



Directorate-General Education and Culture

# A Europe of achievements in a changing world

VISIONS OF LEADING POLICYMAKERS AND ACADEMICS

# L'Europe des réalisations dans un monde en mutation

LA VISION DES LEADERS POLITIQUES ET ACADÉMIQUES

Catherine Barnard  
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José Manuel Barroso  
Nathalie de Basaldua  
Dai Bingran  
Malek Chebel  
Ján Figel'  
Sara González Fernández  
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Antonio Papisca  
Odile Quintin  
Ferdinando Riccardi  
Vivien A. Schmidt  
Kristen Silverberg  
Iris Vittini  
Paul J.J. Welfens

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European Commission  
Directorate-General for  
Education and Culture  
Jean Monnet Programme

Commission européenne  
Direction générale de  
l'éducation et de la culture  
Programme Jean Monnet



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# I. A Europe of achievements in a changing world

José Manuel Barroso

Ján Figel'

Odile Quintin

**José Manuel Barroso**

*President of the European Commission*



## **L'Europe: une force d'initiative et de proposition dans un monde en mutation**

D'abord pour vous dire, c'est vraiment pour moi un grand plaisir de participer à ces conférences globales Jean Monnet. On dirait que mon emploi du temps, ces jours-ci, est placé encore davantage sous le signe de Jean Monnet! Il y a quelques jours, pour commémorer le cinquantième anniversaire de la Commission européenne, j'ai officiellement baptisé du nom de Jean Monnet la salle de réunion du Collège des commissaires européens. On a aussi évoqué le cent-vingtième anniversaire de Jean Monnet. Si Jean Monnet était vivant, ce serait son âge. J'ai voulu lier la mémoire de Jean Monnet de façon encore plus claire au cinquantième anniversaire de notre Commission. Et aujourd'hui, c'est avec un grand plaisir que je vous retrouve dans le cadre de ces conférences Jean Monnet. Je me suis laissé dire que c'est la première fois qu'une conférence Jean Monnet réunit une audience d'une telle diversité de nationalités, avec des participants venant de 66 pays, ce qui est vraiment remarquable. Et d'ailleurs je reconnais parmi vous quelques professeurs, quelques membres d'universités, tellement éminents certains d'entre vous; j'ai déjà eu la possibilité de vous rendre visite dans vos universités. Vous faites un travail si important pour la connaissance de l'Europe. J'en suis extrêmement heureux.

Pour moi et pour mon institution, la communauté Jean Monnet est vraiment unique et précieuse. Vous formez un trait d'union entre l'Europe et les citoyens en faisant connaître la construction européenne, qui n'a pas de secret pour vous. Vous donnez une visibilité mondiale à l'Union européenne, et par le meilleur des canaux qui soit, c'est-à-dire le savoir et l'excellence. Et vous êtes aussi un vrai laboratoire d'idées pour les institutions européennes. Je veux vous féliciter et vous remercier tous très sincèrement pour votre contribution majeure au projet européen.

J'aborderai notre débat d'aujourd'hui — l'Europe des réalisations dans un monde en mutation — sous l'angle de cette question: quel rôle pour l'Europe dans le nouvel ordre mondial qui émerge? C'est ce que me suggèrent à la fois l'actualité immédiate et mon expérience à la tête de la Commission européenne.

Je l'ai toujours dit: l'Europe a un rôle moteur à jouer dans les grands changements et dans le nouvel ordre mondial en gestation. J'ai même dit que ça c'est la «narrative» de l'Europe au 21<sup>e</sup> siècle. Nous devons bien sûr maintenir, comme d'ailleurs le disait Jean Monnet, les grandes sources d'inspiration du projet européen, notamment la paix, la liberté, la solidarité. Mais, c'est intéressant d'ailleurs quand on lit les *Mémoires* de Jean Monnet; dans les dernières phrases il dit que ce qu'il propose pour l'Europe n'est qu'un essai pour le monde de demain, pour l'organisation de la communauté internationale. Et ça je crois que c'est très important de bien garder ce point à l'esprit, c'est que l'Europe, par définition, elle doit être l'ouverture. Nous ne sommes pas en train de construire un chauvinisme européen. Nous voulons une Europe organisée, nous voulons une Europe structurée, mais une Europe pacifique et qui s'ouvre à toutes les régions du monde. Et je suis absolument convaincu que les changements récents ne font que souligner l'importance de cette approche. Nous avons besoin de l'Europe comme un acteur mondial. Ma conviction ne fait que se confirmer. Dans les circonstances politiques et économiques et financières exceptionnelles, l'Europe a su se placer au centre du jeu.

Alors en quoi l'Europe est-elle un acteur mondial, et surtout, un acteur mondial adapté au monde du 21<sup>e</sup> siècle?

L'Europe est un système de gouvernance multilatérale très en avance sur son temps. Son modèle d'intégration politique et économique est avant-gardiste, parce qu'il est ouvert par nature. Et parce que l'Europe a reconnu plus que n'importe quel autre groupe de pays, la nature interdépendante du monde dans lequel nous vivons et même elle a accepté le principe de supranationalité. C'est-à-dire qu'il y a des règles qui s'imposent aux États au-delà ou au-dessus des principes classiques de souveraineté. Je crois que

c'est la meilleure démonstration possible de la reconnaissance de l'adaptation de l'Europe à un monde globalisé. Et quand on parle d'un monde globalisé, on parle surtout de deux principes: ouverture et interdépendance. Certains aiment mettre l'accent sur l'ouverture, d'autres préfèrent mettre l'accent sur l'interdépendance. En Europe, je crois que nous connaissons les deux éléments et il faut reconnaître les deux si l'on veut avoir une réponse cohérente face à la mondialisation. En Europe, nous avons établi aussi un système de gouvernance régi par des règles. Et on croit que le droit est une meilleure réponse que le rapport de force ou de pouvoir. Nous avons aussi créé un système de gouvernance qui est soudé par des mécanismes de solidarité. Et là le mot n'est pas un simple slogan. Je l'ai dit que sans solidarité, il ne peut pas y avoir d'union et il y a des décisions concrètes qui traduisent cet esprit de solidarité. Nous avons donc établi en Europe ce que je considère le laboratoire de la mondialisation, parce que c'est de loin le système que l'histoire a donné de plus poussé d'intégration au-dessus des souverainetés nationales en même temps qu'on garde l'indépendance des différentes parties. L'Europe acteur mondial, ce sont 27 États membres, mais aussi les institutions européennes, réunis grâce à l'effet de transformation d'un marché unique de presque 500 millions de personnes et à l'adoption de profondes réformes politiques, juridiques et économiques. C'est une monnaie devenue la deuxième devise mondiale de réserve et de référence.

C'est aussi un partenaire international fiable qui veut assumer sa part de responsabilité dans le monde. 60 % du total mondial de l'aide publique au développement et, par exemple, 100 000 hommes ou femmes déployés dans des missions de maintien de la paix, de police et de défense aux quatre coins du monde: ces chiffres parlent d'eux-mêmes.

Enfin, l'Europe, c'est un espace de culture d'une diversité inégalable. Je peux le dire: c'est l'espace politique le plus multiculturel et multilingue qui soit.

Un acteur qui possède tous ces atouts a du poids dans un contexte où l'unité de mesure, c'est le monde. L'unité de mesure aujourd'hui n'est plus l'État-nation, c'est le monde. Et c'est par rapport à cette puissance-monde qu'on doit évaluer sa propre puissance, sa propre influence. Un monde qui a un besoin vital de s'entendre. Car il présente un degré d'interdépendance jamais atteint.

L'Europe acteur mondial doit avoir une capacité d'entraînement politique pour peser sur la scène internationale. L'Europe le fait en étant une force d'initiative et de proposition. Et en défendant ses valeurs: la solidarité, la liberté et ses méthodes, c'est-à-dire la concertation, le multilatéralisme, et bien sûr tout cela dans une culture d'ouverture.

Or dans les circonstances politiques exceptionnelles que nous vivons en ce moment, l'Europe joue un rôle de force de proposition pour façonner une nouvelle gouvernance mondiale qui soit conforme à ces valeurs.

The current financial turmoil and the looming economic crisis are indeed a perfect case study. The turbulence on closely interlinked financial markets and economies can undermine our economic progress. In Europe we have had a head start. We have known for a long time that it is in our interests to pull together.

But the crisis demonstrates the truth of this to the rest of the world too, by offering us a stark choice: either we coordinate, or we risk going down together. This is why the remedies need to be closely coordinated. Not just today but in the long term. Not just in Europe, of course, but also, outside it. The world needs open and dynamic markets to guarantee the reliability of the economic system as a whole and to stimulate growth and employment. Clear rules are needed to guarantee stability, transparency and confidence. There is no contradiction between open markets and clear rules. I made that point when, together with President Sarkozy, we met President Bush at Camp David. I made a parallelism between open societies that need the rule of law and open markets that need the rule of transparency, of accountability and of integrity. These rules are important and we, in Europe, know about the necessity of these rules.

In this crisis, and in the response to this crisis, Europe is positioned at the centre of the political stage. Firstly, because, in its own backyard, it has rapidly taken coordinated and courageous decisions to sustain its banking sector, but also because, as a world player, it has taken the political initiative to pave the way for a global world process of reform of the financial system. The themes of the G20 summit discussions in Washington also originated in Europe since it was the European Council guidelines that served as a basis for the discussions.

In view of all this, it is altogether not by chance that this first G20 meeting on the financial crisis has laid the foundations for a new global system that we would like to see based on what in Europe we usually call a social market economy; of which, indeed, the European Union, the European Community after World War II, is the precursor. Thanks to this European initiative, the Washington summit marks, I believe, the start of a new era of cooperation on the world economy.

Of course, only time will tell if this summit was a historic event. But, I really think that there are several reasons for this assertion. Firstly, it built further on a growing perception that

world problems need coordinated world responses, a coordinated world action. Secondly, it was marked by a constructive spirit and opened up a genuine forum for remedying the faults of the world system. Thirdly, it gave political endorsement to the role of the emerging countries, which must participate in the decisions. Fourthly, it placed the issue of development at the heart of the debate. I want to underline this point because usually critics are cynical about any kind of summit. I have participated in many summits and I tell you, very honestly, that I think this one was much more than a photo opportunity. Let's consider the following. It was within hardly one month that we were able to put together countries like the United States of America and China, like Brazil and India and the European Union. And so, indeed, when I see these countries, originally coming from such different points of view agreeing about the need for a fundamental reform of the financial system, agreeing that the principles of global governance, including matters like climate change, energy security and development, I think it was, indeed, progress. I think a crisis has a potential for opening up minds, creating more elasticity in the system. And what was impossible two or three years ago, frankly what was impossible several months ago was now possible, because the crisis has opened minds and has triggered the need for more cooperative solutions globally.

As an aside, this last point also was particularly important for Europeans; the economic and financial management of the crisis must not be to the detriment of the other global challenges requiring a global response, for example the millennium development goals, the fight against disease, poverty, climate change, the need for food security, the need for the rule of law and the promotion of democracy and human rights.

Now we must translate the principles of coordination into concrete and concerted actions, both on the world stage and in Europe. Just as we are all in this crisis together, so we must act together in the recovery. The G20 too advocated a political response and closer macroeconomic cooperation in order to restore confidence and support economies.

At home, Europe has already made specific, targeted proposals on the financial aspects. I do not need to list them; you know what they are. We will present in the near future further proposals on ensuring there is appropriate regulation and supervision across all sectors of financial markets, covering among other things hedge funds and private equity. Our proposals may be adapted and adopted at international level.

Europe is also preparing for the transition from financial crisis to economic recovery. Tomorrow I shall be announcing a detailed and ambitious recovery plan to boost demand and protect jobs and purchasing power in the short term and to underpin 'smart investment', notably in energy efficiency and clean technologies. Smart investment in those areas can

both create growth and jobs now and speed up Europe's drive under the Lisbon strategy to become a dynamic and sustainable 21st-century knowledge economy.

We must be bold. This is no time for 'business as usual'. Our plan will be a coordinated plan for the whole of the EU and will use all possible policy levers, including a short-term coordinated, targeted fiscal stimulus. We need to put together the potential of the European Union level and the national level.

We need to support the economy in the short term, but also to reinforce our long-term growth potential. That is why we must invest in competitiveness factors for the future, i.e. infrastructures from energy to transport, but also in research and innovation, clean technologies to support the transition to the low-carbon economy, energy efficiency, and, of course, education and training.

There will also be social difficulties, we know. And the most vulnerable in our societies are already feeling that pressure. Our primary concern will be to help people. We will concentrate on saving and creating jobs and helping the unemployed to get back into work as quickly as possible. But we must do more. This is why we must really push ahead with our renewed social agenda. The Union will also propose bringing into play the financial instruments at its disposal to complement the European social solidarity that will be needed.

We also wish to put the Union back on the track of sustainable growth. Europe thus needs an energy and climate policy. Without joint action, Europe will be much more vulnerable to external shocks and dependent on foreign energy. The transformation of Europe into a low-carbon economy is also essential for future competitiveness. Thanks to the crisis, the 'energy-climate' package proposed by the Commission is coming increasingly to be seen as a lever to boost demand, growth and, therefore, employment in Europe. Europe also wishes to set an example by taking positive action against an international problem: global warming. This is why we really need a political agreement at next month's European Council.

This European political agreement is all the more necessary since it is vital to the success of the Copenhagen World Conference in 2009. I do not need to remind you of Europe's role as a force for initiative and for shaping matters in this fundamental policy area. Once again the European Union has placed itself at the focal point of the global political arena. It must continue to build momentum for action.

Real momentum will come as others join Europe. So I am delighted that the US President-elect has announced that America is strongly committed to the negotiations on climate

change. And I will not break any rule of confidentiality if I mention to you that in the first telephone conversation I just had some days ago with President-elect Obama, he told me that one of his first priorities to work with the EU and the European Commission will be precisely climate change and energy security. This is indeed a very positive sign. Countries such as China and India must also play their part and the industrialised countries must help the developing world to adapt. I believe that, contrary to initial fears, the crisis will speed up progress in this direction.

From the beginning we have presented this climate and energy package not just as an environmental package, I think it is critically important to preserve the quality of life on our planet for future generations, but we also made it clear that it was fundamental from an economic point of view and also from an energy and security point of view. So it is, indeed, a very comprehensive policy that can also be a driver for European integration. We need to deepen the movement for a European energy policy. And this is, indeed, one of the first tasks of the beginning of the 21st century for Europe. Not only for us in Europe, but also to help shape a new international order in matters like energy and the need to fight against climate change.

As I said before, I really see this current crisis as a great opportunity to take another look at multilateralism. I've spoken recently about a new multilateralism. It is in the interests of all countries to seek to establish effective institutions. We need a world that is stable and governed by internationally agreed rules. We need to reorganise multilateral institutions such as the IMF and the World Bank to make them more representative and effective, including through greater involvement of emerging economies.

A word on the WTO trade negotiations: we cannot be multilateralists and not support multilateral effort for trade and development. I must strongly reiterate that the Doha Development Agenda is too important to fail. It is essential for Europe and for the world as a whole, precisely to avoid a global recession. The G20 summit in Washington has said a clear 'no' to protectionism. The Washington summit marked a decisive stage before the end of 2008 which should aid the successful conclusion of the negotiations. This is a promising development, and I can think of no better way of boosting confidence in the world economy.

I like to underline this point, because, some time ago, quite frankly, the alternative to a new Doha Development Agenda and trade talks success was the status quo. People said 'okay, we will not do it'. Today, I really believe that the alternative to the Doha talks is coming back to very ugly protectionism and very ugly economic nationalism. We are

already feeling that pressure in some parts of the world and in specific sectors. We have seen some initiatives of raising tariffs. So, indeed, it is more important than ever to conclude these Doha trade talks; and, if we deliver on this, I believe there is a great chance also to deliver on the other commitments made by the Washington summit.

Lastly, in an interdependent world, the development of the poorest countries benefits everybody. We must therefore make sure that the financial crisis does not become an excuse to ease up on the development policy front. On the contrary, we must urge the international community to do more and to do it more quickly. I think morally it would be unacceptable that we succeed in the financial rescue and we do not succeed in the human rescue. When we discuss the future of our financial system, we should not forget that there are millions and millions of people that don't have enough to eat or clean water to drink. That is why I think, at this stage, the response to the issue of development must be strong and it must be global.

And Europe is already doing a great deal and is very committed to this solidarity. I'm very happy that last week, adding to what we had already committed, a proposal was approved that I had made some time ago for setting up a EUR 1 billion food facility to develop agricultural production in the poorest countries. I am delighted by the positive decision of the Council and the European Parliament of last Friday, based on the European Commission proposal. It shows that the EU is really committed to action in support of its development ideals.

All of these issues must concern us and mobilise us because, fundamentally, they are what the European project in the 21st century is all about. I am counting on you to contribute to our collective reflection on the matter. I have a real sense that we are living historic times. We are at a turning point in the world. I think this financial crisis has highlighted the need for some change. And change will not come only on the financial sector, because as it was agreed by the summit in Washington; there are other root causes apart from problems in the supervision or the regulation. There are problems of major macro-economic imbalances. There are fundamental problems of the relations between the most important parts of the world.

Of course we need, and we are lacking, more coherence in the way we take decisions, and that's why I remain very committed to the ratification of the Lisbon Treaty. I think that this crisis has highlighted among other points, for instance the importance of the euro as a shield against turbulence. It has also highlighted the need for a more stable leadership by the European Council. The Commission is part of the process, part of the system, but of

course we need also to have coherence among the Member States. A more stable presidency of the Council that can give the Council a more strategic input and a more coordinated and coherent action over time is indeed very important. And let me tell you that following contacts with European leaders, I think now there is a greater awareness of this need. The alternative is not to respond to the challenges of the 21st century with solutions of the past. The alternative is precisely in the 21st century to extend globally some rules, some principles and a common and if possible coordinated approach. By its tradition, by its supranational management and its supranational governance, I think the EU is in a great position not to impose but to propose solutions for the world of the 21st century.

**Ján Figel'**

*Member of the European Commission responsible  
for Education, Training, Culture and Youth*



## The Jean Monnet programme in light of the European Commission's political priorities

I want to begin by underlining the harmony of vision between the European Commission and the Jean Monnet and ECSA networks.

As a worldwide network, your incisive, independent insights help us sharpen our focus on the pressing challenges of the day. The relevance of your work is once again highlighted with the adoption of the Commission's work programme for 2009. In its four priorities, you play a crucial role.

### **1. GROWTH AND JOBS**

Obviously, the global financial crisis is on everyone's lips. In light of the financial crisis and the economic downturn, the Commission's first priority for 2009 is securing the economic and social well-being of Europeans. The Commission is facing the essential task of developing a new financial architecture at European level. But, also, dealing with the impact on people, on jobs, on the real economy: we need a framework for recovery, under the umbrella of the Lisbon strategy for growth and jobs.

As well as responding urgently to the current crisis, we must continue to invest in the future, building on the Lisbon strategy. We need to continue restructuring our economies, and train and equip our citizens for new challenges while taking care of our most vulnerable people. This certainly means increasing, or at least maintaining, investment in R & D and education. The more Europe can coordinate such action effectively, the more its benefits will be multiplied.

You have already discussed these issues yesterday. It is clear that the Commission needs a solid academic basis to its proposals: analysing what has gone wrong, and what steps we could take to put it to rights.

Your networks could provide us with invaluable guidance. I encourage you to inform us of your work in these fields.

## **2. CLIMATE CHANGE AND SUSTAINABLE EUROPE**

Our second priority for 2009 is climate change and sustainable development — the subject of last year's Global Jean Monnet Conference. The year 2009 will be a critical year for efforts to combat climate change. The UN Climate Change Convention in Copenhagen will test global resolve to deliver historic change.

