executive or legislative authority (apart from negotiations). The Canadian proposal to create a new such institution was supported by the E.U. as a way of curbing American unilateralism. Since the Uruguay Round consisted of a “single undertaking” (in WTO legal-ese) the deal was pretty much take it or leave it for the Southern countries. So they took it but, it is safe to say, without a full comprehension of the profoundly transformative implication of this new trading system (an incomprehension shared by the Northern negotiators as well, I might add). While many of the original negotiators had departed, those who survived the course could only heave a sigh of relief that a political fiasco has been avoided. There was no carefully calibrated strategic model to be evaluated. Uncertainty ruled.

The Northern piece of the bargain consisted of some limited progress in agriculture, with a commitment to go further in new negotiations in 2000; limited progress in textiles and clothing with most of the restrictions to be eliminated later rather than sooner; and a rather significant reduction in tariffs in goods in exchange for deeper cuts by developing countries with higher tariffs. On the whole this could be argued to be not great, but not bad when compared with previous rounds centred on traditional GATT-type market access negotiations. But this was not a GATT negotiation, as the Southern piece of the deal so amply demonstrates. The essence of the South side of the deal – the inclusion of the new issues – requires a major institutional upgrading and change in the infrastructure of most Southern countries. These changes take time and cost money. Implementation thus involves considerable investment with uncertain medium-term results.

There were two significant unintended consequences to the Uruguay Round Grand Bargain (or Bum Deal). One is a serious North–South divide in the WTO. While the South is hardly homogenous, there is a broad consensus that the WTO Round was asymmetric and that the system must be rebalanced. The *débat* of Seattle in 1999 ended with the walkout of virtually all the developing countries. It is more than symbolic that the outcome of the Ministerial Meeting in Doha, Qatar, in 2001 was termed a “development agenda” and not a round. The main objective of the Doha meeting was to avoid another Seattle: thus, its great success was that it did not fail. Both the E.C. and the U.S. visited Africa to woo Ministers, and the Declaration repeatedly refers to technical assistance and capacity building. Pushed by the successful NGO (non-governmental organization) campaign about Aids in Africa, the Americans even seemed willing to antagonize Big Pharma. So Doha was unique in its focus on the South and development. But, of course, there were many other items on the Doha agenda – including agriculture and the so-called Singapore issues of competition, investment,

government procurement and trade facilitation. And, finally, the Doha Declaration was a masterpiece of creative ambiguity, so that the devil remained in the details of the negotiations, of which I say more when we get to Cancun, the next Ministerial Meeting.

But before then, it is important to note the second and equally unintended consequence of the Uruguay Round, i.e. the rise in profile of the MNEs due to their crucial role in securing inclusion of services and intellectual property into the trade regime. The active role of the corporations made them and the WTO a magnet for what came to be called the anti-corporate globalization movement of NGOs.

This is not the time for a review of the history and role of the NGOs in the trading system. Nor am I asserting that there is a homogenous set of institutions called NGOs. My major concern is the role of advocacy NGOs whose main objective is to shape policy and the policy agenda. But there are different groups of advocacy NGOs, for example, groups rich in technical and legal expertise who usually consult “inside” the system; NGOs dedicated to assisting and advising Southern governments, a “virtual secretariat” as it were; and groups centred on establishing business codes of conduct on corporate social responsibility. All these are rather different from what I term the mobilization networks, for whom a major object is to rally support for dissent at a specific event – a WTO ministerial meeting, or a meeting of the World Bank and IMF, or a G8 Summit and so on. The NGOs have effectively utilized the internet, and thus have made the market for policy ideas contestable. And they created, in effect, a new service industry: the business of dissent. They were the activists on TV in Seattle, Washington or Genoa. Dissent attracts violence and extremists, however, and after Genoa, where one protester was killed and then, of course, the terrorist attack of 9-11, the mobilization networks and other advocacy groups recognized the need for a new strategy. One seems to be a new anti-war movement, which has produced demonstrations around the world. Their axis of evil is the U.S. and Israel, and it is not clear how it will evolve.

But another trend is now evident. Dissent as a brand is becoming tarnished, there is no coherent strategy emerging from the movement, and criticism from supporters is growing. As Todd Gitlin (2003), a 1960s activist, succinctly puts it: “a bumper sticker is not an argument” (p. 91). Or, as participants at the 2003 World Social Forum in Mumbai, India noted: “Delivering an hour long litany of worn conspiracy theories... Noam Chomsky almost managed the incredible feat of putting a full stadium of jubilant young people to sleep” (Kaldor, Anheier, & Glasius, 2003, p. 83). A yearning for some Edenic past of self-sufficient communities begins to wear thin, as



does the romance of Spanish anarchism. So a move from dissent to dialogue and debate is now apparent (Kaldor et al., 2002, p. 24). And the new name for the movement appears to be “the global justice movement” – read: anti-poverty. Moreover, and of great significance, during the decade of the 1990s the spread of global civil society into the South was remarkable. Indeed the expansion of NGOs in low-income countries was higher than in the OECD (Kaldor et al., 2002). So Adieu Seattle, and Bonjour Cancun.

### 3. CANCUN: CAN DO AND CAN'T DO

The Doha negotiations went nowhere. All deadlines were missed. There was no progress on the core issues of agriculture (evidently the ambiguous drafting was too clever by half). And that brings us to Cancun.

I was at Cancun, and when the meeting ended so abruptly I was swept by a strong sense of *déjà vu* all over again. Cancun was a mid-term Ministerial meeting as was Montreal in the Uruguay Round in 1988. On the last morning of the Montreal meeting at around 6 a.m., the bleary-eyed negotiators were waiting for the arrival of the E.C. and U.S. warriors who had been up all night dealing with agriculture. When they arrived they announced that it was too bad but they had not reached an agreement, so we should tidy up the other agenda items and finish the communiqué. A group of Latin American countries headed by Brazil said “no”: no agriculture, no agreement on anything. It was a moment of shock (and maybe awe for some others), but we handled it with great finesse by announcing that the meeting was adjourned and would be reconvened shortly in Geneva. No big headlines ensued.

In any case my *déjà vu* feeling soon dissipated. The North–South divide had taken a different shape. There appeared to be an axial shift in the political economy of policy-making that would require a fundamental re-orientation of the players and the game. Two new coalitions of Southern countries were formed at Cancun. One, termed the G20, led by Brazil and India as well as China (the Big Three) and South Africa included a number of Latin American countries. Its main focus at Cancun was agriculture, catalysed by an unacceptable draft proposal from the U.S. and EU. The G20 seemed an unlikely coalition since it included countries with varying views on economic policy and, indeed, on agriculture. But it did not collapse under pressure at Cancun and, despite losing members because of American bilateral pressure, it has survived thus far. G20 or its leader, Brazil, has succeeded in challenging the Free Trade Agreement of the Americas to the

chagrin of the U.S. India and China are now exploring a free trade agreement as are India and Mercosur.

The G20 was very active at the UNCTAD XI meeting at Sao Paulo in June 2004 and, indeed, at that meeting a South–South Round of negotiations was launched under special provisions of the original GATT in which developing countries provide trade preferences for products from other developing countries. This was underlined as another example of the “new geography” of the trading system by UNCTAD head Rubens Ricuperio and the Brazilian president Luiz Inacio Lula da Silva.

Indeed the new geography was evident at Cancun in the formation of another coalition – the G90. This included the poorest developing countries, mainly from Africa. After failing to convince the U.S. to eliminate cotton subsidies to help the poverty-stricken African exporters and to persuade the EU to remove the Singapore issues from the agenda, the G90 terminated the negotiations. It is important to note that at Cancun NGOs played a prominent role with respect to the G90. African NGOs were included in many official delegations and they provided ongoing information as well as research and policy analysis. They had regular briefing sessions from officials and Ministers (Samb, 2004). As noted earlier, they (plus some Northern NGOs) could be described as a virtual secretariat launched by the internet. Unfortunately, there is not yet enough information to explore this important development in more depth.

The formation of Southern coalitions will undoubtedly change the dynamics of the Doha negotiations, especially but not only on agriculture. The G20 was actively engaged in the bargaining over a “framework” agreement (a broad outline with minimal detail), which was agreed by all-night bargaining at the end of July before the 2004 summer break. This would allow the real negotiations to start after the U.S. election and be concluded, one hopes, just a year later than the target date set at Doha. But there will not be another Blair House deal by the Big Two without the Big Three and perhaps the G90 as well. Indeed splits between the G90 and other developing countries are being encouraged by the rich countries. The geography certainly makes trade policy more complex! Both the U.S. and the EU are using bilateralism and other policy instruments to weaken the G20 and provoke conflict with the G90.

Thus the new geography could result in transforming trade into a zero sum game. By blocking consensus the G2 and the G3 can both exert power, but for what purpose? The G20 includes countries with considerable soft infrastructure and the proliferation of NGOs and a more active UNCTAD are able to provide knowledge and policy analysis. But there is no evidence

of a significant capability to exploit the power shift by generating a coherent and flexible strategy. Unlike the situation for the rich countries, there is no OECD. The strategic assets of that institution, the *soft power* (research capabilities, both governmental and non-governmental) (through meetings, conferences, publications, etc.) are essential for developing consensus on policy strategies through debate, dialogue and peer group pressure (Ostry, 2000). Thus there is a fundamental asymmetry in the global system that goes beyond the structure and content of the WTO, and reflects the established power structure of the world. It will not remain that way forever, but it will take a long time to reconfigure. Nonetheless, while some grand new vision of global governance is hardly worth discussion (at least in my view), some important reform may be possible. That would require, *inter alia*, agreement from the Big Two. Embedded liberalism redux?

#### 4. CONCLUSIONS

The consensus on the post-war paradigm of embedded liberalism that created the GATT was, in fact, not really much of a consensus. The British (and later most Europeans) were committed to Keynesianism, the creation of full employment and the welfare state; the Americans were far less so. The New Deal was in no way ideological, but simply pragmatic. While some American academics were Keynesian, this was not the prevailing view (Ostry, 1997, pp. 57–67). There was no government-constructed “social contract” as in the U.K.’s Beveridge Plan. While an Employment Act was passed in 1946 in the United States, the Republican-dominated Congress ensured that the role of the Council of Economic Advisers was rather limited. The European “social compact” involved more than Keynesian demand management: it included a commitment to income redistribution involving an expanded role for the state in both taxation and expenditure, alien to the historical and deeply held U.S. conception of the government’s role. The distinct American concept of welfare “does not offer the individual a life of security. It grants him an opportunity and imposes upon him the obligation to find security for himself... and for opportunity the individual must look to private enterprise” (Ball & Bellamy, 2003; Freedman, 2003, p. 39). American support for the GATT largely stemmed from its investment abroad and America’s lead in the world economy.

The transatlantic differences present at the creation have not disappeared. They reflect not just disagreements over trade and trade-related issues but different concepts of society and the economy. These differences have been

characterized as a contrast between Exit and Voice, a metaphor adapted from the work of Albert Hirschman.<sup>2</sup> An Exit paradigm is far more adaptable in a period of rapid change because social change is governed by an anonymous mechanism that rewards the most efficient – winners prosper and losers appear to disappear. A Voice paradigm, by contrast, gives losers influence. Governments must then engage in a long and difficult process to renegotiate the social contract. While a number of European countries have been successful in this reform, this is not true of either France or Germany, hardly marginal players in trade issues! It is difficult to predict whether or not there will be convergence on a new EU paradigm (especially with the recent additions), but it will be difficult and time-consuming. And as was the case with the Europe 1992 project, it may focus attention and political capital inward rather than outward.

Yet let us go back to Heisenberg. The primary global public good provided by a rules-based global trading system is that, warts and all, it is far better than the only alternative, a power-based system. Obviously it is better for those countries without much power. But it is also better for the big players for one major reason. *It reduces uncertainty*. In a world of vast uncertainty surely Gramsci's definition of leadership can be rallied by the Big Two – and the Big Three. Leadership requires pessimism of the intellect and optimism of the will. Where there's political will there's always a policy way. But what is essential is a reasoned discussion of a number of fundamental issues.

The ongoing debate over globalization has generated a vast number of studies, articles and diatribes. Does trade per se generate growth? Is there growing inequality in the global economy? Is a widespread concern with global inequality a path to impoverishment? How can capacity building be mainstreamed in development? Is the WTO a democratic institution? Is maximizing economic efficiency the sole or major objective of society? (Is the new Cartesian definition of being "I buy, therefore I am"?) (Melloan, 2003, p. A15).<sup>3</sup> Can industrial policy or the East Asian model be effective in generating more rapid growth? Can governments pick winners as effectively as losers pick governments? And so on. There are times when some of the more strident or zealous present us with a choice between Nirvana and Armageddon. Hardly the basis for achieving consensus!

What is truly incongruous in the current state of the global trading system is that there is no forum in the WTO where basic issues that define the template of the system can be analysed and discussed. As noted earlier, the WTO's executive and legislative functions are extremely weak, especially but not only compared with its judicial procedures. But this asymmetry is

greatly amplified by the very limited research capabilities of the institution and the absence of a policy forum. Yet in the GATT there was a policy forum. This deserves some explanation.

## 5. THE CG18 (CONSULTATIVE GROUP OF 18)

The CG18 was established in July 1975 not by trade ministries but as a result of a recommendation of the Committee of Twenty Finance Ministers after the breakdown of Bretton Woods (The Committee of Twenty also established the IMF's Interim Committee). It was an initiative of the GATT Director General Olivier Long who (albeit under cover!) fed the idea into the Committee. Its purpose was to provide a forum for senior officials from *capitals* to discuss policy issues and not to, in any way, challenge the authority of the GATT Council. Because of the creation of the Interim Committee, the Committee of Twenty felt the need for a similar body in the GATT to facilitate international coordination between the two institutions. The CG18 was a European initiative concerned with the perceived American indifference to the breakdown of the post-war system. The composition of the membership was based on a combination of economic weight and regional representation, but there was provision for other countries to attend as alternates and observers or by invitation. Each meeting was followed by a comprehensive report to the GATT Council.

Because it was a forum for *senior officials from national capitals* it provided an opportunity to improve coordination of policies at the home base. This is now far more important because of the expansion of subjects under the WTO. Indeed there is no "Minister of Trade" today but a number of Ministries with concerns covered by the WTO. After the Tokyo Round the CG18 was the only forum in the GATT where agriculture was discussed and, in the long lead-up to the Uruguay Round, trade in services. The CG18 was the only forum for a full, wide-ranging, often contentious debate on the basic issues of the Uruguay Round. There was an opportunity to analyse and explain issues without a commitment to specific negotiating positions. Negotiating committees *inhibit* discussion because rules are at stake. Words matter and might be used, for example, in a dispute settlement ruling as was a report by the Committee on Trade and Environment with a predictable chilling effect on constructive dialogue. Thus the *absence* of direct linkage to rules is essential to the diffusion of knowledge, which rests on a degree of informality, flexibility and adaptability. This is the OECD model of soft power.

While establishing the policy forum would be a great step forward, it is unlikely to function effectively without an increase in the WTO's research capability. Analytical papers on key issues are needed to launch serious discussions in Geneva and to improve the diffusion of knowledge in national capitals. In order to keep up to date and reasonably small in size, the WTO could not possibly generate all its policy analysis in-house. The WTO secretariat would have to establish a research network linked to other institutions. This *knowledge networking* should include academic, NGOs, environmental, business, labour and intergovernmental organizations such as the OECD, UNCTAD, Bretton Woods and environmental institutions. This becomes even more essential since Doha because the capacity building for developing countries will require complex and extensive coordination with the World Bank. Moreover, establishing a research or knowledge network can enhance the ability of the WTO Director-General to play a more effective role in leading and guiding the policy debate. This will be politically contentious but is essential. Just imagine what would have happened in the 1980s debt crisis if the head of the IMF had had the authority of the head of the GATT. There would have been a series of meetings to discuss meetings and so on, while Latin America went down the drain!

A key difficulty in establishing this forum would be to determine the membership. One formula already exists in the former CG18, which was never officially terminated. But if the forum is opposed (as it no doubt will be), then an informal arrangement, like the Mini-ministerials that were mobilized after Doha, would have to suffice until the reform could be included in the negotiations or as part of a proposal by the Secretary-General's advisory group.

Of course the CG18 is not a magic bullet. The policy issues as noted earlier are complex and contentious. And there is no consensus, Washington or otherwise. But the knowledge networking would expand the dialogue and the knowledge diffusion through national capitals would enhance the legitimacy of the policy process and help create peer group pressure for consensus. Without apology, it must be often repeated that what is required is political will, and the recognition that ongoing changes in value systems in the rich countries represent a fundamental challenge to democratic policy-making. In all OECD countries, there has been declining confidence in government since the mid-1970s. There are many differing views on the reason for this striking phenomenon and no doubt different factors are operative in different countries (Ostry, 2002). The World Values Survey of the University of Michigan documents the intergenerational shift in the 1970s to post-materialism, which places much less emphasis on economic

growth and much more on issues such as environment, culture, moral and ethical concerns, etc. (Inglehart, 2000; Nevitte & Kanji, 2002). How persuasive is a clear, impeccable, reasoned argument about the benefits of globalization and trade to the families without jobs or to the TV viewers watching starving peasants in Africa? This reminds me of the brilliance of Joseph Schumpeter in his 1942 book *Capitalism, Socialism and Democracy*, where he argued that the fatal flaw of the capitalist system is that its fundamental ethos – rationality – cannot be defended against those who wield the power of words and the charge that “nothing is sacrosanct” (Ostry, 2001). But, let us remember, Schumpeter was wrong when he predicted the demise of capitalism. Still, taking note of his reasoning and of the growing anomie in our countries could perhaps help create the necessary optimism of the will and provide some sunshine in the dreary fog.

## NOTES

1. What follows is based on Sylvia Ostry (1990, 1997, pp. 183–192).
2. Concepts derived from Albert O. Hirschman (1970), although he uses them somewhat differently.
3. The best place to review recent studies on trade and growth, trade and inequality, etc. is to search NBER Working Paper Series at <http://www.nber.org/papers>. For the analysis of the East Asia model see Noland and Pack (2003) and Chang (2002). For a recent proposal on Cancun see Helleiner (2003, pp. 3–5).

## REFERENCES

- Ball, T., & Bellamy, R. (Eds) (2003). *The Cambridge history of twentieth century political thought*. Cambridge: Cambridge University Press.
- Chang, H.-J. (2002). *Kicking away the ladder: Development strategy in historical perspective*. London: Anthem Press.
- Freeden, M. (2003). The coming of the welfare state. In: T. Ball & R. Bellamy (Eds), *The Cambridge history of twentieth century political thought*. Cambridge: Cambridge University Press.
- Gitlin, T. (2003). *Letters to a young activist*. New York: Basic Books.
- Helleiner, G. K. (2003). Trade rules, processes and negotiating strategies: Has Cancun changed anything? *Bridges*, 7(8), 3–5.
- Hirschman, A. O. (1970). *Exit, voice and loyalty*. Cambridge, MA: Harvard University Press.
- Inglehart, R. (2000). Globalization and postmodern values. *The Washington Quarterly*, 23(1), 215–228.
- Kaldor, M., Anheier, H., & Glasius, M. (Eds) (2002). *Global civil society 2002 (Part IV)*. Oxford: Oxford University Press.