Last year's conference results give the Commission a most useful analytical framework for action. But I want to encourage you to remain engaged in this crucial area!

## **3. A EUROPE CLOSE TO CITIZENS**

Our third fundamental objective for 2009 is to draw Europe closer to citizens. The first and vital step is making EU policies understandable to citizens, to improve people's knowledge about, and interest in, the EU.

We know we cannot do this alone. We need to create partnership: with local authorities, civil society, the media and, of course, educators; professors, teachers and researchers.

Your networks are designed for this task: to foster knowledge, awareness and well-informed debate about European integration. With your independence and critical expertise, I cannot think of more qualified, more credible multipliers of knowledge about the EU and its policies.

#### 4. EUROPE AS A WORLD PARTNER

The fourth and final Commission priority for 2009 concerns the EU's role as a world partner. Europe not only needs to cultivate a strong voice of its own, it must also be visible in the world, as an entity of its own. We need to better explain and mobilise public support for the EU's external activities, in countries within and beyond the EU. We are proposing two approaches in particular:

- to raise our profile in countries outside the EU: reinforcing 'public diplomacy', promoting EU policies and models, increasing the visibility of our external actions, development assistance and disaster relief;
- to involve citizens more in public debates on EU external policy.

Since the ECSAs and Jean Monnet professors are present all over the world, you already play the role of 'goodwill ambassadors', bringing a vision of Europe to people around the globe. And, given that increasing awareness about the EU around the world is a key priority for us, we have devoted the 2008 Jean Monnet success stories brochure to this topic. It includes the profiles of 20 carefully selected Jean Monnet professors who excel in this field of European studies.

#### THE JEAN MONNET PRIZE 2008

The Jean Monnet success stories bring me to the part of my speech that you are probably all waiting for: the Jean Monnet prize 2008.

It is a new tradition — but with 2009 just around the corner, we want to demonstrate our own creativity and innovativeness at the Commission! So we have decided to continue what we started last year, and award a Jean Monnet prize every year at the annual conference.

The prize winner has been selected from the 20 success stories, under the supervision of Professor José-Maria Gil-Robles, as President of the European University Council for the Jean Monnet Programme, and Professor Manuel Porto, as President of ECSA-World.

All 20 success stories are examples of academic excellence and deep commitment to European Union studies. It was certainly not our role to differentiate between the 20 projects on academic grounds.

Instead, this year's prize recognises the pioneering role of the award-winning chair in establishing European Union studies in very difficult conditions. It is therefore my great pleasure to announce that the 2008 Jean Monnet prize is awarded to Professor Dai Bingran from Fudan University in Shanghai.

The establishment of European Union studies in China owes a great deal to Professor Dai Bingran. He produced the first Chinese translation of the Treaties — the very basis for studying European integration. At Fudan, Professor Dai Bingran was the driving force introducing teaching about the EU across the academic cycle. He was also behind the Fudan Centre for European Studies that was recognised as a Jean Monnet centre of excellence in 2004.

Professor Dai Bingran has been a dynamic force beyond his university too, putting EU studies in China and the Asia-Pacific region on a solid institutional basis. He remains very active at the head of many distinguished societies.



## Odile Quintin

*Director-General for Education and Culture  
of the European Commission*



# Education as an investment in the future

## DE LA MONTÉE EN PUISSANCE DU RÉSEAU «JEAN MONNET» AU 20<sup>ÈME</sup> ANNIVERSAIRE

L'action Jean Monnet est née d'une vision prospective, dans un temps d'accélération de l'intégration européenne, à la fin des années quatre-vingts.

Mesurant l'importance de la connaissance dans le processus même de construction européenne, la Commission a lancé l'action Jean Monnet. Il s'est agi d'assurer l'entière implication du monde universitaire.

Près de 20 ans après,

- 1) professeurs et qualités européennes font florès. Leur lecture des questions communautaires est toujours riche d'enseignements;
- 2) cette action est ancrée dans les esprits et les lieux répartis dans 61 pays et sur les cinq continents;
- 3) aux activités des professeurs Jean Monnet s'ajoute le dynamisme des ECSA, les «European Community Studies Associations», dans 58 pays.

Prospective dès son origine, l'action Jean Monnet se doit, dès aujourd'hui, de penser son futur. Du riche échange que j'ai récemment eu avec les Coordonateurs des Centres d'excellence, je retiendrai cinq dimensions à explorer. *Quid de...*

- 1) encourager le développement de Centres Jean Monnet à l'échelle régionale;
- 2) soutenir le développement de 'Réseaux thématiques' entre Centres Jean Monnet;
- 3) rapprocher l'action Jean Monnet de la société civile en soutenant la transmission et la diffusion des résultats des études menées en son sein;
- 4) ouvrir le rayonnement de Jean Monnet sur les pays tiers avec d'actifs partenariats entre les Centres et chaires Jean Monnet et les universités de ces pays;
- 5) créer des double-cursus voire des instituts supérieurs Jean Monnet afin de toujours accroître la qualité des «études européennes».

Jean Monnet, lui-même, disait: «Il n'y a pas d'idées prématurées, il y a des moments opportuns qu'il faut savoir attendre».

N'est-il pas temps! L'an prochain, nous célébrerons le 20<sup>ème</sup> anniversaire de l'action JM. La Commission pourrait proposer d'organiser une Conférence spéciale en mai ou juin 2009. Cet anniversaire serait alors l'occasion de passer du présent au futur, de la réflexion à l'action, de la maturité à une nouvelle envolée.

Today's conference comes at a time of challenges. Today we face a financial crisis, of perhaps unprecedented proportions. And we can clearly discern more transformations on the horizon. Soon, Europe will have to compete with emerging economies abroad, while dealing with ageing populations at home. It will have to adapt to both technological change and climate change. And migration and globalisation appear unlikely to lose pace.

The change younger generations will see in their lifetimes is likely to surpass anything we have seen in our own.

How should we act? Where should we focus our energies?

Evidently, many of these issues require immediate responses and bold measures — the financial crisis especially.

But we must not lose sight of the need for reflection, insight and imagination, which can help inform the choices and investments we must make for the long term.

This is what today's conference is about. And it is also the focus of my own work. To speak of education as an investment in the future is something of a commonplace; but it is, nevertheless, the truth. The knowledge and skills we equip young Europeans with will help determine the course of the Union as a whole; because it is in education that we nurture our capacity to face the challenges of the future.

## **INNOVATION AND COMPETITIVENESS**

Take innovation and competitiveness: today's first topic of discussion. The logic of the equation is evident: we need to be more creative and innovative to be more economically competitive. This is the rationale behind our making 2009 European Year of Creativity and Innovation.

But what do we mean by an emphasis on creativity and innovation? On the one hand it means promoting creative thinking at the highest level; it means galvanising education and industry into pioneering new products; and driving technological change. Our flagship initiative, the European Institute of Innovation and Technology (EIT) will be the embodiment of this thinking. It should produce cohorts of highly skilled graduates to pave the way for the formation of a knowledge-based society.

But this alone is not enough to guarantee Europe's economic competitiveness. It is also vital that we focus on creative thinking at a different level; at a broader level. We want to show that creativity and innovation are not abstractions, or mystical talents: creativity is a skill everybody can learn; innovation is a process in which all can participate.

And not only can they be developed; they must be developed. Our upcoming 'New skills for new jobs' policy paper addresses this issue. It provides a sketch of future labour markets and the skills they will require. And two things are certain.

Firstly, Europeans will be likely to have to change careers several times in their working lives. In the future jobs-for-life will be few and far between. An ability to adapt will be pivotal. Creativity will be essential; as will other cross-cutting, flexible, interactive skills — such as problem solving and analytical skills.

Secondly, there will be a significant shift upwards in skills requirements — across the board. This means that more jobs will demand high skills — 20 million more by 2020,

to be precise. And at the same time many low-skilled, routine jobs will simply disappear. Skills, particularly in maths, science and technology, will be in hot demand. We must build a foundation of skills so no one is left behind.

So, if schools can adapt to meet these challenges, then Europe will be able to retain its competitive edge in a more competitive global economy.

To achieve this we are looking at ways of modernising our schools. One way is to take a partnership approach whereby business cooperates with education. Business can provide funds, enhance governance, and breathe a spirit of entrepreneurship through the institution in question. What's more it can get involved in adapting curricula to the needs of the market. This avoids a senseless skills mismatch, in which employer and graduate both go home empty-handed.

### **THE MODERNISATION OF EUROPE'S SOCIAL AGENDA: DECENT JOBS AND SOCIAL JUSTICE**

But let me stress that fulfilling these goals will provide Europe with more than just material riches. Economic competitiveness is not just an end in itself.

Guaranteeing decent jobs for all is also a sure recipe for social cohesion. And prosperity provides us with the means to preserve and modernise what we hold most dear — our European social model founded on solidarity and social justice.

This is what our social agenda is about: decent jobs and social justice. This will be another topic of discussion today.

### **EUROPEAN CITIZENSHIP, MIGRATION AND INTERCULTURAL DIALOGUE**

And let me stress, that never before have solidarity and social justice been so important.

The effects of globalisation are tangible. With increasing migration even the remotest corners of our continent have come to know the meaning of multiculturalism first hand.

We cannot stop globalisation and its effects. We would not want to. But we can adapt to it; by having our societies mature, from multiculturalism to interculturalism; by bringing different communities and individuals out of mere coexistence; by bringing them into dialogue with one another. This has been a key message of our European Year of

Intercultural Dialogue. And though the year is coming to a close; the need to promote dialogue will remain.

Again, education can play a pivotal role in this. Schools are where future societies are shaped. They are where we can teach children to see 'change' as an opportunity rather than a threat. They are where the knowledge, skills and attitudes needed for active citizenship and intercultural dialogue are developed: social and civic skills, communication skills and language skills.

## **CONCLUSION**

Let me finish by highlighting that Jean Monnet conferences have long bridged the gap between critical, academic reflection and concrete and constructive policymaking. I am sure that this one will be no different. I hope that ultimately, it will prove to be more than a platform for dialogue; that it will generate fresh ideas, kick-start a process of policymaking and act as a platform for change.



## **II. The European market, innovation and international competitiveness**

Nathalie de Basaldúa

Sara González Fernández

Vivien A. Schmidt

## **Nathalie de Basaldúa**

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Charlie McCreevy, responsible  
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# **The European market, innovation and international competitiveness**

Given the topic of this session and the unprecedented situation we have experienced in the European and global financial markets it would be remiss of me not to focus on the crisis. I shall not be speaking about the factors which have caused the crisis or the extensive work that is currently being done at an international and European level to address it. Instead, I would like to focus on how European markets are placed to deal with the crisis and to examine the impact that the interplay between market forces and regulation can have on both innovation and the global competitiveness of the European financial services sector.

Globalisation and innovation have been two of the most significant drivers of change in financial services over the past decade. We no longer operate in a European market, nor can we allow ourselves to think in those terms. For many years we have seen that opening up markets has had significant benefits in terms of increased numbers of potential customers, greater efficiencies, growth and job creation. But the financial crisis has shown that borderless markets have exposed Europe to new threats such as contagion from problems in other markets. This is what we have just seen in the current crisis that stemmed from the sub-prime mortgage market in the USA. But it would be too easy to say that the crisis is just a mere contagion of an American disease. That is certainly not the fact. No one forced our own institutions to assume the risks they were taking. The

current crisis has also confirmed the critical role that the financial system plays in supporting the proper and efficient functioning of modern economies. While we have managed to stabilise the financial system and avoid a financial meltdown we are now faced with a severe economic downturn. The financial crisis is now an economic crisis too. It affects the 'real economy' — our growth, our jobs and the global competitiveness of our firms.

Many have argued during the recent crisis that innovation was the major cause of the problems. Derivatives and hedge funds come to mind in this context. In my view, that's the wrong way to approach this matter. One should not forget that the roots of this crisis are in the most regulated sectors of the economy, namely real estate and banks. But what is true is that financial innovation in general and derivatives in particular pose certain risks to the financial system which need to be addressed properly. In doing so, we need to be careful that we do not swing the pendulum too far. Because innovation, in and of itself, is a good thing and we do not want to stifle it. Innovation enables, for example, products to be tailored more specifically to investors' needs and thereby provides greater consumer choice; it enables the efficient transfer of risk in the market and provides a basis for firms to be more competitive.

With the improvements in information technology and financial engineering the growth in the level of financial innovation has been staggering. Take, for example, securitisation. The process of securitisation has provided a wide pool of financing at a relatively low cost while at the same time widening long-term investment alternatives. In short, securitisation has in fact increased the efficiency of the financial system as a whole. Given these positive characteristics, it is no surprise that it has been one of the fastest expanding financial activities over the past 10 years. The volume of securitisation issuance has increased almost tenfold since 2000.

All this sounds too good to be true. In a way it is. Or should I say, was? As we have now seen one of the key factors that created the current financial crisis was that financial innovation — including the rise in off-balance-sheet finance and the rapid growth in the originate-to-distribute securitisation model — greatly increased the opacity of global financial markets. As a result, when things got tight and the underlying assets behind these securitised assets, the US sub-prime mortgages, began to fail, there was serious contraction in the level of liquidity in the credit market. Investors, namely the major banks, stopped trading with each other as they no longer knew who was holding these highly risky products. In fact, many managers in the financial institutions themselves — as well as most regulators by the way — simply did not understand the products that firms were designing, underwriting and trading. But since things were going well everyone was

confident that others were doing their jobs. We have seen that this was not the case. Financial institutions assumed excessive levels of risk and markets underpriced risk.

Once the crisis began, and started to impact on Europe, there were calls for tougher EU regulation. It is this call for action that raises the first issue that I would like to highlight this morning. And that is that there is a fine balance that must be struck between the level of innovation and the level of regulation in financial markets. If you regulate every detail and operation of an open market then you will kill off innovation. Given that we compete for investment on a global scale, if we over-regulate our market in the EU we will seriously harm the competitiveness of the European financial services firms and the attractiveness of Europe to investors. Indeed, we would penalise the EU economy as a whole, as it would not be able to avail itself of modern and efficient sources of financing. Conversely, if we regulate with too light a touch we increase the vulnerability of the system and reduce investor confidence.

In our increasingly globalised world, if we are to continue to have an effective and growing financial services industry in Europe we cannot operate in a closed 'European' market for financial services.

In the EU we have long held the belief that principles-based regulation is the key to ensuring we have a regulatory system that is both flexible enough to adapt to these challenges but is also strong enough to protect both consumers and the stability of the financial system. Only then would Europe remain competitive and an attractive place to invest.

All this remains true, but three additional conditions need to be fulfilled: first, we must correct a number of deficiencies in our regulatory and supervisory framework which the crisis has laid bare. We need to tighten up rules on securitisation and liquidity; make sure that our prudential and accounting rules are not excessively pro-cyclical; inject transparency in the shadow banking system, in particular in all sorts of off-balance-sheet items; register and oversee credit rating agencies; strengthen and harmonise rules on the protection of deposits; and improve our supervisory and crisis management arrangements. As you know, the Commission is actively working on these matters — and on many others.

Second, we need to intensify regulatory cooperation at the global level. There is no point having a stringent and effective regulatory system in the EU, if firms can circumvent our rules or end up being penalised in today's global competition. Worse: we can have the best possible system in the EU and still face a systemic crisis and a recession because regulation has been too lax elsewhere. That is why we highly welcome the outcome of the

G20 summit which took place in Washington on 15 November. We now have a process underway to reform the global financial system. We must seize this historic opportunity.

Third, industry will also need to get its act together. The calls for detailed, intrusive regulation will become increasingly strong if we continue to witness dramatic internal failures among corporations.

Europe is now, more than ever before, a major global player in financial services. If we are to continue to grow and develop we need to ensure that we have a system that not only promotes innovation, market entry and competition but that is robust enough to both weather external shocks and attract investment. There are many areas where we can, and must, improve. So we shall continue to cooperate closely with all actors — supervisors, legislators and the industry — to get the balance right.

**Sara González Fernández**

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# A strategic commercial policy and an R&D&I model for the European Union

In order to overcome protectionism, international commerce must find ways to increase the wealth of countries in a new definition of comparative advantage and of the distribution of its benefits. The necessity of a strategic commercial policy for the European Union implies redefining its business support policy to the project funding of R&D&I and the design of an R&D&I model for the European Union that permits it to be more competitive.

## 1. THE STATE OF THE SITUATION

Since World War II, international economic relations have rested on two big pillars: multilateralism and regional integration processes. As a consequence of the last one, economic integration has increased the commercial and financial links in such a way that in the last 20 years commercial flows have tripled and financial flows have been multiplied by nine.

However, for a long time, the EU-15 has been losing weight in the worldwide exports. The countries of the EU-15 fell from 41 % in 1999 to a bit less than 34 % in 2000 and, although the percentage went up to 36,5 % in 2003, it was placed around 33 % in 2006 (see Figure 1).

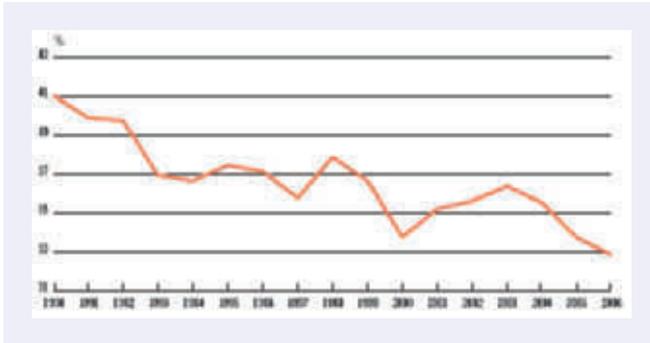


Figure 1: EU-15 exports share

Source: WTO.

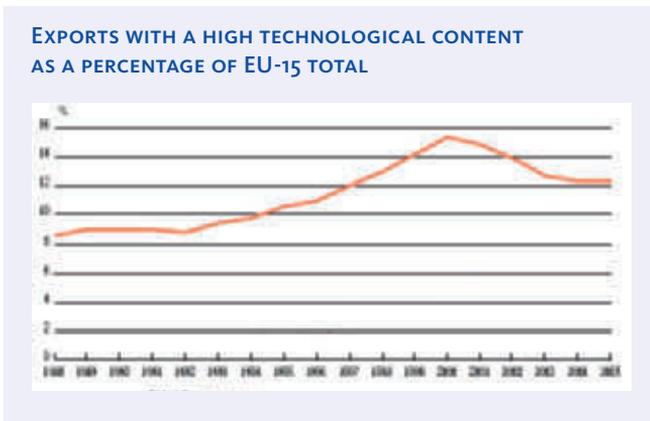


Figure 2: Exports share variation (%)

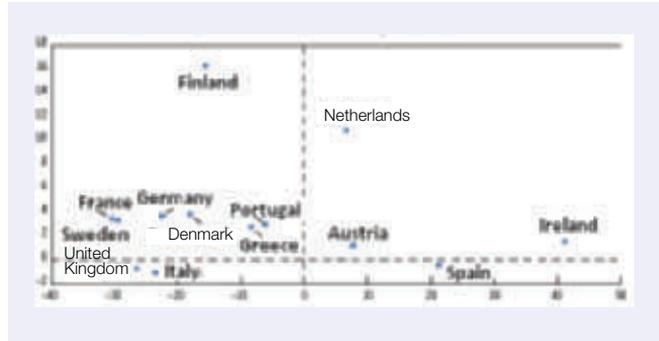
Source: OECD.

In relation to the composition of EU exports, it is possible to observe in the period 1992–2000 an important increase in the weight of high-technology sectors. However, from 2000, this weight began to go down until it arrived at a stable 12 % in 2005. This figure is clearly higher than the 8 % corresponding to 1985 (see Figure 2).