- Kaldor, M., Anheier, H., & Glasius, M. (2003). *Global civil society 2003*. Oxford: Oxford University Press.
- Melloan, G. (2003). The rich and getting richer, but so are others. *Wall Street Journal*, December 23.
- Nevitte, N., & Kanji, M. (2002). *Authority orientations and political support: A cross-national analysis of satisfaction with governments and democracy*. Mimeo. Department of Political Science, University of Toronto.
- Noland, M., & Pack, H. (2003). *Industrial policy in an era of globalization: Lessons from Asia*. Washington, DC: Institute for International Economics.
- Ostry, S. (1990). *Governments and corporations in a shrinking world*. New York: Council on Foreign Relations.
- Ostry, S. (1997). *The post cold war trading system: Who's on first?* Chicago: University of Chicago Press.
- Ostry, S. (2000). Convergence and sovereignty: Policy scope for compromise? In: A. Prakash & J. A. Hart (Eds), *Coping with globalization*. London: Routledge.
- Ostry, S. (2001). The multilateral trading system. In: A. M. Rugman & T. L. Brewer (Eds), *The Oxford handbook of international business* (pp. 237–242). London, Oxford: Oxford University Press.
- Ostry, S. (2002). *Global integration: Currents and counter-currents*. The Walter Gordon Series in Public Policy. University of Toronto, Massey College.
- Ruggie, J. G. (1982). International regimes, transactions, and change: Embedded liberalism in the postwar economic order. *International Organization*, 36(2), 379–415.
- Samb, F. (2004). Agency for international trade information and cooperation, Senegal, Correspondence with the author, February.



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# GLOBALISATION VS. DEVELOPMENT: IS THERE A EUROPEAN PERSPECTIVE?

Mike Wickens

## ABSTRACT

*This chapter expresses views prompted by my experience as Specialist Adviser to the UK's House of Lords in their enquiry on globalisation. The un-stated issue was: are the critics of globalisation correct? This paper argues that the critics should be seeking ways of bringing the benefits of globalisation to the poorest countries, not attacking globalisation, which is a necessary, and largely desirable, consequence of the wish for economic development and growth. The key to growth is education (i.e. human not physical capital) and good governance. Inward finance promotes development but tends to go to developing countries that can make best use of it through having an educated labour force and good governance. The critics emphasise trade barriers imposed by developed countries, but the main barriers come from developing countries themselves. Extreme poverty is the greatest immediate concern. As this would be inexpensive to eliminate by aid alone, economic development is a necessity. Significantly, countries with the most poverty are also those with the highest inequalities of income.*

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European Responses to Globalization: Resistance, Adaptation and Alternatives  
Contemporary Studies in Economic and Financial Analysis, Volume 88, 195–222  
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ISSN: 1569-3759/doi:10.1016/S1569-3759(06)88009-5

As the whole point of globalisation is that it is global, it would be surprising if Europeans took a markedly different view of it from other countries. Nevertheless, it is probably true to say that European countries do have their own perspective on globalisation. In large part, this reflects Europe's history of colonisation and its current pre-occupation with internal problems arising from its expansion from 15 to 25 countries and, in the future, beyond this.

Many of the problems of globalisation are present in this expansion, particularly in the areas of competition from cheaper suppliers, removal of trade barriers, labour mobility from low-wage to high-wage economies, foreign direct investment (FDI) in low wage economies, access to capital markets by low-wage countries and improvement in governance. The European Union's (EU's) attitude to world globalisation and its negotiating position in the Doha Round of trade negotiations stem from the need to work out and adhere to a common policy sometimes in the face of unresolved national differences and apparently conflicting national interests. As a result, for example, being a bloc itself, the EU prefers multilateral to bilateral trade negotiations.

The official position of Europe on globalisation has been enunciated in a number of recent speeches by Pascal Lamy, the EU Commissioner for Trade until 2004. Following the early failures of the Doha Round, started in Qatar in 2002 and continued in Seattle and Cancun, he has spoken several times about the Doha Development Agenda, its implications for globalisation and the EU's objectives in the talks. There have also been official reports on globalisation: from the European Commission and the UK House of Lords (see Bourignon et al., 2002; House of Lords, *Select Committee on Economic Affairs*, 2002). Both go into considerable detail on the economics of globalisation and evaluate the concerns of the critics. The Commission's report was produced by leading European economists of the CEPR. The House of Lords had the benefit of taking evidence from some of the world's main players: for example, heads of international institutions such as the BIS, UNCTAD, the WTO, the European Commission, finance ministers, governors of central banks, CEOs of multinationals, representatives of prominent international charities and key academics of international repute.

The attention being given to globalisation is due in large part to the publicity generated by its critics through high-profile protests and demonstrations in Genoa, Gothenburg, Nice, Prague, Seattle and Washington during international conferences of the world's leaders and Doha Round negotiations. Studies of globalisation tend to take their agenda from that of its critics. The result has usually been a defence of globalisation. The two official reports are good examples of this; both conclude that the benefits of

globalisation far outweigh the costs, and this is as much true for the developing as for the developed countries. There is, however, a more positive case that can be made for globalisation. I shall attempt to put this case here. In my view, and in the view of most economists, globalisation is, and has been for centuries, an intrinsic feature of the development process and the striving for greater individual economic prosperity. Globalisation has many paradoxes and this is one of them: that decisions taken with regard to individual self-interest should be the basis of globalisation.

It is common to begin a study by defining one's terms. In the case of globalisation this is not so easy. The House of Lords received from its witnesses at least 11 different definitions of globalisation. Given such diversity, it is not surprising that differences of opinion on the merits of globalisation prevail. And it is unlikely that another definition would be very helpful.

In the current debate globalisation does not have positive connotations. The word is used pejoratively as a name for all of the problems that economic (and cultural and social) development creates in its train. It is obvious that development will generate problems, many of them new ones, and that some countries are currently gaining much less benefit than others, particularly many African countries. This is common ground in most studies of globalisation, even in those that find much merit in it. Much more important are whether the benefits of economic development outweigh the problems it generates, and what can be done to remove or ameliorate these disadvantages. While discussing the development process, which I believe is a beneficial and highly and widely desired process, particularly among the developing countries, I will seek to show how these problems arise and what might be done about them. It is, therefore, tempting simply to treat globalisation as the negative side of development. Thus, at the outset I concede the argument that globalisation is not without its downside in order to better put a positive case for development.

## **1. THE PROCESS OF ECONOMIC DEVELOPMENT**

To understand how and where the problems of globalisation arise, first I describe the process of economic development. This is a complex picture in which the pursuit of each individual's wishes entails the co-ordination of people throughout the world via the market system. At each stage in this process problems arise that comprise the globalisation agenda. These should not, however, blind us to the marvellous intricate and interdependent world system that has evolved organically of its own accord. It is a system derived from the human nature, and reflects its faults.

I begin with the proposition that individual economic prosperity is widely desired. This is the key assumption in economics. There are, of course, some who, for various reasons, think that economic prosperity is undesirable. For them, no doubt, the negatives of globalisation outweigh any benefits from economic development. This has not, however, been the dominant view of mankind through the ages. Focusing on the individual is not necessarily at the expense of others, though sometimes it does entail this. The argument is familiar. It includes Adam Smith's invisible hand in which markets co-ordinate individual decisions, and also altruistic motives which entail a concern for others. Nonetheless, individualism and the harm it may do are often raised in the debate on globalisation and is clearly something that must be taken into account. Moreover, market failure – particularly lack of access to markets and mispricing – is endemic and may result in misallocation.

Economic prosperity is commonly measured through current and expected future consumption. Whether this is the consumption of goods and services, or the freedom to spend time as one prefers, is not an issue. Both require the support given by an income stream and hence, in the absence of inherited wealth, the provision of employment opportunities. Indivisibilities have resulted in the development of markets in which goods and services – including labour services – are traded, and individual actions are co-ordinated. Scarcity, including limited time, means that there is an opportunity cost of doing one thing rather than another. The desire not to waste income or resources gives rise to the search for the most efficient means of production. This has entailed the use of physical capital to replace scarce labour. Balanced growth (roughly growth that is sustainable) requires technological improvements in physical capital and the enhancement in labour (human capital) mainly through education. This has resulted in labour being ever more productive, and the cost of production falling steadily over time. Price competition, due to consumers seeking the lowest price, has diversified production and stimulated the search for new products that give a temporary monopolistic advantage.

The need to protect future income, either in retirement or due to a loss of employment, causes households to save. Impatience creates the need to borrow. This may be to finance current household consumption, including housing services, or physical investment by firms. Government borrowing, which in some countries dwarfs private borrowing, in effect finances current consumption from future, rather than current, taxes. Financial markets co-ordinate the decisions of borrower and lender.

To this must be added that individuals enter with different preferences and endowments. These include their aptitudes, inherited wealth and human and physical capital. These may be affected by family circumstance,

nationality and race. Inequality and unfairness is the initial condition of the human race. An issue in the globalisation debate is how far the disadvantaged have shared in the benefits from economic development.

A central tenet of economics is that trade is not a zero sum game in which one country only benefits at the expense of another, but is a positive sum game in which all can benefit from trade. And if trade is a good thing, it should be encouraged, and be free from the impediment of protectionism. This idea is not new. It is associated with David Ricardo who wrote nearly 200 years ago about the benefits of trade. Nonetheless, to judge by the current round of world trade negotiations, it remains just as controversial today as when it was first proposed. This is the basis of the economic argument for making the world economies more, not less, interdependent and it is why most economists are in favour of globalisation.

These are the forces that drive all economies. They touch most aspects of life and they know no national boundaries. The whole process relies on the existence of markets to transmit information and allocate resources. Good governance is required to help ensure that markets are operating fairly and to correct market failure. Much of the criticism of the development process arises from market failure.

## **2. GLOBALISATION CONCERNS**

The globalisation debate tends to focus on the international dimension of this development process. The list of grievances largely relate to the negative effects of trade. These include import penetration in domestic markets, the loss of exports due to greater competition in foreign markets, the lowering of income due to falling prices, particularly agricultural incomes, tariff barriers to trade, the loss of employment due to import penetration and outsourcing, the usurping of intellectual property rights, the pressure in some less-developed countries to alleviate unemployment by accepting very low wages or to generate income through exporting natural resources despite consequent environmental degradation, and the environmental costs of transporting goods around the world. In addition, there are concerns about the foreign take-over of domestic assets, the lack of domestic control over foreign multinationals, the ability of foot-loose financial capital to cause a domestic financial crisis, international contagion of financial collapse, lack of access to foreign capital markets and the difficulties in persuading international organizations to bail out failing economies. There are many other complaints, but the list is already impressive enough.

In the main these criticisms are probably correct. Many of these problems also arise as a result of economic activity within the domestic economy, but a large number has either been created, or exacerbated, by the international dimension of the development process. The issue is whether they can be dealt with while still obtaining the benefits of the development process. Put another way, do the benefits from eliminating these problems – even if that were possible, which often it is not – exceed the costs?

### 3. THE ROLE OF GROWTH IN THE DEVELOPMENT PROCESS

Economic growth is achieved by increases in the level of factor usage and by technological progress which raises factor productivity. Globalisation, when working beneficially, can increase the supply of capital, provide migrant labour and spread technological progress.

Evidence on output per capita and the contributions made by physical capital, human capital (education) and total factor productivity (TFP, the amount that can be produced for given factor inputs) is reported in [Table 1](#). TFP includes everything that supports business: technical progress, transport systems, good governance, political stability, the legal and health systems, etc. The data for selected countries are expressed relative to the US.

These data are extremely interesting. They show that differences in output per worker are due less to differences in capital per worker than to education and TFP. In other words, it seems that economic prosperity has at least as much to do with the general state of the economy as it has with conventional sources of growth such as capital and labour inputs.

Evidence on the convergence of growth rates is reported in [Table 2](#). The average annual rate of growth of GDP for the period of 1990–2000 is

**Table 1.** Output Per Capita.

|        | Capital | Education | TFP  | Output Per Worker |
|--------|---------|-----------|------|-------------------|
| US     | 1.00    | 1.00      | 1.00 | 1.00              |
| France | 1.09    | 0.67      | 1.13 | 0.82              |
| UK     | 0.89    | 0.81      | 1.01 | 0.73              |
| Japan  | 1.12    | 0.80      | 0.66 | 0.59              |
| India  | 0.71    | 0.45      | 0.27 | 0.09              |
| Kenya  | 0.75    | 0.46      | 0.17 | 0.06              |
| Uganda | 0.36    | 0.39      | 0.22 | 0.03              |

*Source:* Hall and Jones (1999).

**Table 2.** Growth and Trade.

|                              | Average %<br>Annual Rate of<br>Growth of GDP | Total<br>Trade %<br>GDP | Total<br>Trade %<br>GDP | Exports %<br>of World |
|------------------------------|--|-------------------------|-------------------------|-----------------------|
|                              | 1990–2000                                    | 1990                    | 2000                    | 2000                  |
| World                        | 2.7  | 32.4                    | 40.0                    | 100.0                 |
| Low income                   | 3.2  | 26.7                    | 41.3                    | 3.4                   |
| Middle income                | 3.6  | 36.6                    | 53.5                    | 24.0                  |
| High income                  | 2.5  | 32.0                    | 37.1                    | 72.6                  |
| East Asia and Pacific        | 7.9  | 48.8                    | 65.6                    | 11.2                  |
| Latin America and Caribbean  | 3.3  | 23.2                    | 37.7                    | 5.6                   |
| Middle East and North Africa | 3.0  | 45.4                    | 51.6                    | 3.3                   |
| South Asia                   | 5.6  | 16.5                    | 24.3                    | 1.0                   |
| Sub-Saharan Africa           | 2.5  | 41.2                    | 56.8                    | 1.5                   |
| US                           | 3.5  | 15.8                    | 20.7                    | 12.3                  |
| EU                           | 1.9  | 44.9                    | 56.3                    | 28.7                  |

*Source:* World Bank (2002).

substantially greater for middle- and low-income countries than for high-income countries (HICs). The regional data show that the average rate of growth has been especially strong in Asia. The EU, a high-income region, has the lowest average rate of growth. Whereas the output of East Asia and Pacific has increased by 113% over the 10-year period, the EU's output has only increased by 20%. This indicates how fast the catch-up can be. The rate of growth of the US is nearly twice that of the EU. This is usually attributed to the high levels of innovation in the US economy and of labour market flexibility. It shows the dynamism of the US compared with the EU economy.

Significantly, the average rate of growth of sub-Saharan Africa, the world's poorest region, is only 2.5% implying that output has increased by just 28% over the 10 years. Although growth has been greater than in HICs, it is clearly not large enough and suggests that the region is not performing adequately.

How important is trade for development? [Table 2](#) also provides information on the total value of trade as a percentage of GDP for 1990 and 2000 and the share on total world exports in 2000. The former is a measure of openness to the world economy. These data show that although there is a clear link between income levels and the share of world exports, there is a much less obvious link between income levels and openness to trade.

Middle-income countries trade a much higher proportion of GDP than low- and high income countries. One of the reasons for the low openness of



HICs is the US which has a very low level of openness. Until recently, the US has been a relatively closed economy as far as trade is concerned. In contrast, the EU as a collection of individual countries has a very high degree of openness. However, 63% of EU trade is with other EU countries. If the EU were to be recorded as one economic unit, its trade as a proportion of GDP would fall to around 21% and its share of world exports would fall to around 11%. These are similar figures to those of the US.

Although size means that there is no clear relation between trade and income levels, the rate of change of openness appears to decrease with income level. The trade of low-income countries increased by 55% over the 10-year period, middle-income countries by 46% and HICs by 16%. This shows that low-income countries are integrating into the world economy very fast. East Asia and Pacific is the most open region with total trade equal to 66% of GDP, while Latin America and the Caribbean is the region integrating fastest. Interestingly, sub-Saharan Africa appears fairly open as trading has increased by 38%. Significantly, this suggests that perhaps its relatively poor growth performance should not be attributed to trade.

## 4. TRADE ISSUES IN DEVELOPMENT

Growth also requires market demand, and both domestic and foreign. Trade is therefore essential, and barriers to trade are harmful to growth. A number of factors have had an important impact on the globalisation of trade and development. Among these are tariffs, transport costs and foreign direct investment. The first two have a direct effect on prices and the third has an indirect effect on prices via costs of production. All are examples of protectionism.

### *4.1. Protectionism*

Protectionism has long been one of the most powerful inhibitors of trade. This is what protection is designed to achieve. It has caused international conflict and even wars, and has had a huge influence on policy. Economists are virtually unanimous that protection benefits neither those being protected nor those against whom protection is aimed. But even today there is a strong resistance to this from the public and politicians.

The economic argument is simple. Even if a country can produce something cheaper than another country (*absolute advantage*), it may be able to produce something else even more cheaply. Given scarce resources, it may therefore be beneficial in terms of costs for consumers in both countries if

each country specialises in supplying the goods and services that they produce most cheaply (comparative advantage), even if the other country could produce it more cheaply. In practice, of course, small differences in products tend to result in more than one country supplying a commodity. Even so, this is a powerful argument. It applies particularly to agricultural products and has great relevance for the EU's agricultural policy, one of the world's more highly publicised abuses of openness of trade.

Protection usually is for the benefit of the producer over the consumer. The aim is usually to secure income levels and employment. Perhaps the best-known example of the former is agricultural protection in the nineteenth century. Supplies of grain from abroad caused the Corn Laws in the UK from 1815 to 1842. This resulted in higher and more volatile corn prices in the UK. Supplies from the new world and Russia in the 1870s caused land prices to fall in Europe. This brought a protectionist response and led to mass emigration from the old to the new world.

Another argument in favour of trade barriers is to protect infant industries. It was used by the US in the middle of the nineteenth century to defend high tariffs on manufactured goods, and is currently used by China and India. This is a difficult argument to assess. It is clear that it has little merit in the short run as it causes higher prices. The question remains about whether it brings benefits in the longer run. The problem is that there may be large set-up costs in the short run. These have to be set against the longer-term benefits. In principle, and in the absence of uncertainty and capital controls, high set-up costs should not deter private investors from undertaking the development. In practice, an unwillingness to bear the uncertainty without government sharing the risk, and a lack of access to capital markets may prevent entry into a market. Since much of the uncertainty results from being unable to compete with lower-price competition, it is tempting for government to agree to protection. In effect, current taxpayers are then subsidising the benefits to future taxpayers.

#### 4.2. Tariffs

Trade protection can take many forms, from simple tariffs, to quotas, to trade preferences (e.g. most favoured nations and trade blocs), to satisfying quality characteristics. The former raises price directly, the others raise price by reducing supply. All inhibit trade.

Clemens and Williamson (2001) report that the world average tariff rate was around 12% in 1865, rose to 17% in 1910 and 25% in the 1930s, was around 15% after WWII until the 1970s and fell to 8% in the late 1990s.

Tariff rates for individual commodities and countries differ considerably from this. Table 3 gives some examples. We note the fall in tariffs over this 10-year period and the high tariffs in India both for agricultural and manufactured products.