This value is not sufficient and, moreover, it includes important differences among EU Member States as we can see in the figures delivered by WTO and OECD (see Figure 3). In the right square overleaf, are the countries that have increased their exports share and the technology content inside them (for example Ireland and the Netherlands). In the left square overleaf, are the countries that have lost share but have increased added value to their exports. In Spain, the technological content of exports has stopped but it has won share.

In comparison, the US external deficit was around 6.5 % GDP as of 2006 (the highest deficit in the last 50 years). A large group of experts consider that this deficit is no longer

Figure 3: Increasing the weight of high technology content exports (%)

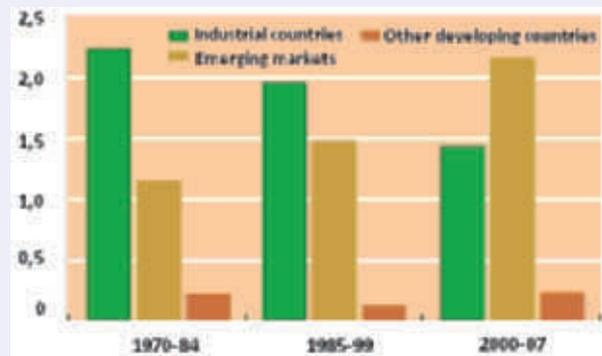


Source: OECD, WTO.

sustainable and must be adjusted (°). A shrinking deficit by the USA implies — among other effects — reducing other countries' surplus. The question is how large the adjustment should be? In theory, an adjustment that places commercial deficit around 2.5 % GDP would be enough to guarantee the sustainability. If the adjustment is produced in a gradual way (five to seven years) it would imply dollar depreciation near 10 % from present level. This depreciation should be higher with relation to Asian currencies than with relation to the euro.

Figure 4: Economic growth

(CONTRIBUTION TO GLOBAL GROWTH, ACCORDING PPP. PERIODS' AVERAGES IN PERCENTAGES)



Source: IMF, *World Economic Outlook*.

Figure 4 shows that the emerging markets are being converted in the world economic growth engines exceeding the growth of industrial countries during the period 2000–07. As a consequence their real GDP growth rate began a remarkable increase in the year

(°) Fernández, Enric (2007): La sostenibilidad del déficit exterior de Estados Unidos. Volumen 05, Documentos de economía. La Caixa. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1018669](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1018669)

2000 until year 2006; on the other side, the real GDP growth rate of the USA had a descending trend in the same period (see Figure 5).

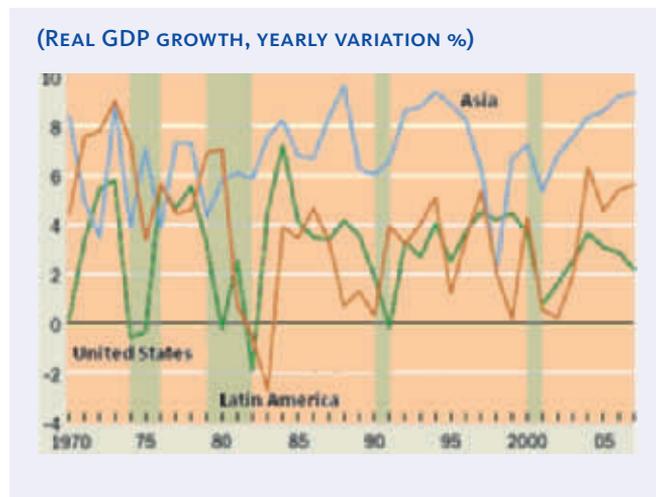


Figure 5: Emerging markets

Source: IMF, World Economic Outlook.

The evolution that has been shown by GDP growth data in year 2004 reveals interesting information. If that information is confirmed with present data, an important change in the behaviour of the emerging economies would be described in Asia, especially.

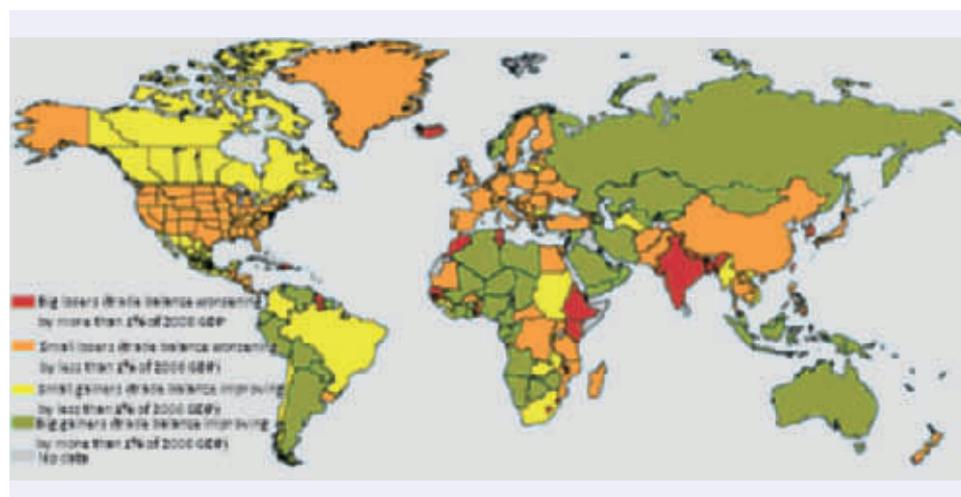


Figure 6: Basic goods impact in the commercial balances in year 2007

Source: T. Helbling. *IMF Finance @ Development*, March 2008, Vol. 45 No 1.

## 2. FRACTURES IN THE REAL SECTOR DUE TO AN INCREASE IN THE DEMAND OF PRIMARY PRODUCTS AND TO THE FINANCIAL CRISIS

### 2.1. From 2000 to 2008 (summer)

An analysis of the worldwide market situation until the summer of 2008 shows us some positive feedback loops in the worldwide commerce, for example:

#### *Loop 1: Energy necessities and agricultural prices*

From 2006 international agricultural prices (cereal, for instance) increased by around 60 % in the first six months of 2008. According to International Food Policy Research Institute, one third of that increase is due to a big demand of biofuel that has pushed up the prices of some specific agricultural products.

As a result, a strong cut of the subsidies for biofuel has been put on the table. If the increase in biofuel demand were to follow the rhythm that existed before the summer of 2008, the corn price would increase by 20 % in 2010 and 41 % in 2020, while the price of wheat would be increased by 11 % in 2010 and 30 % in 2030 <sup>(1)</sup>.

#### *Loop 2: The commercial bottleneck of specific raw materials and agricultural goods*

The income growth in emerging economies, China and India especially <sup>(2)</sup>, has stimulated an accelerated growth of demand: in mid-2008, it was increasing at 2 % yearly (previously at 1.5 %) and it was supposed that it would arrive at 2.6 % in a decade's time, if the GDP growth rate had continued as at the beginning of 2008 <sup>(3)</sup>.

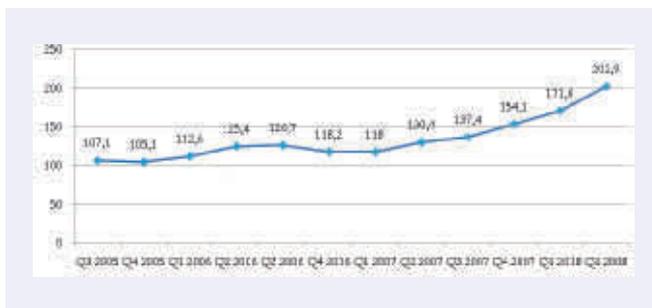
#### *Loop 3: Impact of the rising of international agricultural prices on development*

This point is getting worse when there is a concentration of production. The USA produces 40 % of the world's corn and has a share of more than 50 % of world exports of this product.

<sup>(1)</sup> Rosegrant, Mark W., 'Biofuels and grain prices: impacts and policy responses', testimony for the US Senate Committee on Homeland Security and Governmental Affairs, 7 May 2008.

<sup>(2)</sup> AFP, Los biocombustibles pueden contribuir a provocar hambrunas; 8 de marzo de 2008 (<http://www.afp.com/espanol/home/>).

<sup>(3)</sup> Currie, Jeffrey, 'Food, feed and fuels: an outlook on the agriculture, livestock and biofuels markets', Goldman Sachs presentation, March 2007 (<http://tinyurl.com/yqldjv>).



**Figure 7: Primary products price index**

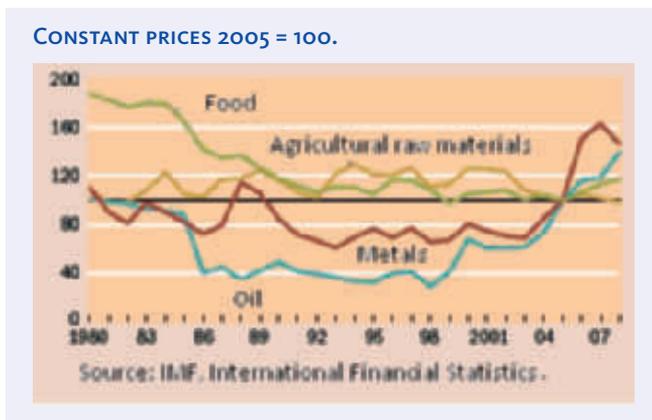
Source: IMF. 2005 = 100 in dollar. IMF Index includes series of prices for 44 non-fuel primary products.

*Loop 4: Increasing cost of transport*

The increasing of the oil prices has been propelled by high demand.

*Loop 5: Agricultural production costs are getting expensive*

The high prices of fertiliser and of the watering systems have impacted on costs.



**Figure 8: Real prices of basic products**

**2.2. The last semester of 2008**

The financial crisis that started in the summer of 2008 marks a real break in comparison with the trends before the summer of 2008. Its effects on the real economy have appeared in a shady way only. This is because there has been a focus on the rescue efforts of the financial markets without considering the financing of commerce. On one side, the financial crisis has provoked a short circuit in the financial flows of firms and in commercial financing. On the other side, it is possible to observe that the aggregate demand is dropping as GDP growth rate of countries like China is reducing.

The drop in commerce flows is due to the reducing demand. Moreover, it has been supported by the freights downfall (see Figure 9). The letters of credit market, documentary or not, is dead because there have been problems and major doubts about solvency. This explains why a seller's financial institution does not want to accept such letters, except for trading among subsidiaries or between sound and solvent partners.

Figure 9: Freights downfall

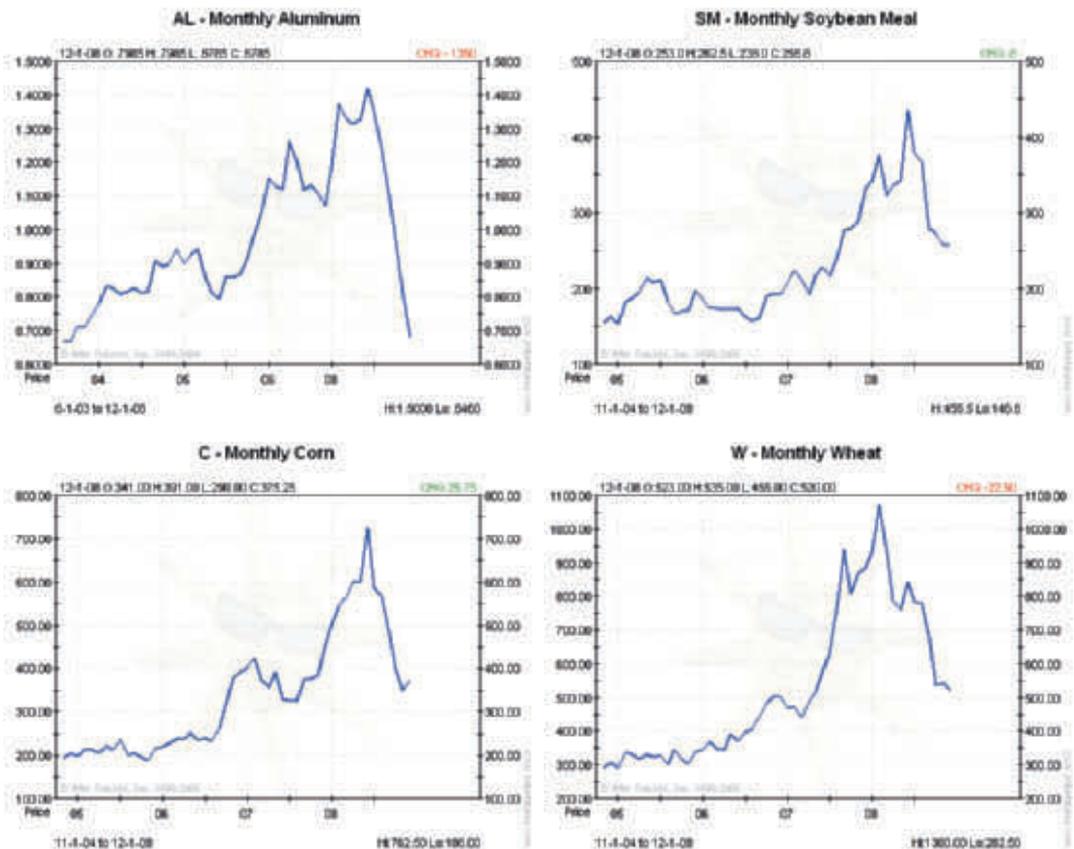


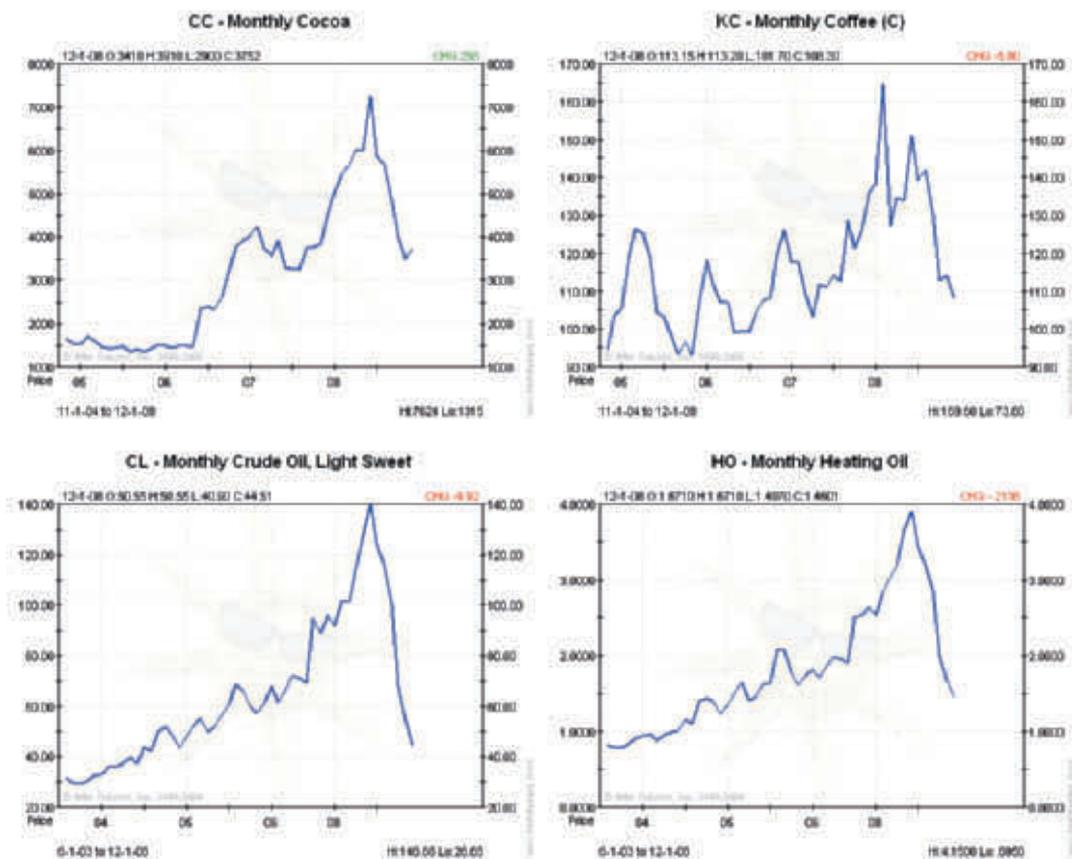
Source: Baltic Dry Index as of 12 December 2008.

Strong changes have occurred in commercial behaviour between 2006 and today, bringing us to two polarised positions. First, there has been a rise in the basic goods market. Second, there is a drop in prices due to the decelerating economic activity in developed and emerging countries. Optimists do not expect important changes before the next 18 months.

Now, the challenge is to identify what part of the present situation is cyclical and what is structural. The coincidence between the impact of the financial market crisis and the real economic rigidity is beginning to be considered. Looking at the last case, supply curves of a large number of commodities are inelastic; they do not change when marginal costs go down as a consequence of transference of R&D&I processes. Figure 10 indicates an important price decrease in futures on commodities. In some markets, one may speak of a price collapse.

Figure 10: Commodities futures market prices





Source: <http://www.britefutures.com/>

### 3. THE NECESSITY OF A STRATEGIC COMMERCIAL POLICY FOR THE EUROPEAN UNION

Nowadays, the core discussion is on the necessity of some type of subsidies, more or less sophisticated. Talk of such subsidies implies rent transfer and government financing for so-called strategic sectors (disguised as R&D investments), which ultimately limits competition (<sup>1</sup>). This practice is used in high-tech companies with important resources. The strategic commercial policy argument seems the classic justification for the temporary establishment of tariff in the case of a 'start-up industry' (<sup>2</sup>).

(<sup>1</sup>) See Brander-Spencer model, pioneer in this type of argument: Brander, J. and Spencer, B. (1983), 'International R&D rivalry and industrial strategy', *Review of Economic Studies*, 50, pp. 707–722.

(<sup>2</sup>) See González, Sara (2002), cap. 5, pp. 93–102.

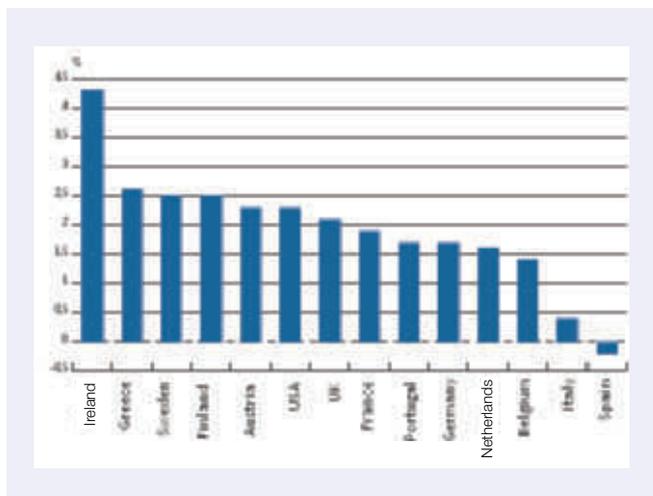


Figure 11: GDP average growth per worked hour (1995-2006)

Source: Groningen Growth and Development Centre.

The arguments against the critics of strategic commercial practices <sup>(1)</sup> and its negative impacts are based on a simple theory of games and on the well-known prisoner dilemma. R&D investment pursues three targets: reducing costs, inventing new products and increasing productivity. The last shows values in the EU lesser than in USA (except Ireland, Greece, Sweden and Finland) with the loss of competitiveness (see Figure 11). According to Solow a large part of modern economies' growth is due to 'technological progress' <sup>(2)</sup>.