Economic theory says that the benefits of lowering tariffs are such that it pays a country to do so unilaterally. In practice, however, countries are willing to reduce tariffs only if others do so too. This has led to a series of international negotiations on tariff reduction: the Kennedy Round, the Uruguay Round and currently the Doha Round. To increase their bargaining power, countries often act as a bloc. The EU and the Cairns bloc of Asian and Pacific countries are examples. The negotiations are conducted under the auspices of the World Trade Organisation (WTO). A familiar complaint heard in the globalisation debate is that it is the WTO that is at fault in not reducing tariff barriers. In his evidence to the House of Lords, Mike Moore, the then Director General of the WTO, explained that this was a misconception of the role of the WTO. The WTO is unable to impose tariff changes. It acts simply as a go-between, or facilitator, in the negotiations. It tries to bring the parties together, but cannot force them to adopt any particular policy. The blame, if blame there be, lies with individual countries.

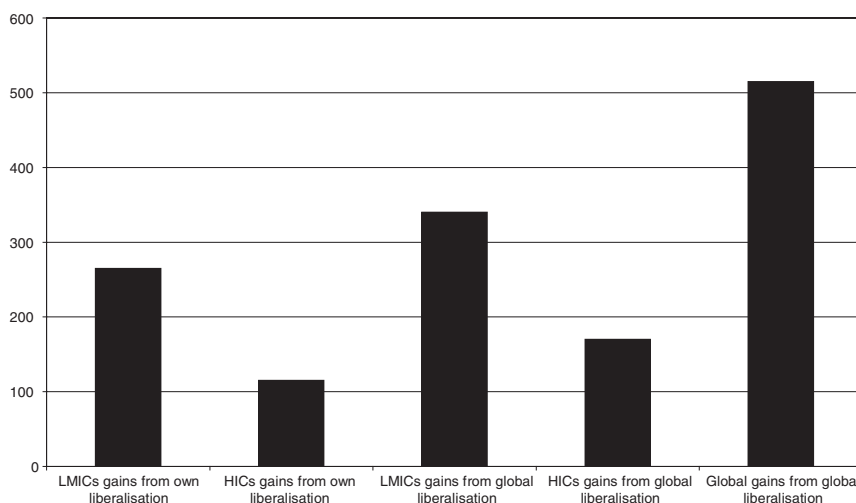
Increasing access to foreign markets, especially those of HICs, is one of the main ways of assisting the development process for poorer countries. This lies behind the slogan “Trade not Aid”. Not only does this benefit developing countries, it also benefits developed countries. Nonetheless, a common criticism heard in the globalisation debate is that through trade barriers the rich countries are hindering the development of poor countries.

Fig. 1 provides some surprising evidence on this issue. It gives an estimate of the total real income gains for low- and middle-income countries (LMICs) and for HICs from liberalising all merchandise trade by 2015. The

**Table 3.** Tariff Rates.

|            | Average Tariff |           | Primary Products |           | Manufactured Products |           |
|------------|----------------|-----------|------------------|-----------|-----------------------|-----------|
|            | 1989/1990      | 1999/2000 | 1989/1990        | 1999/2000 | 1989/1990             | 1999/2000 |
| Bangladesh | 106.6          | 21.3      | 79.9             | 24.1      | 110.5                 | 21.0      |
| India      | 79.0           | 32.5      | 69.1             | 30.9      | 80.2                  | 32.8      |
| US         | 5.6            | 4.0       | 3.7              | 4.3       | 6.0                   | 4.0       |
| EU         | 4.1            | 2.4       | 8.7              | 4.6       | 2.7                   | 1.8       |

Source: World Bank (2002).



*Fig. 1.* Estimated Gains from Liberalising All Merchandise Trade by 2015 Real Income Gains (\$ bn at 1997 prices). *Source:* World Bank (2002).

most striking finding is that the main benefits would come to LMICs from their own liberalisation, not from liberalisation by HICs. While there are benefits to LMICs from other countries (mainly HICs) liberalising, these amount roughly only to an extra 28%. The message from this is clear: it is not protection by rich countries that is the main problem for LMICs, but their own protectionism. This is not to say, of course, that more liberalisation by developed nations would have no benefits to developing countries, or that dismantling the EU's agricultural policy would have little benefit to developing countries.

Despite this evidence, it has been claimed that the trade-round negotiations have been harmful to developing countries. This has been one of the main causes of their recent failures. In November 2001, two years after the collapse of the Seattle conference and its disruptions, the WTO launched the Doha Round of trade talks. In September 2003, the WTO conference in Cancun ended in disarray after a group of 20 important developing countries, including Brazil, China, India and South Africa, mounted an unprecedented challenge to the US, the EU and Japan over agriculture and investment rules. In August 2004, the WTO put the Doha Round back on track by announcing agreement on a framework to end export subsidies and tariffs on farm products and cut import duties across the world.

The failure of the Cancun meeting in September 2003 has been directly attributed to the perception by the least-developed countries that they had the least to gain and, due to their loss of preferential access to markets in developed nations, the most to lose from the Round. The former Chief Economist of the World Bank, Joe Stiglitz, told the House of Lords that after the Uruguay Round the World Bank concluded that sub-Saharan Africa would be worse off because the markets for goods for which they had comparative advantage were not being opened up to them. The new Director General of the WTO, Dr. Panitchpakdi, agreed, saying that developing countries were looking for more benefits – market access for agricultural products and reductions in interventions and subsidies – as a result of the Uruguay Round, which they did not get in the end, but they had to bear the burden of respecting intellectual property rights (TRIPS) which benefit developed countries.

These arguments imply that the unilateral removal of trade barriers do not benefit all countries. However, it is not clear that this is correct. What does emerge from this is that the developed countries may have benefited more than the developing countries. If so, this is a valid criticism of developed countries and their attitudes to the trade rounds, but not an argument against global development.

Recently, after three years of frustration, it appears that progress in cutting trade barriers is now being made again by the WTO, and that concessions on agricultural protection by the EU have played a significant part in this. A significant factor in this progress was the isolation of France in opposing agricultural reform and the acceptance by the EU of the need to cut the €40 bn a year grants to EU farmers. In the Doha round in Geneva May 2006, the EU has offered to cut its farm tariff by 39 per cent. The G20 countries led by Brazil have asked for an average cut of 54 per cent, and the US has called for a reduction of 66 per cent. The expected compromise being brokered by the WTO is about 50 per cent.

#### *4.3. Transport Costs*

A feature of trade patterns is that more trade takes place between countries that are geographically close. However, over the centuries, falling transport costs have proved a huge stimulus to trade and have resulted in the development of trade on a world scale. In the eighteenth and nineteenth centuries falling shipping costs were central to the development of the European trading nations, especially the UK, the Netherlands, Spain and Portugal. As they roamed the world for new sources of supply and for new goods, this reduced prices and also provided additional income for the exporters. In the

twentieth century the falling cost of air transport has intensified this process. Transport costs have affected mainly trade in goods. In the twenty-first century, we are already witnessing that electronic communications are affecting trade in services. The outsourcing of call centres is an example. If falling transport costs have increased trade, then trade has also led to falling transport costs due to economies of scale. This is another example of the fact that development is a process.

## 5. AGRICULTURE

As agriculture has taken the centre-stage in the globalisation debate, it merits special consideration. It is commonly assumed that agricultural exports are the main component of total developing country trade, whereas in fact they are only a relatively small proportion. Even so, much of the controversy surrounding globalisation arises from the agriculture sector. The EU's common agricultural policy (CAP) has been a particular target in the globalisation debate.

The official EU line is that the goals of both agricultural protection in general, and the CAP in particular, are to protect, preserve and promote a rural way of life in Europe. The main aim of the EU's agricultural policy is to protect farm incomes, especially in France and Germany, by preventing cheaper produce from the rest of world competing with European production. It is clear that this policy involves a straight trade-off between the interests of the general European consumer, who faces high food prices, and the European farmer, who seeks a higher income. Moreover, it is the largest farmers who benefit most as about 80% of total EU aid goes to the largest 20% of farmers (Bourgignon et al., 2002).

Not every European country supports this policy and a planned reduction in agricultural tariffs is being phased in. This has been driven by the accession of largely rural Eastern European countries into the EU, who want a level playing field within the EU for their produce. This only serves to add to the pressures on the agricultural sectors in Western European countries emanating from the Doha Round. A major worry for many of these countries is that a further decline in their agriculture would lead to a de-population of the countryside to the level of the UK, where the share of agriculture has been less than 1.5% of total GDP for the last 30 years. This is a part of the growing concern for the rural environment. Increasingly, however, farmers are being regarded as the custodians of the countryside rather than its exploiters.

Given how small the agricultural sector is in these economies, it is surprising that so far European politicians have tended to favour the farm vote over those of the consumer. Moreover, there are other ways of supporting farm incomes. Direct subsidy by the general taxpayer to maintain the environment for all is the obvious way forward in return for lower food costs and higher incomes in developing countries. In compensation for paying higher taxes, households would spend less of their income on food as they would be paying the much lower world price.

The main beneficiary of this change of policy would be the developing countries. They would be able to increase their agricultural exports, and there would probably be a small increase in world food prices due to the fall in food production in Europe. And Europe would benefit, too, from the preservation and protection of the countryside.

Although agriculture generates a relatively small share of EU output, it has been estimated that a 40% liberalisation of trade would have the equivalent effect of a 40% liberalisation of manufactured tariffs (Bourgignon et al., 2002). If the effects of this policy were confined to Europe then it would remain a domestic political choice, but it does not. It hugely restricts agricultural exports from developing countries and is a legitimate issue in the globalisation debate.

It would not, however, be correct to place the whole blame for distortions in agricultural trade on the EU, nor should reductions in the level of EU protection be ignored. The EU imports as much agricultural produce as the EU, Canada, Japan, Australia and New Zealand combined. Although agricultural productivity is higher in the US than the EU, the percent of its GDP spend on agricultural subsidies by the US is the same as that of the EU. US subsidies amount to 48% of total US agricultural production as against 46% for the EU. And since the mid-1980s, the EU has cut its subsidy by 10%, whereas the US has raised its subsidy by about 50%.