The R&D&I European policy necessarily requires a financing policy for these processes. Direct financing by public sector of developed projects by universities, official research centres, etc., is not enough and is generally directed to basic research which does not benefit from potential patent returns. As can be seen in Figure 12, considering all sectors, spending in R&D as a GDP percentage is much higher in Japan (above 3 % in 2000) and the USA (over 2.5 % from 2000) than in EU where is placed under 2 %. From the sector point of view (following Eurostat data) Japan and the USA have centred their attention on the business sector while the EU — in relative terms — pays more attention to higher education. They are clearly different models that support very different postures about what it is expected from R&D&I.

<sup>(1)</sup> Véase Dixit, Avinash. K. y, Kyle, A. S. (1985).

<sup>(2)</sup> Solow, R. (1957), 'Technical change and the aggregate production function', *Review of Economics and Statistics*, 39, pp. 312-320.

Figure 12: R&D spending in all sectors (% GDP)

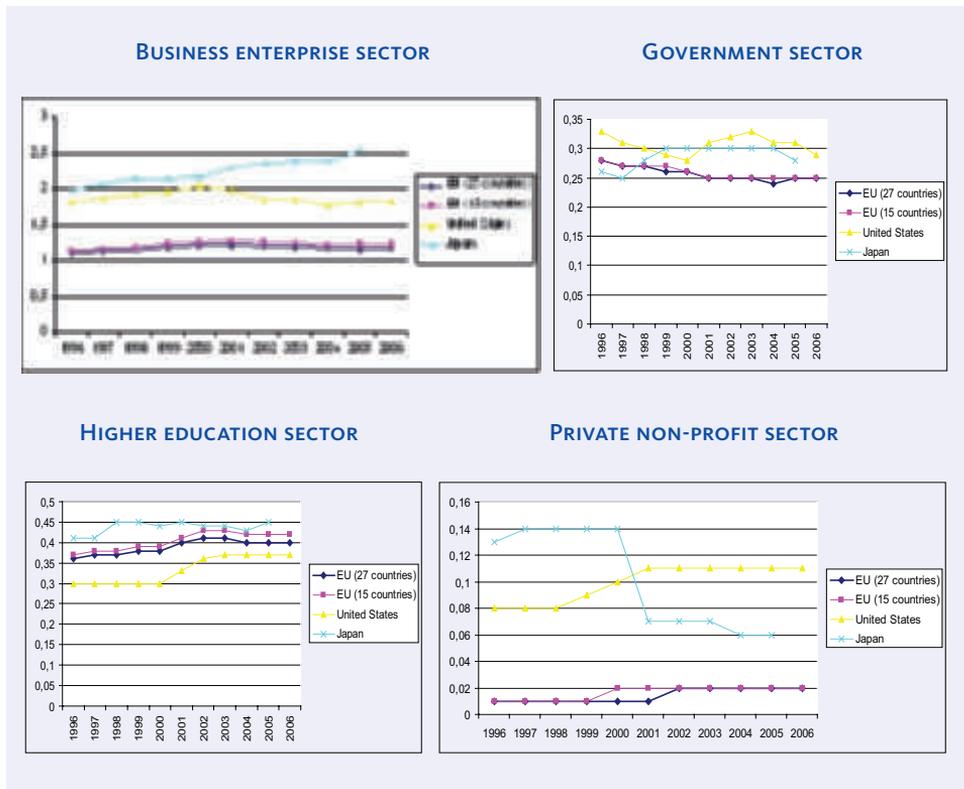
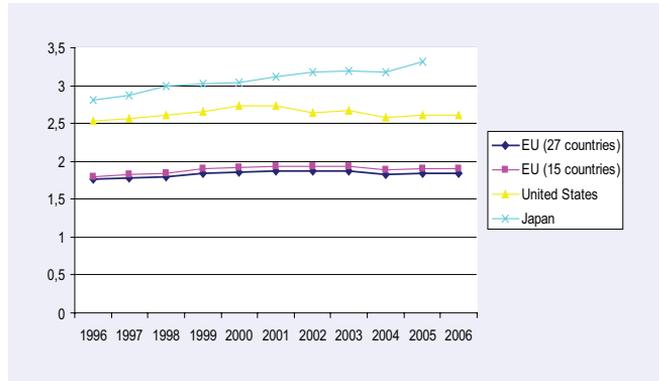


Figure 13: R&D Spending (% GDP)

On the other hand, applied research is interesting for the companies and for this reason it can attract sponsorship. This is a reason to stimulate it through an active policy of promoting technology innovation and research not limited to specific actions. This implies a fiscal policy for businesses in order that they can compete in the markets. Small fiscal

stimulus and joint venture development in the EU directed to support a specific type of firm are not enough in comparison with the American medium-size firm support system. Clearly different models exist in the EU-27 (for example, Spain and Sweden). Probably what is needed is a model of minima that respects the positions of those States that have a large participation of the business sector.

Innovation is an expensive and risky option and therefore incentives are required. For example, according to several studies (1), out of 5 000 to 10 000 tested compounds (Bio-tech) only five will proceed to clinical testing and one of these will be approved by the FDA in the USA. So, only 2 out of 10 approved drugs recover their costs and, moreover, an R & D project implies 10–15 years of development (see Figures 14 and 15).

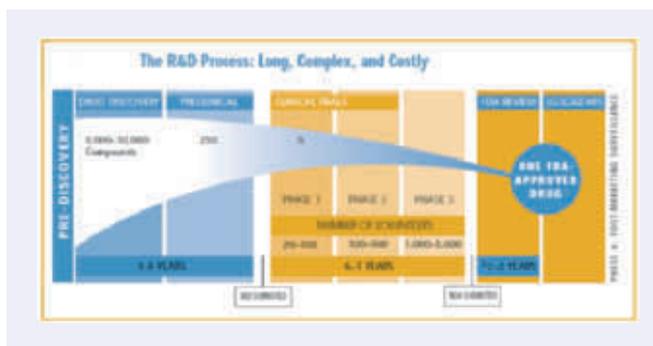


Figure 14: The R & D process in biotech

Source: <http://www.phrma.org>

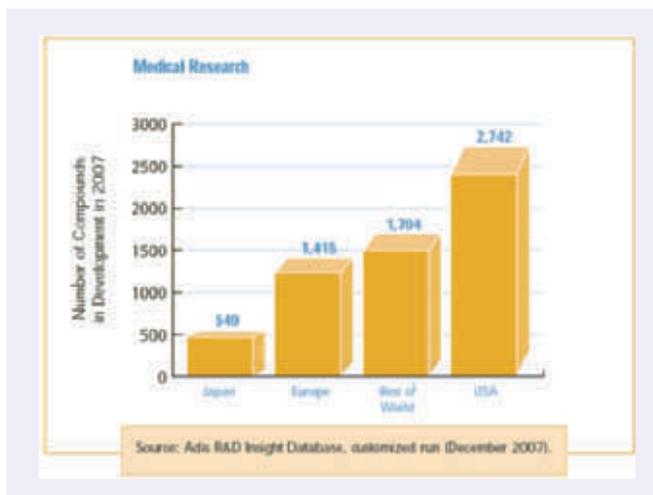


Figure 15

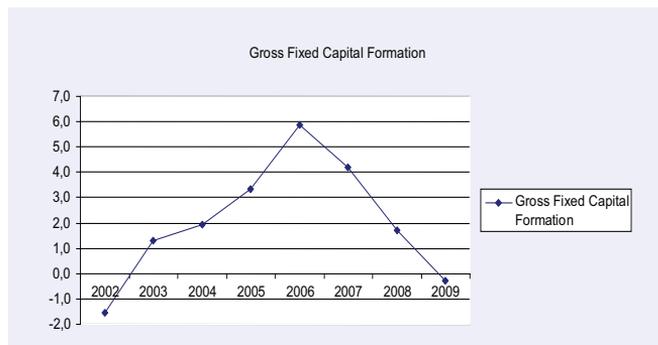
Source: <http://www.phrma.org>

(1) See (<http://www.phrma.org/files/2008%20Profile.pdf>). See also Mascareñas, Juan (2005) y Gutiérrez, Emma, J. Jiménez y J. Mascareñas (2006).

It is necessary to create zones of technology support that act like business farms for tech start-ups <sup>(1)</sup> (all of this by public initiative and supranational preferably); they benefit from external economies and economies of scale in relation to competence in the market economy. The importance of adopting in the EU, as soon as possible, a series of measures as indicated above is very pressing at this moment of crisis. It is demonstrated by the dramatic decrease of gross fixed capital formation from 2006 and the downturn of current account balance that pushes down investment and employment (see Figures 16 and 17).

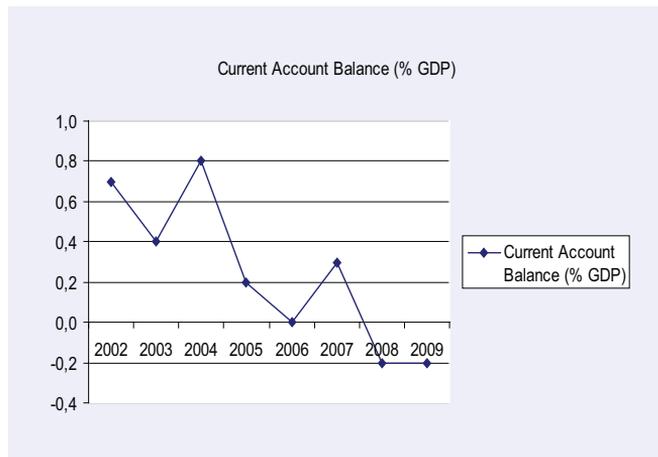
**Figure 16: EU gross fixed capital form (%)**

Source: Forecast BBVA Servicio de Estudios. September 2008.



**Figure 17: EU current account balance (% GDP)**

Source: Forecast BBVA Servicio de Estudios. September 2008.



<sup>(1)</sup> Similarly, in the USA, there are different business farms, which attract firms like Plug and Play Tech Centre, and nowadays have around 170 tech start-ups.

#### 4. CONCLUSIONS

The present volatility has risen to an outstandingly high level that makes predictions very difficult. However, the evolution of OECD countries' macro-magnitudes has shown the beginning of deep adjustments at the monetary level and at the real level of economies.

The temptation to establish protectionism, which is a typical reaction to recessions, is not a recommendable way to recover GDP growth rates compatible with a relaunching of the economies.

Reinforcing a multilateral dialogue among economic blocks is a necessary approach to stimulate markets but it is not sufficient. From the EU point of view, formulating a joint answer is more necessary than ever. And the answer must materialise in the design of a strategic commercial policy that rests on support to technological advances which push up production, trading and sales.

This implies defining an R&D&I model that encourages participation, impulse, and the leading role of the business sector. The idea is to consider R&D&I investment as a part of a company's job. Naturally, incentives are required for businesses to adopt this role, as in any other business decision. Characteristics of both aspects (R&D&I investment and procedures to stimulate it) must be the subject of joint work by national representatives of the different models existing in the EU-27.

The technique consisting of impoverishing your neighbour is not a medium or long-term strategy because it works like a boomerang. On the other hand, stimulating imports of goods and intermediate services (offshoring) as an application of comparative advantage would increase the productivity of the countries and would assure a good long-range net effect which would compensate initial adverse effects.

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## Is EU economic integration jeopardising EU political democracy?

I have been asked to speak as a political scientist about the state of play of the European market and the EU's political system in relation to innovation and international competitiveness, to debate the European Commission's achievements in this area, and to discuss future perspectives. I will concentrate on critical issues related to the relationship between the European market and the EU's political system, to consider this in the international context of globalisation, and to discuss future prospects.

Democracy is intimately connected to economics — just witness the sea change in US electoral politics this past November. In the EU, the relationship between economics and politics is more complex, given the multilevel nature of the polity, split between national and EU levels. Here, we have already seen some of the problems resulting from the disconnections between EU-level economics and national-level politics with the failed referenda on the constitutional and Lisbon treaties. Today in particular, as we are currently on the brink of a period of deep and possibly prolonged economic recession, if not depression, democracy in Europe may be particularly challenged. If the EU does not bring the public along with it as it reforms, even the most progressive, innovative, and beneficiary reform programmes can be jeopardised. It is for this reason that I have

decided to consider some of the deeper issues related to EU economic integration and their implications for EU democracy.

I begin with a story to dramatise the transformations engendered by the rise of European economic integration as well as of global capitalism over the past 30 years, using a latter-day Rip Van Winkle in illustration (the character invented by American author Washington Irving of the early 19th century who went to sleep for 30 years, to awake to a completely changed world). I then discuss the impact of economic Europeanisation (and globalisation) on democracy, and in particular the way in which, in ‘democratising’ the European (and global) economy, Europeanisation (together with globalisation) has ended up economising on European democracy. I end with a set of suggestions for reform of European politics and economics.

### **GREAT TRANSFORMATIONS: 1978–2008**

Imagine a latter-day Rip Van Winkle, having gone to sleep in 1978 only to have awakened in 2008. He would have found European economies and democracies barely recognisable (Schmidt, 2008).

Having closed his eyes to an image of the power of labour, strong state action, and the subordination of business to the needs of society, he would have opened them to the power of business, a much diminished state, and the subordination of labour to the needs of the market. Whereas he would have commenced his slumber surrounded by staunch believers in Marxian ideas about class conflict whose discourse centred on the fight between labour and capital, he would have awakened encircled by equally staunch believers in neo-liberal ideas whose discourse was all about free markets and global trade. While he would have been lulled to sleep by government intervention in the economy through neo-Keynesian ‘pump-priming’, active industrial policy, nationalised enterprise, corporatist coordination, and progressive taxation in growing welfare states, he would have been startled awake by monetarist austerity budgets, business deregulation, privatised public enterprise, liberalised financial markets, decentralised wage bargaining in flexible labour markets, and regressive taxation in shrinking welfare states.

Most immediately, however, Van Winkle would have been hard put to buy himself a cup of coffee with the national coins in his pockets had he been in the euro area, while the croissant he would have had with his coffee might have been from a French bakery, the sugar from a German beet grower, the orange juice from a Spanish orchard, the coffee

cup from China, and the coffee itself from a well-known American chain, all thanks to the single market. Alternatively, had he first gone to buy something to wear, get a car, and find a job, he would have purchased clothing with 'made in China' on the label, bought a car manufactured by an automaker from another country made with parts from all around the world, and found a job in the services industry.

For European capitalism, our story ends here for the moment. But for European democracy, it only begins.

Upon awakening, Rip Van Winkle, who knows nothing of the economic necessities linked to the transformation of Europe (e.g. the second oil shock, the rising competitive pressures in product and capital markets, the failures of post-war varieties of capitalism, the demographic challenges to welfare states), only sees the stark contrasts between 30 years ago and today, in particular with regard to democratic control of the economy and social justice. As a good political activist of the 1970s, he decides he needs to do something about the situation. Thirty years before, he would have organised marches on his national capital to demand government action; he would have joined unions, public interest groups, and business associations to lobby for remedies in (again) the national capital; and he would have attracted attention through disquisitions by public intellectuals, long news stories in the media and public debates. More likely than not, he would have had an impact. Today, by contrast, Rip's various efforts will have no effect whatsoever. Rip's march on his national capital does nothing, not only because few march with him unless he is in France or Italy, but also because he should have marched on Brussels. The 'Brussels consensus' is impervious to his outdated lobbying efforts; there is no EU-wide media to pay attention and Brussels has little control over global capitalism, although it has occasionally half-heartedly called for its regulation.

So what can Rip do? Join a social movement or INGO (international non-governmental organisation)? Join a radical right or left wing party in protest? Give up and go back to sleep for another 30 years?

The moral of this story is that the main challenge for European politics comes from the powerlessness that individual citizens feel in the face of European (and global) economics. Such feelings are made evident in fears of globalisation and outsourcing as well as levels of trust in government.

Although over two in three Europeans (EU-25) retain positive images of 'free trade' (70 % v 20 %), 'globalisation' as a term conjures up negative images for close to one in two

(46 % v 37 %) — even if ‘protectionism’ has the same negative connotation (46 % v 33 %) (Eurobarometer 63, 2005). Almost two thirds of Europeans (73 %) are concerned with the transfer of jobs to other Member States ‘where (the cost of) production is cheaper’. The French are particularly troubled by this issue, with 9 out of 10 (or 89 %) believing that jobs would be lost to regions, with lower production costs. And this despite the fact that most economists tell us that no more than 2 % of jobs have actually been lost as a result of offshoring.

The issue is winners and losers. The problem is that global capitalism is fine if you are an international financial manager, at least up until this September, or a highly skilled worker in services like health and education. Not so fine if you are a manufacturing worker in Germany worried about your job being near-sourced to eastern Europe; a pizza deliverer without much in the way of social security benefits in the United Kingdom; or an ‘outsider’ (temporary or part-time worker) without the job protection, pay, and/or perks of the ‘insiders’ as was the case as of 2000 for 39 % of the workforce in Spain; 29 % in Portugal and Germany; 28 % in the United Kingdom, Sweden, and France; and 26 % in Finland (King and Rueda 2008). It is of course true that differences among countries in terms of welfare state protections make these figures less worrisome to citizens of some countries than others — less in social-democratic Scandinavian welfare states, given high levels of employment and a generous safety net; more in liberal Anglo-Saxon welfare states in which low paid, low-skilled workers are more at risk from outsourcing as well as poverty; and arguably the most in continental European countries in which the problems are structural, and ‘outsiders’ face comparatively high levels of unemployment or underemployment with low pay and little job security (Scharpf and Schmidt, 2000). For all this, however, there are also differences in concerns about global capitalism that don’t necessarily correlate with levels of economic or social security: in the EU, the French have been off the charts in their fears of globalisation, whereas the British, Irish and Scandinavians have been cheerleaders for it (Eurobarometer 2003).

The economic concerns — economic precariousness, social injustice and rising inequalities, to name just a few — all contribute to the precipitous decline in positive attitudes towards national governments across European Member States. Citizens have been losing trust in their governments with regard to their governing effectiveness, their capacity to deliver social justice, and their honesty — as the ever lower scores in public opinion polls attest. One such measure is citizens’ trust in government, which dropped for the EU-15 from 44 % in 1994 to 31 % in fall 2003, when this question was itself dropped from the Eurobarometer.

## DEMOCRATISING THE ECONOMY WHILE ECONOMISING ON DEMOCRACY

A subtitle for this talk could be: 'democratising the (European) economy while economising on (European) democracy'. There can be no doubt that European market integration has 'democratised' the European economy, producing economic prosperity that has helped to raise hundreds of thousands out of poverty while improving their lives also through increasing competitiveness that has brought down prices while bringing up the quality of goods and services. But in creating the European market, EU institutions have effectively 'economised' on national democracy, as more and more decisions have been removed to the EU level, not to mention the global.

Thirty years ago, when national capitalism was largely controlled by national governments, the spheres of capitalism and democracy were seemingly coterminous. Today, capitalism has become European (and global) while democracy remains local. Moreover, the state is no longer the central focus of democracy as decision-making has moved upwards to international and (supranational) regional bodies; downwards to (sub-national) regional governments, corporate actors and NGOs; and sideways to regulatory agencies, to public/private partnerships, or to self-regulatory bodies. This is a challenge to traditional views of democracy and legitimacy as situated at the level of the nation state, in particular when decision-making moves upwards, outside the confines of the nation state.

For most countries around the world, the challenges to national government control are primarily associated with global economic pressures for adjustment, rarely with global institutions unless they seek financial rescue through the IMF or World Bank or trade redress through the WTO. For the EU Member States, by contrast, added to the global economic pressures are major institutional pressures from the EU. As a result, EU citizens find themselves doubly disenfranchised because not only do their countries not control global forces (much like all other countries), they also do not control their national governments, given EU governance. And however justifiable this is for economic reasons, politically it causes problems of democratic legitimacy.

As I have argued elsewhere (in *Democracy in Europe*, 2006), the problem for the EU is that it splits between supranational and national levels the four basic democratic legitimising mechanisms that tend to operate simultaneously in any national democracy. These are, in Abraham Lincoln's famous dictum, government by, of and for the people — meaning political participation, citizen representation, and governing effectiveness — plus, to add a preposition, with the people — meaning interest consultation. Unlike nation-state democracy, the EU's 'regional state' (as I call it, to highlight its state-like attributes within

a larger territorial reach — if we can talk about city states and nation states, why not the region state for the EU?) has a fragmented democracy. The EU level is characterised by governance for the people through effective rule-making reinforced by transparency and accountability — or ‘output’ democracy — and by governance with the people through the elaborate interest consultation process known as the ‘Community method’. The national level retains government by and of the people (or ‘input democracy’) with the EU benefiting from this through the indirect representation afforded by national executives in the Council and the (weaker) direct representation through the European Parliament.

This split in legitimising mechanisms causes problems for democracy in EU Member States by putting pressures on national politics. EU decision-making for and with the people is largely characterised by ‘policy without politics’ — what dominates is national interest in the Council of Ministers, public interest in the European Parliament, and organised interests in the Commission. This makes for depoliticised EU policy debates that do not resonate with European citizens, who are used to the left/right divides of national debates and often worried about EU policies on left/right grounds. This EU level ‘policy without politics’ has in turn engendered increasing ‘politics without policy’ at the national level, as more and more policies are removed from decision-making, emptying national politics of substance in policy area after policy area and impoverishing the national political arena as a result. This puts even greater burdens on the EU’s governance for the people, which needs to be not only especially effective — which is the case in some areas, such as consumer protection, worker safety, and environmental policy but not in others, such as capital taxation, industrial relations or social policy — but also highly transparent, accountable, and open to governance with the people. And here, of course, there are also significant problems.

Although the EU has made great efforts to increase its legitimacy through interest consultation with the people, such active engagement with ‘civil society’ has its limits in terms of access, transparency, and accountability (in particular with regard to comitology). But regardless of how open to public interest consultation with the people, EU policymaking processes are the problem for national citizens is that this kind of supranational policymaking is very far from the kind of representative democracy by and of the people they tend to see as the most legitimate. Moreover, even ‘civil society’ is not what it seems. The problem with all such ‘pluralist’ policymaking processes with the people, whether at the global, EU, or even national level, in particular for big nation states like the USA, is that ‘civil society’ is increasingly ‘expertocracy’ (Skocpol, 2004), and thus removed from actual citizens. As a result, in the pluralist policymaking processes of the EU, the USA, as well as in supranational institutions, governance with some of the people and possibly not for

all of the people is meant to make up for the lack of government by and of the people (Schmidt, 2006, p. 28). In other words, increasingly, 'the people' are left out of national, EU, and global-level governance.

European (and global) economic pressures along with European institutional pressures have taken their toll on European democracies. Social capital is on the decline, and social isolation on the rise. Citizen participation in elections has been plummeting — despite momentary spikes in game-changing elections, as in the Obama-McCain race in the USA and the Sarkozy-Ségolène presidential race in France. This said, whereas many citizens have become demobilised, others have been radicalised. Some have moved far to the right — blaming global and/or European patterns of immigration for unemployment or global and/or EU institutions for loss of national sovereignty and identity. Others have moved far to the left — blaming offshoring, neo-liberal global and/or EU institutions for challenges to long-standing labour institutions and the welfare state. Yet others have turned to interest group politics, joined social movements, and supported INGOs in actively trying to make a difference. But while this last helps with regard to 'associative democracy' with the people, it does little for representative democracy by and of the people.

How have national governments in the EU responded to these problems? Not as one might have hoped. Instead of seeking to legitimise the EU and the transfer of decision-making responsibility upwards to the EU, as the way to solve national, European, and global problems, national politicians have tended to engage mainly in blame-shifting and credit-taking. On policy issues, national leaders tend to blame the EU for unpopular policies because 'the EU made me do it' and to take credit for the popular ones, without ever mentioning the EU — largely because this suited their short-term electoral goals (Schmidt, 2006, Ch. 1, p. 4). On 'polity' issues, or the EU's institutional impact on national democracy, national leaders have generally been silent — except at moments of treaty referenda, when it was too late, as we saw in France, the Netherlands, and Ireland. Similar problems occur with globalisation, with blame-shifting the result, whether leaders have presented globalisation as the challenge that creates the 'risk society' (Blair) or that against which citizens require protection, even if it is 'protection in globalisation' (Sarkozy). In all of these cases, leaders only increase citizens' sense of powerlessness in the face of supranational forces to which they must adapt, and over which they have no control.

It is only very recently that we have begun to see a shift in the discourse, as national leaders have been talking about the need for EU and global action to confront the major challenges of today. The fact that the EU is calling for global financial regulation, action on climate change, and more, are all essential elements of an enhanced EU governance for

the people. This, however, is only one part of the solution. It does not directly address the social justice concerns outlined above with regard to winners and losers. And it certainly does nothing for governance with, by, and of the people.

### **TOWARD A MORE POLITICAL, MORE SOCIAL EUROPE**

Our final question, then, is how to empower citizens in ways that make the EU more politically and economically legitimate. The answer requires national, European, and global solutions. Economically, it requires new ideas and discourse that are 'outside the box,' in particular outside the neo-liberal box, but which take us forward into the 21st century, not back into the 20th or even 19th, as our recently awakened protagonist, old Rip Van Winkle, might have it. And politically, it requires rethinking democracy at national and EU levels; by bringing the citizens back in.

One remedy would be through more representative politics, to increase governance by and of the people at EU and national levels. For the EU, politicisation is already likely to occur through the election by the European Parliament of the Commission President, with political campaigns across Europe in the parliamentary elections, once the Lisbon Treaty comes into force. The increasing legitimacy of the EP as representative of the people is likely to demand more participation by Parliament at the beginning stages of policy formulation and in the comitology process (after all, why not have relevant EP committees linked to the Commission's expert committees?). Even without this, however, the Commission could lay out the political dimensions of its policy initiatives, rather than presenting them as purely technical, while the European Parliament could do more to debate the issues. In addition, the EP could be more fully connected to national parliaments — and needs to be, way beyond the provisions in the Lisbon Treaty.

At the national level, parliamentary debates should be held on European as well as global issues on a regular basis. What is important is that we have real debates regarding the issues, rather than leaders' speeches that leave the appearance of a vast conspiracy, with globalisation and Europeanisation out of the control of national leaders and citizens, forcing unwanted reform. And of course, we need to re-examine neo-liberal 'truths', and accept that there are limits to privatisation, deregulation, and liberalisation. By the same token, the renewed role of the state in financial enterprises, and the neo-neo-Keynesianism being contemplated in response to the economic slowdown also require new legitimating ideas and discourse.

Another remedy to EU legitimacy problems would be through more pluralist politics. For this, national leaders' discourse should make it clear to national publics that national governments are not the only voices which can speak for national interests and values, but that citizens can, and should, have more direct input into supranational decision-making. In addition to informing citizens of the pluralist nature of supranational governance with the people, they need to help citizens to organise themselves so as to gain access and influence in European decision-making — providing funding, information, and strategic advice — as opposed to trying to avoid citizen involvement. Moreover, they need to put procedures into place to enable citizens to participate in the national formulation processes focused on EU decision-making. All of this would also afford the already activist citizens and social movements better access and input at both EU and national levels.

The EU already has a range of mechanisms for such group citizen access, although 'expertocracy' is indeed a problem. And of course, stakeholder democracy, even if improved, is not public interest oriented democracy. At the national level, the open method of coordination (OMC) has great potential with regard to bringing citizens into EU-related adjustment processes. In addition to the economic focus on flexibility and employability of the EES (European employment strategy) is the social concern with inclusiveness and poverty alleviation in the social inclusion OMC. Until now, however, the OMC's potential has not been realised. It remains mainly government exercises (Zeitlin and Pochet, 2005). In addition to making OMC work better, the EU could do much more to facilitate cross-border citizen initiatives, acting as a supranational 'community organiser,' say, as it did with the Bologna process.

Moreover, for the EU at the moment, there are real limits to its ability to engage in market correction as opposed to market creation. The 'negative integration' that follows from the Treaties makes market creation relatively easy for the EU Commission and European Court of Justice. 'Positive integration' is much more difficult, since market correction demands agreement from the Member States — which the decision rules of the EU render near to impossible in the social policy arena in particular, given the differences among welfare states (Scharpf, 1999). The Lisbon Treaty, with its provision for 'enhanced cooperation', could offer a partial answer to this problem. It would be difficult but not inconceivable for this to apply to pensions policies or healthcare systems for similar kinds of welfare states — say, those relying on high-quality public services, if the Scandinavian social-democratic welfare states teamed up with France. The first case of enhanced cooperation, under the Nice Treaty no less, was launched in July 2008 by eight EU Member States on the issue of divorce, in response to frustration with the obstruction of highly progressive countries like Sweden and conservative countries like Malta (which does not recognise divorce).

But the EU would really need to go farther than this, and have a ‘treaty to end all treaties’, to put an end to the situation in which any one country or minority of countries can hold the EU hostage by vetoing a draft treaty or failing to ratify a treaty agreed by the large majority (the Catch 22 — we would need a treaty with unanimity to end all treaties). In place of vetoes, why not opt-outs? This would ensure that market-correcting legislation desired by large majorities of Member States would not be watered down by attempts to compromise (as in the social charter, which was watered down in an effort to get the United Kingdom to buy in rather than veto, but which then negotiated an opt out anyway).

At the same time, the EU needs a moratorium on negative integration in areas never intended to be subject to the treaties, such as education, health services, and labour, and should instead allow the conditional renationalisation of a range of social and labour market questions. The Services Directive, for example, has complicated public tendering requirements in ways that make it very difficult for smaller, non-profit local charities to comply, which risks putting them out of business, thereby reducing social capital in local communities. Of possibly even greater concern are ECJ judgments on education (the case of German medical students in Austria) and labour union rights to strike against what they see as unfair wage competition from cross-border firms (the Viking and Laval cases in Scandinavia) — against which Member States have no recourse, given the independence of the ECJ and the impossibility of getting the Council to overturn such judgments. On these issues, one wonders why the Member States don’t ‘just say no’, to challenge the court judgment (Fritz Scharpf, interview in *Magazin Mitbestimmung*, August 2008). Instead, Member States appear to have been negotiating compromises with the courts or seeking to create national legislation to get around the problem. If they can do this without undermining the national social fabric, so much the better. But should they have to do this? And what impact on national perceptions of EU legitimacy?

With regard to positive integration, moreover, the EU would benefit from instituting not a uniform EU minimum wage but agreement on EU-wide relative standards for wages — related to a percentage of the national median income — and for (subsidised) social assistance. In other areas, we should be considering revisiting suggestions floated a number of years ago intended to increase EU-wide social solidarity, such as the replacement of the common agricultural policy with a negative income tax for the poor (Schmitter, 2000). More generally speaking, the Commission and ECJ also need to rethink the one-size-fits-all approach to single market rules, and allow greater flexibility — arguably through opt-outs and enhanced cooperation. Note that the United States of America, which is a much

more integrated single market than the EU, is nowhere near as integrated or as uniform in its rules as the EU, in particular on public tendering requirements for social services.

As for the EU's initiatives with regard to global financial markets, why not also reconsider the Tobin tax on global financial transactions, rejected in the past because it appeared too difficult to implement? The technology is now clearly available. And we definitely need some means of funding a financial lending institution of last resort, of alleviating global poverty — especially in light of the financial crisis — and/or of paying for the energy adjustments related to climate change, in particular for developing countries. The EU could push this in global regulatory discussions. It could also conceivably create a similar such fund at the EU level, taking, say, EUR 5 per citizen collected through national income tax. Let's call it the European solidarity fund, and use it to replenish the globalisation adjustment fund to deal with unemployment and inequalities resulting from the global crisis we are facing today. Why not create a rapid reaction force to help countries deal with the problems, in particular those without the administrative capacity or resources to do it themselves (note that in the case of the Structural Funds, the poorer regions with less capability have also been less likely to access and/or spend the needed money).

## CONCLUSION

Europe, like the rest of the world, is in for hard times economically. The EU, which is already suffering politically from a legitimacy deficit, needs to do more to win back hearts and minds. One way is definitely the global initiatives for the people with regard to financial markets, climate change, terrorism, and so forth. But the more everyday single-market policies themselves need rethinking, in particular the pursuit of 'negative integration' when this undermines areas at the very core of national citizenship and social solidarity, as in education, health, and welfare, and thereby risks further alienating the public and delegitimising the EU itself. This rethinking, of course, needs to be based on 21st-century ideas, built on the new understandings that have been arrived at over the neo-liberal period, about the importance of individual responsibility, of non-state solutions to collective action problems wherever possible, of decentralisation of government and subsidiarity. But they also need to bring back in ideas about social justice that have never been abandoned in Europe throughout the neo-liberal period. Let us hope that, were Rip Van Winkle to go back to sleep yet again, 30 years hence he will reawaken to a new tomorrow of a more balanced neo-social neo-liberalism rather than simply finding that we have gone full circle, and are ready for the next neo-neo-liberal onslaught.

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### III. The modernisation of Europe's social agenda in a global perspective

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## The modernisation of Europe's social agenda in a global perspective: introduction to the social panel

Social policy has long been viewed as the poor relation in the integration process. The original EEC Treaty contained almost no 'social' provisions. The European *Economic Community Treaty* was just that: it was about the development of economic integration — the removal of artificial obstacles to the free movement of labour, goods and capital — which would in time ensure the optimum allocation of resources throughout the Community, the optimum rate of economic growth and thus an optimum social system <sup>(1)</sup>. This, in turn would lead, according to the preamble, to the 'constant improvement of the living and working conditions of their peoples', something that the Member States would realise for their peoples.

However, this decision to give precedence to economic over social objectives was to have serious ramifications for years to come. By decoupling two policies (economic policy and

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<sup>(1)</sup> Shanks, M. (1977), 'Introductory article: the social policy of the European Community', *Common Market Law Review*, 14.

social policy) traditionally interlinked at national level, and by giving primacy to economic policy, social policy has inevitably been downgraded. And, as decisions of the European Court of Justice have shown, in the absence of an express constitutional imperative to take social matters into account, economic policies such as free trade and free competition, read in conjunction with the doctrines of supremacy and direct effect, risked seriously destabilising national social systems. The decisions in *Viking* <sup>(1)</sup> and *Laval* <sup>(2)</sup> brought this risk into sharp focus.

The near total absence of any provision for social matters in the original European Economic Community Treaty eventually precipitated one of the most profound debates affecting the development of the European Union: should the Union have a social face and, if so, what form should it take and at what level should it be provided? Over the years, the EC did develop an identifiable body of EC law which can loosely be described as 'labour' or 'social' policy <sup>(3)</sup>. The process was by no means linear: phases of great activity have been matched by lengthy phases of inertia. However, the coverage of EC social policy is far from comprehensive; the resulting rules are a patchwork of European social regulation rather than a fully fledged social policy with welfare institutions and cradle-to-grave protection <sup>(4)</sup>.

However, the various Community institutions do talk of the existence of a European social model <sup>(5)</sup>. For example, in its White Paper on social policy <sup>(6)</sup> the Commission said that the 'European social model' was based around certain shared values:

*These include democracy and individual rights, free collective bargaining, the market economy, equality of opportunity for all and social welfare and solidarity. These values [...] are held together by the conviction that economic and social progress must go hand in hand. Competitiveness and solidarity have both been taken into account in building a successful Europe for the future.*

(1) Case C-438/05 *Viking Line ABP v the International Transport Workers' Federation, the Finnish Seaman's Union* [2007] ECR I-10779.

(2) Case C-341/05 *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet* [2007] ECR I-11767.

(3) As the Treaty itself does: Title XI is headed 'Social Policy, Education, Vocational Training and Youth'. Ch. 1, which contains Articles 136–45, is entitled 'Social Provisions'. See also the Commission's 'White Paper on social policy', COM(94) 333.

(4) See the arguments in Barnard, C. (1999), 'EC "social" policy', in: P. Craig and G. de Búrca (eds), *The evolution of EU Law*, Oxford University Press, Oxford.

(5) See Adnett, N. and Hardy, S. (2005), *The European social model: modernisation or evolution*, Edward Elgar, Cheltenham.

(6) COM(94) 333, para. 3.

Six years later, at the Nice European Council, the Heads of State or Government said <sup>(1)</sup>:

*The European social model has developed over the last 40 years through a substantial Community acquis [...] It now includes essential texts in numerous areas: free movement of workers, gender equality at work, health and safety of workers, working and employment conditions and, more recently, the fight against all forms of discrimination.*

This would tend to suggest that social policy actually equates with employment *law*. But as commentators have noted, the Community's attention has, since 1992 been increasingly devoted to employment *policy*, i.e. getting people into work and facilitating their ability to move into new jobs if/when they lose their current post <sup>(2)</sup>. This shift took concrete form with the launch of the European employment strategy in Luxembourg 1997, using the powers granted by the Amsterdam Treaty, and developed further by the launch of the Lisbon strategy in March 2000 <sup>(3)</sup> when the Union set itself a new and ambitious strategic goal 'to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion' <sup>(4)</sup>.

The final report of the Constitutional Treaty's Working Group XI on Social Europe offered its own view on the ESM <sup>(5)</sup>. It said that 'the European social model is based on good economic performance, competitiveness, a high level of social protection and education and social dialogue'. It was also noted that the European social model allows for a diversity of approaches in order to achieve shared European values and objectives and that this diversity should be treated as an asset and a source of strength <sup>(6)</sup>.

The common feature of these descriptions of the ESM is firstly, that there is no single concept of a European social model, that it is based on some shared values but a diversity of means for achieving this, and that the success of this social model is tied up with good economic performance. Secondly, the European social model is based on high standards

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<sup>(1)</sup> Para. 12.

<sup>(2)</sup> This shift was noted by the Nice Council when describing the ESM. It added that this social model also includes the agreements between the social partners in the law-making process, the Luxembourg EES and the open method of coordination on the subject of social exclusion and greater cooperation in the field of social protection, para. 11.

<sup>(3)</sup> Presidency conclusions, 24 March 2000.

<sup>(4)</sup> Para. 5.

<sup>(5)</sup> CONV 516/1/03.

<sup>(6)</sup> Para. 17.

(such as a high level of social protection) and quality <sup>(1)</sup> rather than a low-quality, low-skilled workforce. However, and thirdly, all the institutions mention an eclectic range of policies grouped together under the broad banner of European social policy. Finally, and perhaps most importantly, all of the EU institutions recognise that there is such a thing as European Union social model which builds on but is, in many respects, separate from the social model found in the Member States.

The Lisbon strategy of 2000 <sup>(2)</sup> recognised the need to 'modernise' the European social model <sup>(3)</sup> in order to balance social protection, competitiveness, welfare provision and sound finance. Various Commission documents then considered how this balance might be achieved <sup>(4)</sup>. One answer lies in a shift in thinking from viewing social policy as a burden on the economy to seeing it as a necessary input into its success <sup>(5)</sup>. In its 2000 social policy agenda <sup>(6)</sup>, the Commission said that 'modernising the European social model and investing in people will be crucial to retain the European social values of solidarity and justice while improving economic performance'. It continues that 'growth is not an end in itself but essentially a means of achieving a better standard of living for all. Social policy underpins economic policy and employment has not only economic but also a social value' <sup>(7)</sup>.

Moreover, if social policy is a key element of competitiveness it must be based on quality; since quality jobs, in particular, are more likely to keep people in employment and, thus, socially included. As the Commission has said, quality of social policy implies a high level of social protection, good social services, real opportunities for all and the guarantee of fun-

(1) See, for example, Commission communication on employment and social policies: a framework for investing in quality (COM(2001) 313, p. 5).