It should also be noted that total EU export subsidies have been declining. Currently, they are two-thirds of their 1992 level and represent only 8% of the overall CAP budget compared with 30% in 1992. It has already been noted that a significant factor in the progress in the Doha Round was the acceptance by the EU of the need to cut the €40 billion a year grant to EU farmers. The EU has also announced its readiness to cut total export protection by at least 55%.

## 6. CAPITAL MARKETS

Financial capital plays a crucial role in the development process and is a major issue in the globalisation debate. Borrowing can be for investment or

for consumption, and may be from domestic or world markets. Whereas the aim of investment is to increase future output and hence is a key feature of economic growth, the effect of borrowing for current consumption is likely to be at the expense of future consumption and hence future output. Most of the problems in international capital markets are associated with government borrowing to finance public consumption. Private borrowing from abroad is necessary. This is often done by a third party, domestic banks, which then make loans to domestic investors. The other principle source of financial capital is foreign direct investment (private investment in business enterprises) mainly for the purposes of acquisition or new investment in existing businesses. Table 4 reports data on global capital flows in 1990 and 2000 for these categories.

Net private capital flows consist of private debt and non-debt flows and includes commercial bank lending, which is also reported separately. FDI is net investment flows to acquire a lasting management interest in an enterprise. Portfolio investment is the sum of bond and equity flows.

These data show a considerable increase in capital flows to developing countries. Private capital flows have increased from around \$44 bn in 1990 to \$257 bn in 2000, while official flows have decreased from \$57 bn to \$39 bn. FDI has become the major form of international finance for developing countries, accounting for about 70% of private capital flows in 2000. Mergers

**Table 4.** Global Financial Flows (\$bn).

|                              | Net Private Capital Flows |       | FDI   |        | Portfolio Investment |      | Bank Lending |      |
|------------------------------|---------------------------|-------|-------|--------|----------------------|------|--------------|------|
|                              | 1990                      | 2000  | 1990  | 2000   | 1990                 | 2000 | 1990         | 2000 |
| World                        | –                         | –     | 200.0 | 1168.0 | –                    | –    | –            | –    |
| Low income                   | 6.6                       | 4.6   | 2.2   | 6.6    | 0.6                  | 5.3  | 3.9          | –7.3 |
| Middle income                | 35.9                      | 221.3 | 21.9  | 160.1  | 3.4                  | 62.4 | 10.6         | –1.3 |
| High income                  | –                         | –     | 175.8 | 1001.3 | –                    | –    | –            | –    |
| East Asia and Pacific        | 19.4                      | 65.7  | 11.1  | 52.1   | 1.5                  | 29.2 | 6.8          | 15.6 |
| Latin America and Caribbean  | 12.6                      | 97.3  | 8.2   | 75.1   | 1.3                  | 14.4 | 3.2          | 7.9  |
| Middle East and North Africa | 0.4                       | 1.1   | 2.5   | 1.2    | –0.1                 | 1.3  | –1.9         | –1.5 |
| South Asia                   | 2.2                       | 9.3   | 0.5   | 3.1    | 0.3                  | 7.0  | 1.4          | –0.8 |
| Sub-Saharan Africa           | 1.3                       | 7.1   | 0.8   | 6.7    | –0.0                 | 1.9  | 0.5          | –1.5 |
| US                           | –                         | –     | 48.5  | 287.7  | –                    | –    | –            | –    |
| EU                           | –                         | –     | 58.5  | 401.9  | –                    | –    | –            | –    |

Source: World Bank (2002).



and acquisitions, especially resulting from the privatisation of public companies, were the most important component of FDI.

There are also less encouraging aspects of these data. It will be noted, for example, that 86% of world FDI went to high-income countries in 2000, and this is virtually the same as 1990 when it was 88%. In other words, although world FDI has grown in nominal terms between 1990 and 2000 nearly sixfold, the share going to developing countries remains roughly the same. Further, the four largest recipients of FDI (Argentina, Mexico, Brazil and China) received more than half the total FDI going to developing countries. This implies that most developing countries receive little FDI.

The main incentive for FDI is, and has always been, the opportunities for high rates of return on capital. This was, for example, the main reason for the huge British investment in railways in the US in the nineteenth century. Rates of return tend to be largest in the developing countries and these are often due to the exploitation of natural resources. On the other hand, the risks of investing in developing countries are also higher. A component of the higher returns must, therefore, be regarded as reflecting risk premia.

Even for government debt the global sovereign spread in 2000 was about 10%, and the corporate spread must be added to this. For example, in recent years, Russia has been a popular destination for investment. Many of these investments have proved to be highly risky. Default, and the threat of default, on government bonds caused the enormous and highly publicised crisis at Long-Term Capital Management in 1998. And most recently political factors have brought the financial viability of huge trading companies like Yukos into question. The better risk characteristic of investment in high-income countries is an important factor in explaining the high level of FDI in high-income countries and is an offset to the lower returns. The general lack of domestic stock markets in developing countries, and hence poor liquidity, is a further disincentive to invest as it is difficult to sell a business.

Witnesses to the House of Lords were particularly keen on FDI, even those from developing countries. Tito Mboweni, Governor of the South African Reserve Bank, in answer to the question of whether FDI had exploited South Africa or assisted development, responded that without doubt it had been of benefit. Yilmaz Akyuz, the Director of Globalisation and Development Strategies at UNCTAD, went further. He said it was not sufficient for trans-national companies to employ unskilled labour in developing countries, what was also wanted was their technology and the establishment of links with domestic industry.

Portfolio investment in developing countries is not large. Such investment is partly not only to achieve high returns, but also to spread risk. If risks are

high and liquidity low, then risk management is unlikely to be a major factor in portfolio investment in developing countries. However, even among developed countries, there is too little diversification of portfolios. This is known as the home bias problem.

A discussion of capital flows would not be complete without a reference to the various financial crises that have occurred in recent years. The most notable are the Asian crisis and the debt problems of Argentina, Brazil and Mexico. The Asian crisis was caused by domestic banks accumulating large short-term liabilities in foreign currencies (i.e. borrowing short term in dollars), and lending long term in domestic currency. This appeared to be helpful to domestic businesses as banks were able to provide more loans and at a lower cost than would have been possible had firms borrowed directly from abroad. However, it only required a relatively small depreciation of domestic currency, and hence to the cost of borrowing from abroad, to threaten their solvency. The result was that the banks had to foreclose on loans or raise rates. The collapse of confidence and the contagious effects of this precipitated the crisis. There were not dissimilar problems in the case of Argentina, Brazil and Mexico. Short-term government borrowing in foreign currencies and depreciation of the domestic currency caused the threat of default which was only staved off by rescheduling debt and by write-downs.

It has been estimated by the World Bank that the 10 largest debtor nations account for 57% of total external debt and heavily indebted poor countries for only 8%. The problem for these countries is that debt service costs are large relative to government budgets. Only three countries (Argentina, Brazil and Indonesia which account for 22% of total external debt) were classified by the World Bank as severely indebted. Their debts exceed 220% of their exports and 80% of their national income. This gives some idea of the difficulties these countries have in meeting their liabilities both in terms of servicing the debt and paying it off. The IMF and World Bank have been searching for a solution to the situation. They have been seeking ways of encouraging private investors to continue to lend to these countries. The problem is that without lender government guarantees of some form of bail-out in case of actual default, the risks are very high. In the end the cost of bail-out would fall on foreign taxpayers. The alternative would be for the borrower to pay correspondingly large, and probably unmanageable, risk premia to provide the required inducements to investors. Short of writing off the debt, which has been recently proposed officially by the UK, the problem will be long standing.

One of the arguments in the globalisation debate is that short-term capital flows may destabilise an economy and long-term capital investment. This

had led to pressure to impose a capital transactions, or Tobin, tax. In their evidence to the House of Lords War on Want said a Tobin tax “... is a pivotal issue for our times. The tax is both necessary, in order to deal with the risks of currency crises, and entirely possible, on a practical level” (House of Lords Select Committee on Economic Affairs, 2002, p. 65). Significantly, there was no support from other witnesses for this. Although it would deter capital flows, it is not clear that this is desirable. It would have harmful effects on the ability to hedge risk by discouraging short-term positions, and would make short-term borrowing in a crisis more expensive and difficult. And unless it was introduced globally, which would be next to impossible to achieve, it would put countries that had such a tax at a major competitive disadvantage.

All of this illustrates the dangers for foreign investors in developing countries, and may go some way towards explaining why the share of capital going to developing countries has not increased significantly over the last 10 years, despite the potentially high returns possible.

The highest profile problems are associated with government debt default. The usual cause is a government trying to finance current expenditures without the tax revenues to service or re-pay the debt. The temptation is then to print money. A common outcome is high inflation, a falling exchange rate and hence an increase in the cost of foreign currency debt followed by default.

Such is the globalisation of capital markets that the European perspective on these issues is not markedly different from those held elsewhere. One difference is that through long-standing ties arising from colonisation, European countries tend to direct official aid selectively to old colonies. This may affect private capital flows too, though a common language probably plays an important role in this. Nor should it be thought that Europe is immune to movement of businesses and hence capital elsewhere. Recently, Bayer Crop Science, DuPont, Monsanto and Syngenta have relocated their operations from Europe to the US partly to take advantage of the more innovative environment for leading-edge science in the US.

## **7. LABOUR MARKETS**

It was argued above that increased labour input, as one of the factors of production, generates economic growth. However, an increase in population without a corresponding increase in employment will cause a fall in income per capita, and an increase in employment will be unlikely to raise productivity

and hence real wages. It was found that education, by increasing skills (human capital), was a major factor in labour raising the level of income per capita.