(2) Szyszczak, E. (2001), 'The new paradigm for social policy: a virtuous circle,' *Common Market Law Review*, 38, p. 1125; Hatzopoulos, V. (2005), 'A (more) social Europe: a political crossroad or a legal one way? Dialogues between Luxembourg and Lisbon', *Common Market Law Review*, 42, p. 1599.

(3) Lisbon presidency conclusions, 23 and 24 March 2000.

(4) 'Partnership for a new organisation of work', COM(97) 127 final; 'Modernising and improving social protection in the European Union', COM(97) 102 final; 'Modernising the organisation of work', COM(98) 592.

(5) European Commission (1996), *Social policy as a productive factor*, Office for Official Publications of the European Communities, Luxembourg; European Commission, 'White Paper on social policy' COM(1994) 333, introduction, para. 5, 'the pursuit of high social standards should not be seen as a cost but also as a key element in the competitive formula'; European Commission, 'Mid-term review of the social policy agenda', COM(2003) 312, 'A major guiding principle in the social policy agenda was to strengthen the role of social policy as a productive factor. This has been extended during the past years in particular through the promotion of quality as the driving force for a thriving economy, more and better jobs and greater social cohesion'.

(6) COM(2000) 379, 6.

(7) COM(2000) 379, 13.

damental and social rights <sup>(1)</sup>. The Heads of State or Government meeting at Nice in December 2000 agreed that 'Quality of training, quality in work, quality of industrial relations and quality of social policy as a whole are essential factors if the European Union is to achieve the goals it has set itself regarding competitiveness and full employment' <sup>(2)</sup>. Thus, quality is seen as a 'key element' in the link between competitiveness and social cohesion. In this way, developments at EU level dovetail with the ILO's 'decent work' agenda <sup>(3)</sup>.

In the specific context of employment, the emphasis on quality of working life and employability of the workforce has coalesced around the neologism 'flexicurity' <sup>(4)</sup>. Underpinning this idea is the aim to create a 'labour market which is fairer, more responsive and inclusive, and which contributes to making Europe more competitive' <sup>(5)</sup>. As the Commission explains in its 2007 paper, 'Towards common principles of flexicurity: more and better jobs through flexibility and security' <sup>(6)</sup>, 'Flexicurity promotes a combination of flexible labour markets and adequate security'. It says flexicurity is not about deregulation, giving employers freedom to dissolve their responsibilities towards the employee and to give them little security. Instead, flexicurity is about bringing people into good jobs and developing their talents. Employers have to improve their work organisation to offer jobs with a future. They need to invest in their workers' skills. The Commission calls this 'internal flexicurity'. However, the Commission also recognises that keeping the same job is not always possible. 'External flexicurity' attempts to offer safe moves for workers from one job into another, and good benefits to cover the time span, if needed. This is the so-called 'life cycle' approach to work.

On the subject of security, which is meant to complement flexibility, the Commission focuses not on job security but 'employment security'. Employment security means staying in employment, within the same enterprise or into a new enterprise. It concludes 'The philosophy behind flexicurity is that workers are more prepared to make such moves if there is a good safety net'. Once again, the emphasis is not on deregulation but investment in employment and skills with a social safety net to catch those in transition. This, says the

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<sup>(1)</sup> Ibid.

<sup>(2)</sup> European Council's social policy agenda, Annex I to the Nice presidency conclusions, para. 26.

<sup>(3)</sup> <http://www.ilo.org/public/english/decent.htm>

<sup>(4)</sup> See more generally Kenner, J., 'New frontiers in EU labour law: from flexicurity to flex-security' in: S. Currie and M. Dougan (eds), *Fifty years of the Treaty of Rome*, (Hart Publishing, Oxford, forthcoming).

<sup>(5)</sup> European Commission Green Paper, 'Modernising labour law to meet the challenges of the 21st century', COM(2006)708, p. 4. There is a surprising lack of reference to A. Supiot's influential report for the Commission *Transformation of labour and the future of labour law* (1998), Luxembourg. See Sciarra, S. (2007), 'EU Commission Green Paper "Modernising labour law to meet the challenges of the 21st century"', *Industrial Law Journal*, 36, pp. 375, 378.

<sup>(6)</sup> COM(2007)359, 5.

Commission, is the way to 'maintain and improve competitiveness whilst reinforcing the European social model'. The European social models (sic), it says, are based on 'social protection, social cohesion and solidarity' <sup>(1)</sup>. The concept of solidarity is the bridge between the flexicurity agenda and the renewed social agenda.

These descriptions of the ESM suggest that in the debate over whether social policy is seen as a burden on economic growth (due to the rigidities generated by employment laws) or a necessary input into achieving economic growth (those with job security are more likely to be committed and productive), the latter view is in the ascendancy. Social rights are no longer seen as merely a beneficial consequence of growth but as an integral part of realising that growth <sup>(2)</sup>. This view is supported by Sen's capability approach <sup>(3)</sup> which has been translated by lawyers to mean that:

*Social rights are the foundation of a market order which is based on extensive mobilisation of resources and the widest division of labour which are compatible with a given society's initial endowments in terms of human and physical resources <sup>(4)</sup>.*

The capability approach is also reflected in the Commission's 'Opportunities, access and solidarity: towards a new social vision for 21st-century Europe of 2007' <sup>(5)</sup>. In this communication the Commission identifies three main social realities facing Europe at present. The first is the rapid change of European society — increased life expectancy, declining birth rates, generation fracture, changing family patterns, migration, high levels of unemployment in certain parts of Europe, and newly-emerging social problems (stress, depression, obesity). The second reality is 'globalisation', technological progress and economic developments affecting the way EU citizens live and work whose benefits are not

<sup>(1)</sup> [http://ec.europa.eu/employment\\_social/employment\\_strategy/flexicurity%20media/flexicuritypublication\\_2007\\_en.pdf](http://ec.europa.eu/employment_social/employment_strategy/flexicurity%20media/flexicuritypublication_2007_en.pdf), 7

<sup>(2)</sup> European Commission (1996), *Social policy as a productive factor*, Office for Official Publications of the European Communities, Luxembourg; European Commission, 'White Paper on social policy' (COM(1994) 333), introduction, para. 5, 'the pursuit of high social standards should not be seen as a cost but also as a key element in the competitive formula'; European Commission, 'Mid-term review of the social policy agenda', COM(2003) 312, 'A major guiding principle in the social policy agenda was to strengthen the role of social policy as a productive factor. This has been extended during the past years in particular through the promotion of quality as the driving force for a thriving economy, more and better jobs and greater social cohesion.'

<sup>(3)</sup> See, for example, *Commodities and capabilities* (1985), Deventer, North Holland and *Development as freedom* (1999), Oxford University Press, Oxford.

<sup>(4)</sup> Deakin, S. and Browne, J. (2003), 'Social rights and market order: adapting the capability approach' in: T. Hervey and J. Kenner (eds), *Economic and social rights under the EU Charter of Fundamental Rights*, Hart, Oxford, p. 42. More generally, see Deakin, S. and Wilkinson, F. (2005), *The law of the labour market: industrialisation, employment, and legal evolution*, Oxford University Press, Oxford.

<sup>(5)</sup> COM(2007) 726 final.

shared evenly across the EU. The third reality is that the EU itself has changed, growing to encompass 500 million citizens. It is also more diverse: 'the accession of new Member States has extended the benefits of peace, freedom and prosperity across the EU and to neighbouring companies'.

In order to respond to these social realities, the Commission proposed a 'new social vision' which has 'opportunities, access and solidarity' at its core <sup>(1)</sup>:

- opportunities — to start well in life, realise one's own potential and make the most of chances offered by an innovative open and modern Europe;
- access — new and more effective ways to get an education, progress in the job market, obtain quality healthcare and social protection and participate in culture and society;
- solidarity — to foster social cohesion and social sustainability, and make sure that no individual is left behind.

The Commission continues:

*This vision reflects an increasingly accepted view that whereas society cannot guarantee equal outcomes for its citizens, it must become much more resolute in fostering equal opportunities [...] The central ambition is to achieve a wider distribution of 'life chances' to allow everyone in the EU to have access to the resources services, conditions and capabilities in order to turn the theoretical equality of opportunities and active citizenship into a meaningful reality <sup>(2)</sup>.*

The 2007 paper is strongly imbued with 'third way' thinking aiming at a genuine synthesis between the state and the market <sup>(3)</sup>. While there is much debate as to the meaning

<sup>(1)</sup> On p. 6. These ideas are developed further and operationalised in the follow up document 'Renewed social agenda: opportunities, access and solidarity in 21st-century Europe' (COM(2008) 412).

<sup>(2)</sup> Ibid. Emphasis added.

<sup>(3)</sup> This ultimately led to the adoption of the phrase 'social market economy' in Article 3(3) TEU-L which, as the final report of Working Group XI 'Social Europe' of the European Convention, explained (<http://register.consilium.eu.int/pdf/en/03/cvoo/CV00516-re01eno3.pdf>, para. 17), underlines 'the link between economic and social development and the efforts made to ensure greater coherence between economic and social policies'. See Joerges, C. and Rödl, F. "Social market economy" as Europe's social model?' *EUI Working Paper LAW No 2004/8*.

of the phrase 'third way', both in theory and in practice <sup>(1)</sup>, at its core lies the idea of replacing the egalitarian goal of achieving greater equality through redistributing wealth using welfare state mechanisms (i.e. equality of outcomes), with the goal of creating the conditions for the eradication of social exclusion (i.e. equality of opportunity) <sup>(2)</sup>. As Collins puts it <sup>(3)</sup>:

*The objective is to provide every citizen with the necessary resources in terms of education, training, skills and other financial support, so that they can participate fully in the opportunities afforded by a flourishing market economy. Inequalities of wealth can be tolerated provided that real equality of opportunity is available to all citizens ...*

There is a direct link here with Sen's capability theory <sup>(4)</sup> expressly, but briefly, referred to by the Commission, namely expanding the 'capabilities' of persons to lead the kind of lives they value — and have reason to value. Sen continues that these capabilities can be enhanced by public policy (e.g. education, training, healthcare and a career of their choosing) but also the direction of public policy can be influenced by the effective use of participatory capabilities by the public <sup>(5)</sup>. For this reason human rights and democratic freedoms, including freedom of association, the right to participate in economic and political decision-making are so important <sup>(6)</sup>.

Collins adds that implicit in the third way ideal is that markets produce a fair distribution of wealth for most people, and so lead to a reduction in poverty, provided that everyone has a fair opportunity to participate in the market. In contrast with pre-third way politics, there is no commitment on the part of the state to ensure an acceptable redistribution pattern occurs because this is 'impracticable, unaffordable, ineffective, and counterproductive owing to the problem of welfare dependency' <sup>(7)</sup>. Instead, individuals have the responsibility to take up the opportunities for achieving a decent standard of living that

<sup>(1)</sup> Collins, H. (2002), 'Is there a third way in labour law?' in: J. Conaghan, R. Fischl and K. Klare (eds) *Labour law in an era of globalisation: transformative practices and possibilities*, Oxford University Press, Oxford, p. 459.

<sup>(2)</sup> Ibid, p. 451. See also T. Blair, writing in favour of true equality i.e. 'equal worth and equal opportunity, not an equality of outcome focused on incomes alone': *The courage of our convictions* (Fabian Society, London, 2002), the two quoted in Fredman, S. (2004), 'The ideology of New Labour', in: C. Barnard, S. Deakin and G. Morris (eds), *The future of labour law: liber amicorum Sir Bob Hepple QC*, Hart Publishing, Oxford, p. 14.

<sup>(3)</sup> Ibid, p. 452.

<sup>(4)</sup> Sen, A. (1999), *Capability as freedom*, Oxford University Press, Oxford, p. 18.

<sup>(5)</sup> Ibid.

<sup>(6)</sup> Hepple, B. (2002), 'Labour law, inequality and global trade', Sinzheimer Lecture, pp. 10–11.

<sup>(7)</sup> Ibid.

are facilitated or provided by the state. This is one aspect of what Fredman terms 'civic responsibility' <sup>(1)</sup> which is one of the hallmarks of third way thinking (the others being the facilitative state, equality and community and democracy). The corollary of this civic responsibility is that if individuals fail to take advantage of the opportunities offered to them, the consequences rest with them, not the state (and its welfare system).

These third way ideas not only in the various policy documents adopted by the Community institutions in the 1990s and early 2000s but specifically in the notions of 'opportunities' and 'access' which structure the Commission's social vision communication: getting *access* to the necessary education, training and healthcare (provided by the 'facilitative' state and/or employers) enables individuals to take advantage of the opportunities available to them on the market. And the market means the employment market because, according to third way thinking, the principal cause of social exclusion is unemployment (or at least the inability to get a decent job which the 'quality' agenda is intended to address). The third way adopts a substantive approach to the question of (equal) opportunities. It recognises that many of those currently excluded from the labour market (the young, the old, ethnic minorities, women with caring responsibilities, the disabled) face formal barriers to their participation, especially discriminatory barriers (hence the significance of the Article 13 directives which extend the prohibition of discrimination to other socially excluded categories (ethnic minorities, the disabled, older workers)) but also substantive barriers (e.g. the absence of child and elderly care as well as financial barriers created by the 'poverty trap').

The addition of 'solidarity' to the duo of opportunities and access indicates that the state, in some form, should provide a safety net for those who cannot take advantage of the opportunities available to them. In this way, the EU hopes to answer some of the criticisms of the UK's execution of third way principles that if the individual does not take advantage of what is offered, the individual, not the state, suffers the consequences; there is little or no safety net.

The fundamental question remains: will these policies, developed largely in the good times, survive the bad? We currently find ourselves in the worst recession possibly since the 1930s and social policy is often seen as a soft target when budgets need to be cut. Paradoxically, it is at times like this when social policy is most needed to catch those who have lost their jobs and are struggling to make ends meet. This is the challenge facing the European Union for the immediate future.

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<sup>(1)</sup> Fredman, S. (2004), 'The ideology of New Labour' in: C. Barnard, S. Deakin and G. Morris (eds), *The future of labour law: liber amicorum Sir Bob Hepple QC*, Hart Publishing, Oxford, p. 12.

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# Ambitious but different: a vision of a modernised social agenda

It has often been claimed by politicians, trade unionists and civil society actors that the current Commission has been lacking in ambition in the area of social policy and that the social dimension of EU policy ‘took a back seat’ in 2004, being sacrificed to overriding economic priorities. This seems to have been a widespread conventional view ever since the reworked Lisbon agenda in early 2005 created the impression that the new Commission would focus overwhelmingly on economic goals, growth and competitiveness.

However, Commissioner Vladimír Špidla — who was able to draw on considerable personal experience with social policy on a local, regional and national level — followed from the outset an agenda which was innovative and intellectually coherent in terms of its contents. Someone might perceive this agenda as ‘weak’ due to the absence of flamboyant rhetoric or populist gestures with which the social policy field is still so often associated. In our view, however, this is not a weakness but an asset.

True, the modernised social agenda does not have the ambition to increase regulation in a number of traditional areas of social policy — e.g. minimum wages or job security — where hardly any realistic basis for consensus among Member States can be found. Moreover, in some of the Member States these areas tend to be over-regulated rather

than under-regulated, and that over-regulation is being promoted by its supporters and criticised by its adversaries as being the essence of the 'European social model' itself, which it clearly isn't. As Commissioner Špidla often stresses, the new approach seeks to defend the humanistic values of the European social model while changing its instruments so as to fit the challenges of the early 21st century — the realities of what Zygmunt Bauman calls 'fluid modernity'. We will not be able to address these challenges by pursuing a simple extrapolation of the same goals which were there several decades ago, nor by mechanically defending the status quo.

Which challenges are characteristic of this period of 'fluid modernity'? In the first place, of course, it is globalisation. This challenge is often presented in a somewhat reductionist perspective, as if it translated simply as 'increased exposure to competition from outside', with consequent job losses etc. In other words, it is presented as a 'zero sum game' in which 'we' (Europe) are increasingly losing out against 'them'. In fact, as the developing global crisis clearly shows, the challenge of globalisation does not necessarily mean that the gain of the 'other' is our loss; it can very often mean that their loss is our loss, too. The world has become increasingly interconnected. But if we see that negative economic development in the USA hits Europe, Russia and China, isn't it clear that also positive economic development in one of these regions may be of benefit to others? In other words, instead of 'resisting' globalisation, should we not try to shape it to mutual benefit?

The other major challenge is that of the changing character of work, which is due to dramatic technological progress and changes in the structure of European economies as well as cultural changes. There is the challenge of demographic change affecting European societies, the challenge of increased emphasis on individual rights and human dignity of all people (including vulnerable and previously excluded groups) and the challenge of aligning social and environmental goals.

The Commissioner's slogan, which you may know from his website, has been 'equality, mobility, dignity'; and it was along these lines that the Commission set out to address the five challenges mentioned above.

To deal with the demands of globalisation and of the changing character of work, Commissioner Špidla has opened a structured debate on flexicurity. Obviously, this is not an area for legislation, but the use of specific 'pathways' adapted to the conditions of different Member States has proved to be of considerable practical use. The key notion of the flexicurity debate is that of assisting and empowering individuals, not particular jobs or corporations; in a certain sense it transforms the perspective from a corporative to a

post-corporative one. Such a transformation is sometimes questioned by those who suspect the whole flexicurity debate of being driven by business interests, as if its aim was merely to make workers more 'flexible' to the exploitative demands of their employers. That is, at the very least, a major misunderstanding. Not only is it continuously emphasised that also employers should become increasingly flexible to the individualised needs of their employees, but above all there is abundant evidence that those Member States which use flexicurity approaches have a more (rather than less) satisfied workforce. Indeed, ETUC's own data show convincingly that Denmark, the cradle of flexicurity, has the highest rates of job satisfaction and quality jobs throughout the EU.

Moreover, the changing needs of Europe's labour markets can be addressed also by removing obstacles to worker mobility. The current Commission has proposed legislation in this area (a draft directive on the portability of pensions) while also providing solid evidence for Member States to stop using transitional arrangements for persons coming from new Member States. In this area, too, Commissioner Špidla often needed to challenge protectionist stereotypes which saw the workers from new Member States as a threat to jobs and social stability in the original EU-15. His consistent message has been one of a single labour market. Indeed, it is in this context that the Commission's legislative proposal for European Works Council should be seen — as a proposal addressing a real need of an increasingly European, not merely national, workforce.

In order to address the more specific needs of persons affected by job loss due to globalisation, the Commission has also introduced a new financial mechanism, the European Globalisation Adjustment Fund (EGAF). Again, in line with the overall concept, it does not seek to support failing companies, but rather to improve the employability of those individuals who have lost their jobs.

As for demographic change, there can be no doubt that it was the current Commission — and Commissioner Špidla in particular — who, for the first time, put it as a major item on the EU's agenda. The Green Paper which dealt with population ageing launched a real EU-wide debate on the actions needed to prolong working life (through financial stimuli, lifelong learning, non-discrimination, improved health and safety in the workplace) in order not just to stabilise the pension systems, but also to use the potential of older workers to their and society's full benefit. The Demography Forum, established at the Commissioner's initiative, has proved to be an exceptionally fruitful platform for progressive policy exchange. Further documents followed, including those addressing the area of reconciliation of work and family life (i.e. enabling people to have as many children as they wish to have).

In the area of individual rights, in July 2008 the Commission adopted its most ambitious legislative proposal so far, one which aims to protect from discrimination based on age, disability, religion or sexual orientation in the areas of social protection and social advantages, education, healthcare and access to goods and services, including housing. This, again, is consistent with the approach that places an increased emphasis on individual rights and dignity, including persons who might easily be overlooked from a traditional 'corporative' perspective, such as those with various disabilities. Increased attention has been devoted to marginalised and stigmatised groups of persons such as the Roma (for example through the first-ever specific Commission document on Roma-focused policies in July 2008 and the first EU Roma summit in September 2008).