There are considerable differences in the population and labour input characteristics of countries, and this does not depend just on the level of development. For example, the quantity of European labour input has changed little over the last 20 years. The labour force has remained stable (the average annual rate of increase is 0.7%), there is more participation from women (female participation is 76% in Sweden but only 49% in Spain) but average hours of work have fallen – but by about one hour. In comparison, the US has seen an increase in labour input due largely to immigration increasing the population (the average annual increase in the labour force is 1.4%, double that of the EU), hours of work per week are substantially higher than in most Western European countries (38 in the US compared with 27 in Norway and 30 in Germany and Sweden). Population growth rates and labour force participation in developing countries is much larger. In low-income countries, the average annual rate of growth has been 2.4%. Hours of work tend to be much longer too (52 in Bangladesh, 46 in India and 53 in Sri Lanka).

One of the concerns often heard in the globalisation debate is the so-called “race to the bottom”, the exploitation of cheap labour and the local environment. Most witnesses to the House of Lords thought that this was over-stated and that where it occurs, it could easily be stopped through domestic legislation that, for example, forbade very low wages or child workers. In other words, foreign companies were not so much exploiting developing countries, as exploiting the lack of protection the laws in these countries gave to their populations.

By way of contrast, another labour issue in the globalisation debate is the harm it is said to do to developed rather than to developing countries. Much has been written recently about the outsourcing of jobs from high-wage to low-wage countries. This often takes the form of business relocating their production. Examples are Japanese investment in lower wage Asian countries, and Western European investment in East European accession countries. This is accompanied by capital flows, and requires not only low wage costs but also a skilled labour force. Outsourcing is, however, just another way in which costs and prices can be reduced to the benefit of the consumers of all countries.

Looked at in a broader context, the outsourcing of agricultural production has been occurring since the start of the industrial revolution in Europe in the eighteenth century, while manufacturing production has been in decline in European economies since WWII. For example, in the UK in the

1960s the share of GDP of manufacturing was about 60%, whereas in 2000 it is 18% and in the EU it is 21%. In contrast, the share of agriculture in the EU in 2000 is 2% (1% in the UK) and that of services is 68% (70% in the UK), a 10% increase since 1990. This has required a corresponding revolution of occupation.

These changes in the structure of the European economies reflect a key feature of the development process. The search for lower costs and the ease of transfer of well-known technologies has over time caused massive changes in the structure of economies. First the development process brings a decline in agriculture as resources are switched to manufacturing, it then causes a decline in manufacturing and an increase in service industries. Many developing countries with their increase in manufacturing and decrease in agriculture are currently going through the stage that the developed countries were in 50 to 100 years ago.

A globalisation concern arising from this is the migration of highly qualified labour from the service industries of developing countries to those in developed countries. This is in response to the increasing demand for such staff in developed countries and the search for higher wages by skilled workers in developing countries. This is particularly relevant for health services, a major growth area in developed countries. The UK, for example, has been notable for employing people from Eastern Europe and developing countries in its service industries. The trend of Eastern European workers to Western Europe has accelerated recently due to the expansion of the EU and the removal of employment restrictions. The expansion of the EU has also caused many Western European countries to consider introducing new restrictions on immigration from other countries. It should be noted that while migration to Western Europe has increased, migration of scientists and other highly educated people from Europe to the US has continued as in the past.

## 8. INCOME

The quantity of labour input does not appear to have any effect on economic prosperity or wage income. Average annual labour costs for the period 1995–2000 were, to take a few examples, \$81,353 in the US, \$79,616 in Germany, \$61,019 in France, \$47,016 in Spain, \$37,480 in Argentina, but only \$3,118 in India and \$1,711 in Bangladesh. Fig. 2 also shows that there is little relation between GDP per capita and population size. The US and EU have relatively small populations, but high GDP per capita. In

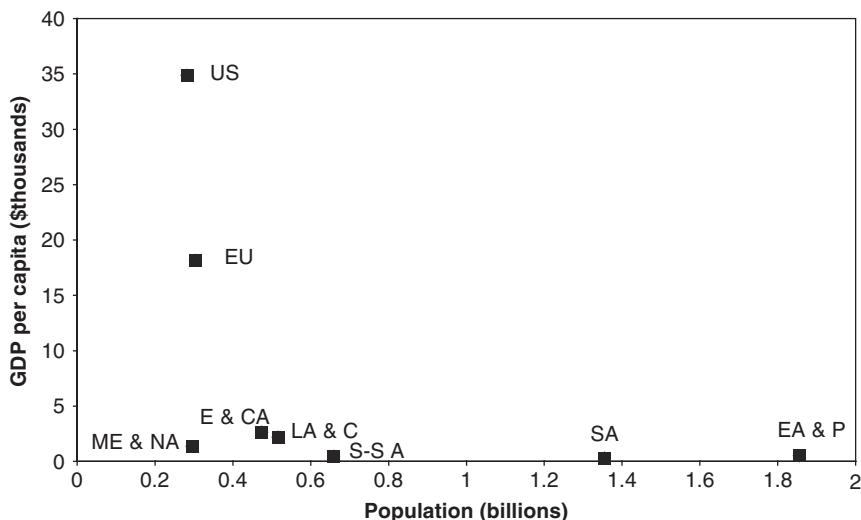


Fig. 2. GDP Per Capita (\$thousands) Against Population (bn) by Region. *Source: World Bank (2002).*

comparison, all other regions have a similar GDP per capita no matter their population size. Both the low average wages in India and Bangladesh and Fig. 2 show the divide between rich and poor countries very clearly.

## 9. HOW EXTENSIVE IS POVERTY?

The presence of large numbers of people in severe poverty is one of the world's most pressing problems. How can such poverty arise in the midst of economic prosperity? Essentially poor people are missing out on, or denied, most of the benefits of the development process.

Two headline measures of economic poverty are the proportions of the population with incomes below \$1 a day and below \$2 a day. It has been estimated that in 1950 54.8% of the world's population had incomes below \$1 a day and 23.7% in 1992. This consists of about 1.2 billion people. The corresponding figures for \$2 a day are 71.9% and 51.3% (the data are inflation adjusted). Although poverty is declining, it is still considerable in some countries. To take the worst case, in 1994, 73% of the population in Mali were below \$1 a day and 90.6% were below \$2 a day. The corresponding figures for India in 1997 were 44.2% and 86.2%. In the [World](#)

Bank's (2002) World Development Indicators for 48 countries were reported to have more than 10% of their population below \$1 a day and 52 countries had 10% of their population below \$2 a day. The fact that doubling the income level does not change the number of countries very much suggests that the divide between those in poverty in these countries and those that are not is considerable. Put another way, there appears to be substantial income inequality, even in developing countries. The problem of poverty is, therefore, not just the responsibility of high-income countries.

Average annual labour costs give another basis for comparison. For example, for the period 1995–2000, they were \$81,353 in the US, \$79,616 in Germany, \$61,019 in France, \$47,016 in Spain, \$37,480 in Argentina, but only \$3,118 in India and \$1,711 in Bangladesh.

## 10. POVERTY AND GROWTH

One of the more benign predictions of economics is that poor countries will catch up with rich countries, as poor countries tend to have higher rates of growth. The reason for this is that more developed countries have greater physical capital, but lower marginal products; hence an increase in capital (labour held constant) benefits less-developed countries more. The implication is that poverty is temporary as the economic system will eliminate it eventually.

Evidence on the relation between GDP growth per capita (over the period 1980–2000) and the initial level of GDP per capita (in 1980) for 133 countries is provided in Fig. 3. This evidence does not support the catch-up hypothesis. If catch-up is occurring then we would expect a negative relation between growth per capita and the level of output per capita. The evidence in favour of catch-up is clearly very weak. There is no obvious relation between the growth and the level of output per capita. Even worse, a regression line fitted to these data has a positive and not a negative slope. The weakness of any relation is reflected in the fact that only 4% of the variation in the growth rates is accounted for by the level of output per capita.

The evidence appears to indicate widening inequality between countries, and hence no tendency for poverty to be eliminated over time. Interestingly, it does not necessarily imply that world inequality is growing. If a group of countries with a large share of the world's population were growing very rapidly then world inequality could still be declining, even though country inequality is not. China and India, for example, have about 43% of the world's population and have high growth rates. If growth rates are weighted

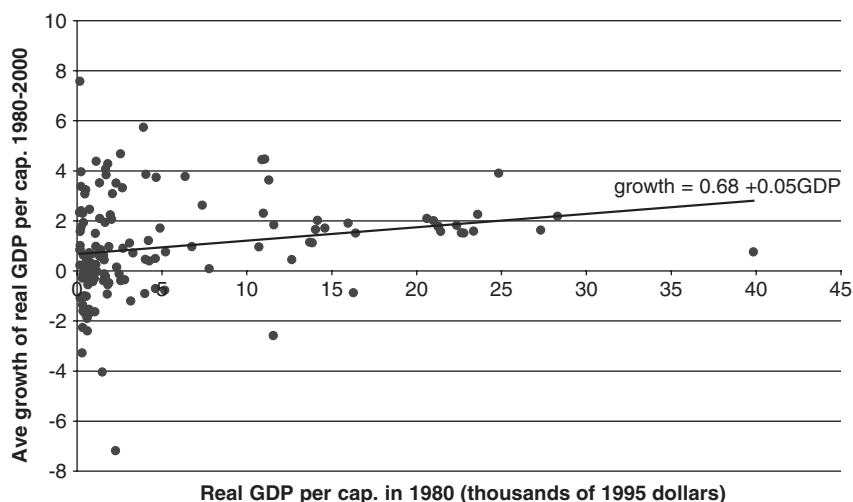


Fig. 3. Growth in GDP Per Capita 1980–2000 (\$'000 at 1995 prices). *Source:* World Bank (2002).

by population size, then the slope of the regression line becomes negative. World inequality, therefore, does appear to be declining. Encouraging as this finding is, it does not dispel the fact that country inequality is increasing due to the low growth rates in many poor countries. The growth process is not, therefore, eliminating inequality and poverty, only concentrating it in particular countries.