Within the social open method of coordination, increased attention was also paid to the needs of those who are clearly outside the labour market and who are dependent upon long-term care. The Commission has taken a much clearer stand than ever before in favour of the development of community-based, individualised services (for the frail elderly, children, disabled persons or those with mental health problems) which should replace the large residential institutions as far as possible.

Finally, in the area where environmental and social concerns meet, Commissioner Špidla has repeatedly supported greater involvement of workers' representatives in the process, emphasising the need to 'mainstream' social concerns in environmental policies (and vice versa). Ambitious environmental policies are vital; 'green jobs' need to be actively promoted; environmental and social policies need to go hand in hand. However, in this area it is clear that the main challenges still lie ahead of us.

To sum up, the last four years have, in fact, seen some rather innovative development in the policy areas of employment, social affairs and equal opportunities. It can be argued that this development represents a real paradigm shift in these important policy areas — or, at the very least, the beginning of such a paradigm shift.

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# **The modernisation of Europe's social agenda in a global perspective: 'rebooting the social'**

The issue of how to address the social policy issue at the European level has been addressed extensively over the past 15 years. The diagnoses as well as solutions put forward go from a complete decoupling of the social sphere from the economical sphere and hence a call for exclusive nation-state control over social policy issues to a call for a European Union social protection system mirroring a European-wide redistribution rather than national. Most proposals, however, seem to call for a middle way with the European level providing means of coordination and policy learning between Member States, but leaving the actual policy solutions, implementation and financing to the Member States (Goetschy, 2006). The common denominator in most contributions is the emphasis on the fact that the welfare state and social policy issue is one of the pillars of nation-state politics and hence the transferral of decision-making power to another level causes legitimacy questions at the national level where the political discussions take place as well as at the European level where no political discussions take place. Another element drawn to the fore as rendering the issue of Europe and social policy complicated is the diversity of the institutions, actors and financing forming the welfare state coupled with the path dependant nature of welfare states. However, at the same time it is also acknowledged that the economical and social spheres cannot be decoupled and that

there is a crucial need for coordination of the politics and policies that guide these two spheres, hence justifying the European level 'added value'.

This paper aims at contributing to this growing literature and political debate on how to take the European social agenda forward by questioning maybe not the governance and regulatory aspects but rather by questioning the way the social issue is being conceptualised and the types of policy solutions that are being used as vehicles for promoting a very particular and, as it will be argued, instrumentalised economical way, of thinking social policies.

The paper is organised as follows. Section 1 will give a brief overview of how the social question has evolved at the European level, how it has been conceptualised and taken forward. Section 2 discusses the current conception of the social issue and how this is interpreted in the EU policy sphere and at the same time brings to the fore social issues that are being neglected or rather being normalised as being part of the European integration. Section 3 will conclude by summarising the various policy proposals that currently are being suggested and will point to policy issues that need to be addressed.

## **1. THE DIFFICULT EVOLUTION OF THE SOCIAL QUESTION AT THE EUROPEAN LEVEL**

The social question has always been a difficult one, and has seen achievements by failure rather than achievements by success. Notwithstanding the way it has been conceptualised and integrated into the European integration has varied strongly over the 50 years that the union has existed.

Looking back at how the social question has been dealt with, one can easily identify four different logics, with a strong anchoring in the original way the European integration was set up.

From the outset of the European community, the Treaty of Rome (1957) clearly delegated the issue of social policy to the national level and promoted the idea that welfare would be provided by the economic growth arising out of liberalisation and European integration. Regulation and redistributive policies were not perceived as fundamental to increasing welfare (Barnard, 2000). However the final shape of the Treaty of Rome was the result of differing visions on how important social issues were in constructing Europe (Degimbe, 1999; Goetschy, 2006), and in order to satisfy the most fervent promoters of a social dimension in the construction of Europe a set of articles promoting equal pay

(Article 119), equivalence of paid holidays (Article 120) and the establishment of the European Social Fund (Article 123-8) although modest at that time and limited to employment issues. Furthermore, social policy could be approached from a European level with regard to relevant studies, delivering opinions and organising consultation. In essence social policy was perceived as being a national issue and could only be brought to the European level with a unanimous council decision. However, in line with the issue of free movement of workers and hence establishment of a European labour market the Treaty foresaw a set of articles to deal with discrimination on grounds of nationality and a community-wide right to social benefits and a provision on how to compute these rights (Degimbe, 1999). In essence, the late 1950s and 1960s were characterised by a set of directives supporting the idea of free movement of workers by granting the same rights to workers from the European Community as the national workers in each Member State, thereby promoting the idea of a single labour market.

The second period started during the 1970s, which was more influenced by the idea of harmonising standards, while at the same time improving them. This change in approach was sparked by the view that the construction of the European Union should not favour economic growth but also raise living standards and well-being and that in order to achieve this a certain number of actions and regulations were needed. Hence, in 1974, the first European social action programme saw the light, emphasising the need for closer cooperation in the social field. The social action programme sparked a series of directives on health and safety at the workplace, equality between men and women, as well as on certain aspects of labour law. All in all between 1974 and 2000, 51 social directives were voted on, with the 1990s being the most active period (Falkner, 1998).

The first two periods 1950–60 and 1970–80 were characterised by binding regulations, imposing common standards and common rights on the Member States and their citizens, with the 1970s clearly making headway with regard to being active in the social field.

The third period starts in the 1980s that gave way to a quite different approach with the Single Act in 1985 expanding the Community's social competences by including minimum harmonisation of health and safety of workers among issues to be voted on by qualified majority and giving the first hints towards the establishment of European social dialogue. Although the former issue did not seem controversial at the time, including health and safety of workers, qualified majority voting turned out to have major implications. The logic behind the actions in the social field up to and during the 1980s was one of counterbalancing the economic integration and enlargement of the European Community (Spain, Portugal and Greece) and the fear of social dumping. In essence, defining minimum norms

seemed to be the order of the day. The Maastricht Treaty (1993), and then again the Amsterdam Treaty (1997), was characterised by the headway in scope of issue that could be dealt with in the social policy field, with the adoption of the Community Charter of the Fundamental Social Rights of Workers and the signing of the social agreement between the social partners, and inclusion of the employment chapter (Article 125-30) into the Amsterdam Treaty. However this expansion was counterbalanced by the subsidiarity principle and the non-binding open method of coordination (OMC). In essence, the inclusion of social progress in the treaties and promotion of large-scale social initiatives (White Paper in 1993 and Lisbon strategy 2000) were the counterbalance to the acceptance of stronger economic integration. This was a clear break from the 1960s and the 1970s where the social question was dealt with in relation to the working of the markets themselves (Goetschy, 2006). During the same period, the European social partners negotiated six framework agreements, of which three were transformed into directives in 1995, 1997 and 1997. While the Lisbon strategy and the social agenda 2000–05 reflected the EU's move towards a less regulatory form of governance, the initial Lisbon strategy period, was, to a certain extent, categorised by efforts to counterbalance the adverse effects of European economic integration.

However, an analysis of the revised Lisbon strategy and the social agenda put forward in 2005 clearly breaks with this idea and tails back to the initial philosophy of the Treaty of Rome, namely that improved living conditions come with economic growth and hence the need to refocus on economic and employment growth rather than regulating and harmonising social standards. A clear illustration of this is the discourse of 'more jobs', omitting the original wording in the Lisbon strategy of 'more and better jobs'. Furthermore, the European employment strategy is integrated with the broad economic policy guidelines and the then three open-method-of-coordination processes on social policy that are integrated into a single process. Although the main idea was to render these 'soft law' processes more efficient and visible, the reality is rather that this integration made them weaker and less visible. Hence, one can argue that a new period commenced in 2005, with a less prominent role for social issues. This new approach was heavily criticised, however, and it soon became very clear that with European enlargement, the increased importance of globalisation, and fear of social dumping, the European level had to take social Europe seriously and show that the adverse effects of economic integration and globalisation were met by social measures. The French and Dutch 'no' votes to the Constitution sparked a series of events, papers and debates on the European social model (Jepsen, 2007), this was followed up with the social reality consultation in 2007 that resulted in the rather disappointing revised social agenda proposal on 2 July 2008. On the other hand, 2008 marked the adoption of the series of directives that had stalled for up to 10 years. In July 2008 the Temporary Agenda Directive was adopted and in December 2008 the recast of the European Works Council directive

was adopted (Jagodzinski, 2009). However, the revision of one of the more important social directives, namely the Working Time Directive, remained stalled with the European Parliament adopting a series of amendments disagreeing with those agreed by the Council. Hence a solution is now to be found in a Conciliation Committee with the Council. An important element in this respect is the, for the first time, attempt by the Council to introduce a regression in a social directive, despite the non-regression clause in the Treaty.

During the same period, however, the European Court of Justice, which plays an increasingly important role, seriously challenged the industrial relations system and labour law in several Member States with the Viking-Laval-Rüffert and Luxembourg cases (Barnard, 2008; Bercusson, 2007), thereby reaffirming the overriding aim of economic integration and emphasis on free competition, and subordinating national legislation, also within domains outside of the scope of the Treaty, to the logic of the free market.

Hence, a qualification of the period we are currently experiencing is currently difficult. There are peaks of discursive momenta and a steady flow of communications and reports on social policy issues. However, there is little sign of a new strategy that can put the social issues at the centre stage of European policymaking. As Goeschy (2006) states, the construction and advancement of the European social model is characterised by power struggles and compromise; this especially seems to be the case currently (the latter seeming to be more often the case at present).

## **2. FRAMING AND CONCEPTUALISING THE SOCIAL ISSUE**

In parallel to the shift in governance as well as regulatory mode there has also been a shift in how social policy is conceptualised and framed. These two issues are difficult to disentangle but should be dealt with separately in order to understand the development and hence the options that are available in the future.

With respect to how the social question is conceptualised and dealt with, there has also been an important change and this is for many reasons. Firstly, the drivers of change have, over time, been harmonised and streamlined and are today framed in terms of globalisation, technological changes, demographic changes and climate change, thereby clearly putting to the fore that the main challenges are endogenous as well as exogenous to the European Union. Secondly, the social policy answer to these questions also seems to have been harmonised and framed in one sentence: 'enable the individual to adapt to the risks as it is no longer possible to protect the individual from the risks' (Jepsen and Serrano, 2006).

The social issues dealt with at European level reflect this and are framed by concepts such as social inclusion, flexicurity, activation, active ageing, lifelong learning, new risks and social innovation. Most of these concepts promote the idea of empowering the individual or providing the individual with capabilities in order to adjust and adapt to the changing environment. These concepts have been taken up in many of the Member States despite the non-binding promotion of the concepts via the open method of coordination. Of course, these concepts are interpreted differently across the nation states and adapted to correspond to the already existing and deeply rooted welfare systems but there seems to be little doubt that the concepts and framing of problems arising at a European level are influencing or supporting the debates at a national level, examples being activation of unemployment benefits, reduction of early retirements, pension systems, and social inclusion, although the actual policy implementation might differ (Pochet, 2008a).

Many of these social policy responses reflect the belief that social protection and welfare states tend to introduce rigidities and hamper economic and employment growth and, hence, also well-being; and that flexible labour markets and, hence, also less protection from risks are necessary in order for Member States to adjust to shocks and this especially in the euro area as other policy intervention instruments are no longer available (fiscal and monetary policy). In Taylor-Gooby (2004) it is argued that the market-centred paradigm lies at the heart of the construction of the reforms, thereby confirming the idea that social policy responses should accompany the economic growth by facilitating adoption and adjustment, rather than introducing rigidities or prevent the risk from occurring. However, the perception of 'what is' and 'what should be' are called into question and might give some ideas of how we should rethink the way 'social' is conceptualised.

A first issue that one might question is with regard to whether welfare states are reforming or not. The second is with regard to whether there is necessarily a trade off between economic growth and social cohesion.

Several studies have lately pointed towards the rather impressive number of reforms that have taken place in the EU welfare states; furthermore, in many cases quite similar reforms have taken place (Pochet, 2008a; Meyer and Anderson, 2004; Mathieu and Sterndyniak, 2008; Jacquot, 2008). Welfare states have been reforming ever since they were set up, and there is no reason that they should stop reforming. However, in reforming and adapting to new risk and new realities, other new risks arise that need to be dealt with (Taylor-Gooby, 2004); hence, there is constantly a need to review and readjust. So it would be wrong to talk about welfare state reform inertia. Examples used to illustrate this argument are that activation of the unemployed has been implemented in most European

countries; the unemployment benefits have decreased in generosity (Begg et al., 2008), the paradigms concerning early retirement has changed over the past 10 years (Jepsen et al., 2003) and pension schemes have changed in shape and generosity as well (length of contribution, consolidation of second and third pillar schemes), and work-life balance policies are also gaining importance across the EU (Begg et al., 2008).

However, many of these reforms are being qualified as minor and on the margin. This is a very complex and long discussion and several authors seem to disagree with this stance (see for example Taylor-Gooby, 2004); I would tend to agree with them.

As to the influence of the European Union discourse and process in defining and conceptualising these reforms the literature is very divided with a strand of authors arguing that the European measures are shaping reforms and welfare states and another strand of authors arguing the opposite (see Jacquot, 2008 for a literature review). However, there seems to be a strong overlap between the policy concepts promoted in the European processes and the types of reforms being proposed on the national level. And, although that we are not observing a convergence of welfare states in terms of institutions, actors, overall aim, etc., one could maybe claim that there is to a certain extent a convergence of identification of problems and policy solutions to deal with them (Jepsen and Serrano, 2006).

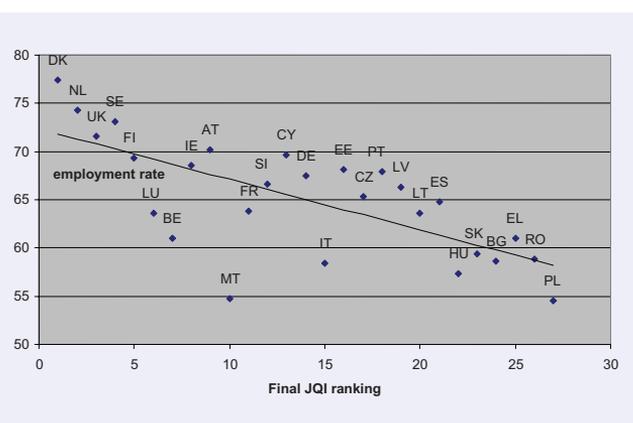
One could by the same reasoning look at the impact of the Structural Funds (that actually reach far beyond their funding), impact of directives and ECJ rulings. However this is beyond the scope of this contribution.

In brief, the European methods are impacting and shaping the welfare state models that are to be found across the European Union.

The second point to be stressed is with regard to the impact of the welfare states and social policy choices on economic growth. This debate is a long-standing one, and is far from ending. As demonstrated in Section 1, Europe has shaped its intervention in terms of reconciling economic growth and social cohesion and has from this point used good practice and policy learning to promote the concept and way forward (Jepsen and Keune, 2007). However, the importance of this issue does not seem to go much further than the Directorate-General for Employment and Social Affairs, and this despite several studies showing (in more or less sophisticated ways) that it is exactly the ability of European Member States to combine these two aspects which provides their strength and reason for being competitive. Protecting the population against risks and promoting quality employment is actually assuring that the population will take the risks. This is clearly

displayed in two quite different studies and approaches. The first is by Sapir (2006) where the conclusions point towards two models of welfare states that can function as models towards which the rest of Europe should converge in order to combine efficiency and effectiveness, namely either the liberal model to be found in the United Kingdom and Ireland or the more encompassing model found in the Nordic countries and the Netherlands. Another study comes to the same conclusion, however, with regard to job quality, and once again the same countries are displayed as being able to combine relatively high employment rates and high-quality employment (see Figure 1).

**Figure 1: Correlation between job quality and employment rate (2005)**



Source: Lescke, J. and Watt, A. (2008).

Hence this well-known result, for most, should legitimise the ability of Member States to sustain and maintain an encompassing welfare state and focus on quality employment, it should also enable the European measures on social policy to focus more on the social aspect of social policy rather than on the ability of social policy to deliver economic growth. This last point is important in the sense that if no deliberate actions and focus are given to promote and provide measures that increase well-being and quality of life and work, it is not clear whether social policies that deliver economic results will increase well-being and quality.

To exemplify this last point one only needs to look at the development of job quality across the European Union. Countries with high-quality jobs have experienced an increase from 2000–06 while countries with relatively low job quality have experienced a decrease, hence pointing towards a worrying divergence.

Furthermore the world of work report from ILO/IILS in 2008 clearly shows that wage inequalities are on the rise and that low wage and low-skilled workers are especially affected. Hence, while we have not experienced the much discussed retrenchment of the social protection system, but a reconfiguration, in light of the deepening of the European economic

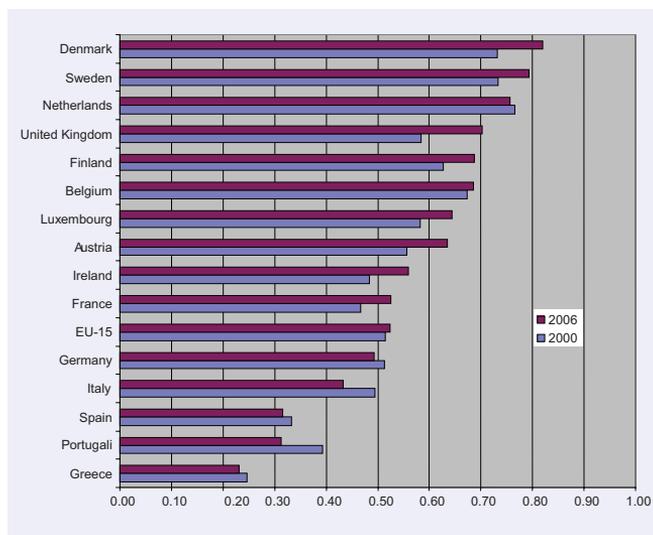


Figure 2: Development of job quality across the EU-15 (2000–06)

Source: ELNEP (2008).

integration and globalisation, there are worrying trends of rising inequality, as well as seemingly diverging trends in job quality. Furthermore enabling measures, e.g. lifelong learning, are stagnating and not being implemented as they should despite OMC and social funds.

These examples of growing inequalities with regard to wages and job quality, both within and across countries, are worrying phenomena and should be a core issue for the European level conception of what social policy does. It seems puzzling that the dualisation of the labour market is of great concern to the policymakers, but that the dualisation of social policy does not seem to worry them as much. How can we assure adequate and appropriate social provisions for all Europeans? There seems to be a lack of answers currently as common standards become more crucial and it becomes even more difficult to find agreement on them. This latter issue is closely linked to the stability and growth pact as well as the debate surrounding services of general interest.

### 3. PROPOSAL AND IDEAS FOR 'REBOOTING THE SOCIAL'

This contribution has briefly summarised the development of the 'social question' at the European level. It has displayed that the expansion of the social question on the European level has come at the cost of the non-binding nature of today's initiatives. Despite the continuation of adoption of directives until mid-2000 the momentum for the adoption arose during the 1990s and no truly new initiatives are on the table if they are not within the better regulation or recast/revision remit, and this despite a growing number of problems and pressures from globalisation and continued European enlargement and

integration and the opening of the social question in the Maastricht Treaty, which was intended to accelerate the pace of social policymaking (Pochet, 2008b). Moreover, and even more importantly, the nature of regulatory acts has also changed. The 1970s were characterised by binding regulations, imposing on the Member States and their citizens common standards; today's social policy directives typically allow for wide discretion in their implementation, thereby putting the will of those affected by a rule, above the will, or potential will, of the European legislature, thereby reflecting the principle of subsidiarity.