Most of the attention in the globalisation debate has focused on the poorest countries and on their need to trade in order to grow. It is, however, also pertinent to consider the current plight of the Middle East, which as a region has seen a marked fall in economic activity. In the last 25 years, the Middle East's share of world trade has dropped 75%. The 22 countries of the Arab League have a combined population of 260 million, but only half the FDI of Sweden, which has a population of 9 million, and a ratio of FDI to GDP that is three or four times lower than that of all developing countries. Tariff rates are very high, but only half of Arab League countries are members of the WTO. In contrast, in the last five years, Jordan has increased its exports to the US by a factor of 30 (from \$4.1 million in 1998 to \$1,333.3 million in 2003). It has also shifted to exporting capital-intensive goods (C. Fred Bergsten, 2004). From an economic point of view, the Middle East appears to be paying a high price for its disconnection with Western countries. Regrettably, a successful Doha Round would do little to alter this.



## 11. THE COST OF REDUCING POVERTY

Extreme poverty affects around 2 or 3 billion people. In 2000, the total official aid from developed nations is estimated by the World Bank to be 0.26% of their total national income, or \$60 bn. The US gives only 0.12% of its national income, while Denmark gives 1.16% and most European countries give around 0.36%. An extra \$1 a day to the 3 million poorest would raise world aid by \$3 bn a day (ignoring costs), or by about \$1 trillion per annum, sixteen times current aid and roughly 4% of world national income. This is a substantial sum. It suggests that aid alone cannot deal with the problem and that economic development is required.

The size of the aid required is not the only problem. Getting it to the people who need it the most is very often very difficult. Many of the countries with extreme poverty also have large inequalities between rich and poor, which is a further indication that lack of financial resources alone is probably not the issue. Poor governance in these countries, and even corruption, seems to be a major factor. Based on an evaluation of the last five years of the World Bank's activities, its internal auditor, in a report in July 2004 concluded that the Bank should steer clear of lending to countries where it has little knowledge of local conditions or where there is a poor policy environment (*Financial Times*, 2004). Similar concerns will also apply to aid.

## 12. GLOBALISATION WITHIN EUROPE

So far the discussion has related almost entirely to the development process and to globalisation concerns as they apply worldwide. It is now time to reflect more on Europe's position in the globalisation debate.

Any discussion on Europe and globalisation must take account of history. Europe's attitude towards globalisation is more a product of its history than has been realised in the current debate. Europe was formed in part as a product of globalisation, particularly through forces from the East. These include massive migrations, the impact of intellectual ideas in mathematics, language and religion, and the change of tastes brought about by the importation of luxury goods like china, silk, tea, coffee, cocoa, etc. In return, Europe used to be best known for its exports of firearms – though gunpowder was invented in China – and methods of governance, such as democracy. In some respects, little seems to have changed.

Approaching the modern era, Europe became the main coloniser of other countries. Spanish conquests in Central and Southern America in the

sixteenth century led to a burst of economic growth in Spain and imitative behaviour by the British, Dutch and French in Africa, India, Indonesia and North America. Current relationships with these countries through political links and preferential trading systems still influence European attitudes towards globalisation. It is often argued that Germany's lack of colonies at the end of the nineteenth century was the underlying cause of the two world wars of the twentieth century. Fearful that its burgeoning economy would be strangled by being deprived of the nature resources available to other European countries from their colonies, Germany sought to remove the constraint by expanding within Europe. The memory of this, and the wish to avoid any repeat, has been the driving force behind the formation of the EU. France and Germany especially have been willing to compromise over economic and political sovereignty to achieve a lasting peace. The result has been an EU that has been inward-looking. Internal economic relationships have taken precedence over global relationships. A place has been found for favoured former colonies, but not for the rest of the world. To add to this, the EU has too often defined itself by trying to be different from the US.

Colonisation is commonly viewed as globalisation at its worst, involving the loss of political rights and economic exploitation. This is, of course, only one side of the picture. Colonialism has transmuted into development. Virtually all of these colonies now have their independence. Many benefited from improved systems of governance, infrastructure investment and strong trade links with their former coloniser. The fact that much of this was carried out mainly to benefit the colonising country does not alter this. The US must rank as the most successful former colony.

Colonisation led to the creation of currency blocs, capital controls and a proliferation of preferential trading relationships. Much of the current globalisation debate is about unravelling these in the interests of the world as a whole. As already noted, the collapse of the Doha Round talks at Cancun was an example of developing countries trying to cling to trade preferences. A feature of the Doha Round is the attempt by small developing countries with common economic interests to increase their bargaining power through negotiating as a single bloc. The Cairns bloc, the G90 group and Mercosur countries are examples. Significantly, these blocs are not based on old colonial links.

With the formation of the EU, Europe itself has been involved in one of the world's largest globalisation projects since WWII. Initially involving only high-income countries, recently it has absorbed a number of middle-income countries from Eastern Europe. The globalisation debate has therefore come closer to home in Europe.

Many of the problems that have been mentioned above have arisen in this unification process. In the initial stages the high-income countries focused on creating a single market for goods, services and capital. This entailed removing internal barriers to trade and capital controls. The result has been greater trade between European countries and higher capital movements. It is nonetheless interesting that labour mobility, cross-country mergers and acquisitions, and inter-country banking have remained low or minimal. This gives some idea of the impediments and resistance to globalisation. The EU has been focusing on harmonising governance and monetary and fiscal rules in order to promote integration, but has faced considerable opposition from a number of European countries, especially those least central to Europe geographically. Their argument is that the removal of barriers to trade is sufficient on its own to reap most of the benefits of globalisation.

The accession countries from Eastern Europe have brought many of the existing problems into sharper focus. Mainly agricultural nations, possibly also with a manufacturing tradition and a skilled labour force, but with low real wages, the accession countries are seen as a threat to jobs in many high-income European countries. Equally, the accession countries, while happy to receive inward investment, are wary of the loss of newly acquired sovereignty this might entail. Thus both the high-income and, from a different direction, the accession countries face nearly all of the concerns raised in the globalisation debate, but within the boundaries of the EU. It remains to be seen how quickly integration takes place in a situation where there is a will to succeed.

### **13. CONCLUDING COMMENTS**

It has been said that no country has ever developed successfully without actively participating in the global economy.<sup>1</sup> Starting from the proposition that economic development has been the basis of increased individual prosperity over the centuries, I have tried to show that globalisation, backed by free trade, is a necessary consequence of this. The issue therefore is not whether globalisation is bad, for it is essential, but what harm it may do, how this happens and whether these undesirable aspects can be ameliorated. It is clear that globalisation spreads the benefits of economic growth around the world. It is also incontrovertible that some countries have benefited more than others, and there are major inequalities between peoples in

different countries. To a large extent these are maintained due to the different starting points and endowments of countries.

One of the more benign predictions of economics is that output per head in developed and developing countries will show a tendency converge over time. Unfortunately, while the time horizon of the catch-up has proved to be remarkably quick for some countries, it has been slower or non-existent in others. The evidence indicates that country inequality has been increasing, not decreasing. However, as the two countries with the largest populations have been growing very rapidly, world inequality has been declining. In general, high population growth increases poverty, but higher income tends to slow population growth.

Even so, catch-up is an important feature of the world's economies. Where it has occurred, it is due to developed countries pursuing their own self-interest. In striving for greater prosperity, firms seek to increase their competitive advantage by innovating and reducing costs. This results in a search for new and cheaper sources of supply, and new markets for exports. This has caused the richer nations to trade with the poorer nations to everyone's ultimate benefit.

The changes that this brings in its train are often strongly resisted. These range from the cultural homogeneity brought about by efficient communication in a common language, to lifestyle changes from the land to the factory and from the factory to the office and service industries. The globalisation debate tends to focus on the downside of the development process. It is clear that many of the issues raised in this debate are legitimate sources of concern, but many are unfounded or mistaken. Some of the problems are due to the behaviour of the developing nations, others are caused by the developing countries themselves.

One of the world's main concerns must be to eliminate severe poverty. Most of this is in developing countries with high levels of inequality. Without economic development the cost of dealing with this through aid alone is prohibitively high. There is also the problem of how to get the aid to these countries.

To sum up, globalisation through free trade is the key to economic prosperity. It is true that some countries have benefited more than others. But as all countries ought to benefit from free trade, it should be promoted, not decried. The main enemy of economic prosperity is a lack of economic and physical security. Trade will not flourish when a country feels under threat from another. The problem the world faces is both how to persuade nations to remove barriers to trade and to guarantee physical security. In this way, globalisation will prove of benefit to all countries.

## NOTE

1. Bergsten, *op. cit.*

## REFERENCES

- Bergsten, C. F. (2004). The G90 and the world economy. *World Economy*, 5, 27–36.
- Bourguignon, F., Coyle, D., Fernandez, R., Giavazzi, F., Marin, D., O'Rourke, K., Portes, R., Seabright, P., Venables, A., Verdier, T., & Winters, L. A. (2002). *Making sense of globalization*. CEPR Policy Paper no. 8. Center for Economic Policy Research, London.
- Clemens, M., & Williamson, J. G. (2001). *A tariff-growth paradox? Protection's impact the world around 1875–1997*. NBER Working Paper no. 8459, September. Cambridge, MA.
- Financial Times. (2004). *Financial Times*, July 16.
- Hall, R. E., & Jones, C. (1999). *Why do some countries produce so much more output per worker than others? The Quarterly Journal of Economics*, 114, 83–116.
- House of Lords, Select Committee on Economic Affairs. (2002). *Globalisation*. Session 2002–03, 1st Report. Stationery Office, London.
- World Bank. (2002). *World Development Indicators 2002*.