Meanwhile the OMCs on social protection and employment put forward to harmonise, legitimise or avoid great divergences of social and employment policy solutions across the European Union have proven disappointing in many respects, although it is difficult to argue that they do not have any effect (see Mathieu and Stedyniak, 2008). A close look at the 'social agenda' 2000–05, 2005–10, and 'the revised social agenda' from 2008, also demonstrates a weakening in the number of binding initiatives as well as strategic approach to build momentum.

The OMC has proven useful in providing reference for social issues on the European arena, has allowed a set of actors a voice and enabled difficult and 'invisible' issues to be addressed, e.g. homelessness. However, the OMC does not reflect the consultation and decision-making process at the national level and hence is often described as having a democratic deficit and leaving the delicate reform processes in the hands of an elite and slowly but surely increasing the gap in influence between those who are part of the OMC and those who are not part of it.

These observations have led to a number of initiatives aiming at granting the issue of 'social cohesion' the same status as competitiveness, and hence extending the idea of the European economic integration to include increasing social well-being. While the initiatives do not so much question the open method of coordination, they do insist on the necessity to introduce binding measures whether in terms of creating a social snake, a new solidarity fund or include a social protocol in the treaty.

The initiatives comes from the observation that with the non-binding methodology there is a real risk that with the deepening of the European integration and increasing degree of internationalisation, the already existing social and fiscal competition will increase, thereby forcing countries to lower the fiscal revenue on both capital and labour, and hence inevitably the generosity and encompassing nature of their welfare states. This will lead to a convergence of the various models towards the 'liberal model' (Esping-Andersen, 1999) thereby redirecting the welfare model towards providing charity to the poor and providing

incentives for full participation in the labour market. Increasing inequalities is accepted as being a necessity in order to remain competitive. However, this approach is shared by very few actors as well as a minority of the European population. Hence, an approach guided by a non-choice but rather by market forces does not seem to be the appropriate solution for the European Union countries.

While a fully-fledged welfare model is rarely proposed as a way forward, the opposite, namely full sovereignty, seems to be the preferred scenario by a set of countries and actors. The line of reasoning for the sovereignty of social protection systems is that it enables the nation states to respect the national institutional and social relations, and hence also respects the democratic process governing the reform and financing decisions. However, the interaction between the various policy fields, e.g. the Services Directive and national collective bargaining systems, and hence the inability to clearly define the boundaries between European and national competences has lately become very clear with the ECJ cases Viking-Laval-Rüffert-Luxembourg. Hence, sovereignty of social protection and welfare states seems surpassed and can no longer be perceived as an option.

In light of this, there are strong arguments for a strong social agenda at the European level, one that guarantees social cooperation rather than social competition, and that assures the possibility for nation states to choose a strong social welfare state rather than the non-choice of dismantling the welfare state due to market forces. These ideas have been put on the table on many occasions. A couple of very concrete ideas have been 'the corridor model' (Busch, 1998) and the 'social snake' (de Falleur et al., 1990). Both initiatives promote the idea of binding targets, the first with regard to social spending of GDP and the second with regard to output of social protection system. Both concepts incorporate the high diversity in the levels of GDP as well as in welfare provisions, and propose a model that will assure that countries, while increasing their GDP, will also increase their efforts on social policy either in terms of spending or in terms of output indicators. Neither of the models dictate what the welfare state should look like, thereby respecting path dependency of the models, but they do impose, or rather legitimise, a commitment to build up welfare provisions, thereby taking the brunt out of the fiscal and social competition between Member States.

However, the above proposals do not challenge the current unequal distribution between creating and promoting free markets and the right to uphold high social standards that are anchored within the Treaty. Hence, it is not only the social and fiscal competition that is challenging the existing systems and balances within the countries. It is also the interpretation by the ECJ of national regulations that is promoting a free market view of the European process of integration. Hence, in order to assure that there is a balance in the interpretation

of how Europe should proceed, there are voices requesting a social progress clause (ETUC, 2008). The main idea behind the social progress clause is to ensure that the exercising of economic freedoms does not prevail over social progress. The clause aims at rebalancing the Treaty in favour of a European integration aiming at social progress using economic integration as a tool in achieving this.

These three proposals have quite a different departure from the OMC method which is rather focused on policy learning and the modernisation of labour markets and social protection systems. They focus on binding the European level as well as national level to a commitment in terms of financing, outcomes and goal of economic growth. They complement rather than overlap with the OMC.

A final issue to evoke is with regard to what shape social progress should take and how the European level could contribute. Two issues arise here, firstly with regard to what minimum standards Europe can agree and secondly how Member States can continue to learn from each other in order to increase well-being and social progress on the national level.

Agreeing on minimum European standards appears more and more difficult, and this at a time when it seems more and more important. However, this path should not be abandoned and efforts should be kept up in order for a set of minimum standards, which can be proposed as laying the foundation for a system of social progress, to be taken forward. Examples include lifelong learning, the right to unemployment benefits, the right to day care and guaranteed minimum income. Targets that have been agreed upon within the Lisbon agenda could form a basis for legally binding standards.

Until now the line of reasoning has been to replace the way social policy is conceptualised within a framework that goes beyond that of 'social policy as a productive factor'. Hence this also needs to be reflected in the process of OMCs. A first very pragmatic step would be to create European comparable statistics that can measure the solidarity issues of social policy not just the economic side, especially social protection. This could help to refocus the debates, targets and benchmarking towards goals such as solidarity.

Reforming welfare states to meet new needs is, at it has always been, vital in order to assure social justice. However, in the current state, the issue of social justice and solidarity is lacking from the European debates on modernisation of social protection and labour markets; at best they are evoked on the margin. The main focus is on full employment and ways to achieve this. While this goal cannot be neglected it needs to be balanced with issues like quality, equity and solidarity.

Social progress is an important factor in itself, and social policy is a part of achieving this. In economic terms: social progress does not arise automatically from economic growth and social policy is not only a production factor, it also creates a final good, a consumer good. We derive direct utility, welfare, from a just, a caring and an equal society.

Combining this moral and economic debate is the real challenge for the future. We have to think beyond the traditional trade-off between efficiency and equality, social and economic spheres. Inequality is a risk to social stability and economic growth. Social policy is an economic as well as a moral imperative.

The European Union has among the highest social standards in the world. These constitute a part of the European Union's assets and build the foundation for it to be a significant actor in the world economy. However, in order to maintain, sustain and develop its ability to assure social progress for its population, it is not enough for the European Union to adjust the welfare states to the economic forces, there must be a binding commitment to continue to put social progress at the heart of European integration. A couple of proposals have been mentioned in this contribution.

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# La dimensión social en la Unión Europea y el potencial de su proyección en los procesos de integración de América Latina

## INTRODUCCIÓN

En los antecedentes del proceso de integración europeo nos hemos referido muy brevemente a su dimensión social, porque nuestra exposición, en esta oportunidad, se dirigió a un público muy selecto de académicos especialistas en la Unión Europea y, por lo tanto, de acuerdo con el título de este trabajo, estimamos que es más importante destacar su proyección en los procesos de integración de América Latina y de esta forma hacerlo más visible para los europeos.

La trascendencia de la labor que se viene desarrollando en la Asociación Estratégica que se ha creado entre la UE y América Latina y el Caribe desde 1999 en Río de Janeiro, Brasil, ha quedado en evidencia al otorgarle la

primera prioridad a la cohesión social. La V Cumbre de Lima, Perú, realizada en el 2008, contó con una activa participación de la Asamblea Parlamentaria Eurolatinoamericana que se creó en la IV Cumbre de Viena (2006). Los lazos históricos y culturales que nos unen y la creciente comunidad de intereses colocan a ambas regiones en una situación privilegiada para enfrentar especialmente los desafíos de la crisis financiera, alimentaria, cambio climático y al mismo tiempo hacer un aporte a la paz mundial.

En los antecedentes del proceso de integración de América Latina, en los orígenes del Acuerdo Cartagena, hoy Comunidad Andina, incluimos el pensamiento del ex presidente de Chile, Eduardo Frei Montalva, porque refleja claramente su inspiración en el proceso europeo y en la trascendencia de las instituciones que con un contenido social similares a las europeas se han venido desarrollando en el tiempo, sucesivamente en el proceso subregional Andino, hoy día Comunidad Andina, en el Mercado Común del Sur (Mercosur) y en el Sistema de Integración Centro Americano (SICA).

Finalmente, nos detuvimos en el Acuerdo de Asociación entre la Unión Europea y Chile que se ha venido desarrollando exitosamente desde el año 2003, en lo político, en lo económico-comercial y en el área de la cooperación. Estimamos que es esta última área la que nos ofrece una posibilidad de acrecentar su potencial, especialmente en el ejercicio de la cláusula de cooperación triangular, porque permitiría incluir a los países del Mercosur y en el futuro a los países andinos. Ello debería aplicarse fundamentalmente a la educación y la formación como una primera prioridad para lograr la cohesión social en nuestra región.

En las conclusiones, en atención a que el desarrollo social se ha vinculado a los temas de la paz y de la seguridad, en especial en el diálogo político institucionalizado con el Grupo de Río y la UE, particularmente en el Consejo de Seguridad de Naciones Unidas, nos permitimos sugerir que se debe enfatizar el diálogo Euro latinoamericano que se aprobó en las cumbres birregionales a favor del multilateralismo y de la reforma de Naciones Unidas que demanda la comunidad internacional.

### **ALGUNOS ANTECEDENTES DE LA DIMENSIÓN SOCIAL EN EL PROCESO DE INTEGRACIÓN EUROPEO**

Desde el Tratado de Roma de 1957, observamos los objetivos sociales cuando se afirma en su Preámbulo como un objetivo esencial, el mejoramiento constante de las condiciones de vida y de trabajo de sus pueblos y se manifiestan preocupados por «asegurar el desarrollo armonioso, reduciendo las diferencias existentes entre las diversas regiones y el retraso de las menos favorecidas».

Si bien la libertad de circulación de los trabajadores fue el primer logro del Tratado de Roma, a través del Fondo Social Europeo, la Política de Formación Profesional y el Comité Económico Social que contempla el Tratado, la Comisión ha podido actuar sobre los factores que son la causa del desempleo. Los latinoamericanos valoramos particularmente esta dimensión y el logro de la Comisión.

La coordinación de las políticas sociales y la adopción de un presupuesto social europeo que preconizó la Cumbre de La Haya en 1969, teniendo en vista el Consejo Europeo de París de 1972, que sostuvo que las acciones en el dominio social revestían la misma trascendencia que la Unión Económica y Monetaria, constituye un antecedente importante para tomar medidas tendientes a mejorar el nivel y las condiciones de vida de los trabajadores y promover la igualdad entre mujeres y hombres en materia de empleo, formación profesional, condiciones de trabajo y, muy especialmente, en lo relativo a las remuneraciones.

Posteriormente, el Acta Única Europea de 1986, permitió lograr el propósito de haber realizado el sueño de una Europa sin fronteras, durante la presidencia de Delors, lo que significó un avance substancial en la armonización de las legislaciones en el dominio social en materia de salud y seguridad de los trabajadores. Además, el Tratado de la entonces Comunidad Económica Europea, incluye la noción de «cohesión económica y social» para afrontar la problemática de la desigualdad regional.

La dimensión social del Mercado Interior quedó en evidencia con la Carta Social de los Derechos Fundamentales de los Trabajadores, que fuera aprobada en el Consejo Europeo de Madrid en 1989. A pesar que el Reino Unido no la aprobó, su impacto permitió que la cuestión social llegara a ser el centro de las políticas europeas. Se considera a la Carta un pilar esencial de la dimensión social que llevó a la realización del Mercado Interior de 1992.

El Informe sobre La Dimensión Social del Mercado Interior, de 1988, estableció que la educación y la formación estaban en el corazón de la construcción europea. La forma exitosa en que la Dirección de Educación y Cultura de la Comisión Europea ha venido desarrollando el Programa Jean Monnet y los programas de intercambio estudiantil, especialmente el Programa Erasmus y su evolución hacia otras regiones: Erasmus Mundus, actualmente Erasmus Mundus Ventana 2008-2010, ha venido a demostrar su magnitud y su proyección en nuestra Región (1)

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(1) El Programa Jean Monnet hoy día se imparte en 61 países y 700 universidades ofrecen cursos Jean Monnet. En total el programa incluye 1 500 profesores y con una audiencia de 250 000 estudiantes cada año. Education, Audiovisual and Culture Executive Agency, Lifelong learning programme [http://eacea.ec.europa.eu/llp/ajm/2009/index\\_en.htm](http://eacea.ec.europa.eu/llp/ajm/2009/index_en.htm)

Es en este aspecto, la Europa del conocimiento, la que consideramos de vital importancia para lograr la cohesión social en los países de América Latina.

Por otra parte, la labor de la Comisión Europea, que tuviera un rol protagónico para propiciar el diálogo social en 1985, ha asumido una labor destacada en la administración de los Fondos Estructurales, especialmente en el Fondo de Desarrollo Regional y en el de Cohesión Social, cuya proyección observamos en los procesos de integración latinoamericanos.

El Tratado de Maastricht de 1992, que consagró la Unión Económica y Monetaria, asume los cambios necesarios para enfrentar los desafíos de la globalización, de manera que el Estado de Bienestar que se había logrado con el proceso de integración europeo pudiera mantener un mínimo de modelo social. En consecuencia, la dimensión social tenía que pasar a constituir un componente decisivo en el proceso de integración, tanto en el incremento del progreso económico y social como en la participación de los ciudadanos, de modo que pudiera contribuir a mejorar sus condiciones de vida. Se acrecentó el papel de los interlocutores sociales y el diálogo social; de esta forma, el Tratado de Maastricht hizo una contribución para que la integración social europea iniciara una nueva etapa.

El Protocolo Social sobre la Carta de los Derechos Sociales Fundamentales que incluye el Tratado, tuvo un carácter fundamental en la construcción europea conjuntamente con la «ciudadanía europea», en el período de transición de la Comunidad Europea hacia la Unión, lo que le confirió a esta última una dimensión más próxima a los ciudadanos.

Más tarde, el Tratado de Ámsterdam, de 1997, que se había centrado especialmente en la reforma acerca de la adhesión de los países de Europa Central y Oriental, bajo la influencia del Libro Blanco sobre Crecimiento, Competitividad y Empleo que elaboró la Comisión en 1993, tuvo el mérito de confirmar en su Primera Parte: «su adhesión a los derechos sociales fundamentales tal y como se definen en la Carta Social Europea firmada en Turín el 18 de octubre de 1961 y en la Carta comunitaria de los derechos sociales fundamentales de los trabajadores, de 1989». Además incluyó en el texto un nuevo Título sobre el empleo, cuyo efecto se ha estimado que ha tenido la importancia que el Acta Única le confirió a la cohesión económica y social. Se estableció una nueva relación entre el Derecho Social Comunitario y el Derecho del Trabajo de los países miembros, como asimismo entre la política social comunitaria y las políticas nacionales.

En efecto, habiéndose fijado la Unión el objetivo de promover el progreso económico y social, un alto nivel de empleo y el fortalecimiento de la cohesión económica social, es esencial que los Estados miembros y la Comunidad se esfuercen, de conformidad con

lo que establece el articulado de este título del Tratado, «por desarrollar una estrategia coordinada para el empleo, en particular para potenciar una mano de obra cualificada, formada y adaptable y mercados laborales con capacidad de respuesta al cambio económico, con vistas a lograr los objetivos definidos en el art. B del Tratado de la Unión Europea y en el art. 2 del presente Tratado» (art. 109N). Por su parte, el Consejo Europeo, basándose en un informe anual elaborado por el Consejo y la Comisión, examinará anualmente la situación del empleo en la comunidad y adoptará conclusiones al respecto (art. 109Q).

Si en el Tratado de Ámsterdam de 1997 los europeos manifestaron su preocupación por el «cambio económico», con cuánta razón ahora, frente a la grave crisis financiera global, estimamos que se deberán tomar medidas para desarrollar una estrategia coordinada que favorezca el empleo y que impida la desigualdad salarial porque ésta destruye la cohesión social, como lo afirmó María Jepsen, en la Conferencia Mundial de ECSA de 2008 (1)

Los latinoamericanos aspiramos a que llegue el momento en que nuestros tratados de integración incluyan disposiciones semejantes a las del Tratado de Maastricht sobre el empleo, así como para impulsar la formación profesional. De ahí la trascendencia que le atribuimos a esta materia en el Acuerdo de Asociación que tiene Chile con la Unión Europea.

La Convención sobre el Futuro de Europa, vino a demostrar que la dimensión social es parte integrante de la Unión en término de valores, por la inclusión de la Carta de los Derechos Fundamentales en el proyecto de Tratado que estableció una Constitución para Europa. Si bien esta última no fue ratificada, la Carta de los Derechos Fundamentales se incluyó en un protocolo del Tratado de Lisboa de 2007.

Como lo estableció la Estrategia de Lisboa, se debe compatibilizar competitividad y solidaridad, eficiencia y justicia, educación y empleo, innovación y cohesión social (2). El Tratado de Lisboa que debería regir en el futuro, establece como primer objetivo de la Unión promover la paz, sus valores y el bienestar de sus pueblos.

(1) Prof. María Jepsen, Director of the Research Department of the European Trade Union for Research, Education and Health and Safety. Associate Professor at the Université Libre de Bruxelles en Sesión 2: «*The modernisation of Europe's social agenda in a global perspective*».

(2) Para una mayor información ver: María Eduarda Azevedo, «*Desenvolver a Dimensão Social Europeia*» (traducción libre) en Revista Estudos Europeus, Año II, Nº 3, Instituto Europeu da Faculdade de Direito de Lisboa, pp. 120 y siguientes.

## LA PROYECCIÓN DE LA DIMENSIÓN SOCIAL EN LOS PROCESOS DE INTEGRACIÓN DE AMÉRICA LATINA

En los antecedentes de la Comunidad Andina, en el Acuerdo de Cartagena, como se denominó este convenio subregional que nace el 26 de mayo de 1969 y que se le conociera comúnmente como Pacto Andino, encontramos que la admiración por el proceso de integración europea fue la gran motivación que tuvo el entonces el presidente de Chile, Eduardo Frei Montalva, al tomar una decisión fundamental para su suscripción.

En su carta del 6 de enero de 1965, que les dirige a los más destacados economistas de la región, les solicita una solución «porque la marcha hacia la integración se ha hecho lenta y embarazosa». El proceso de integración iniciado en 1960, con la creación de la Asociación de Libre Comercio (ALALC), por enfatizar los aspectos comerciales en base a un sistema de minuciosas negociaciones arancelarias, había favorecido a los países más desarrollados: Argentina, Brasil y México <sup>(1)</sup>. Expresaba en su carta: «... todos los países, grandes, medianos y pequeños, tienen que compartir equitativamente las ventajas de la industrialización». Resulta evidente la preocupación que tenía el Presidente Frei Montalva por los aspectos sociales y culturales de la integración, cuando expresa: «... se hace imperativo resolver la angustiada tensión que se ha ido creando entre la creciente multitud de los necesitados y el formidable avance científico, técnico y económico que en las últimas décadas se ha concentrado en los centros industrializados... Podemos seguir tratando de organizar el desarrollo de nuestras economías en compartimentos estancos, condenando a nuestro continente a un deterioro cada vez más marcado, sin organizar un esfuerzo colectivo entre pueblos afines, indisolublemente unidos por la geografía y la cultura, frente a otros vastos conglomerados que multiplican su progreso precisamente por su espíritu unitario» <sup>(2)</sup>.

La respuesta de los cuatro economistas, José Antonio Mayobre, Felipe Herrera, Raúl Prebisch y Carlos Sanz de Santa María, se conoce con el nombre de «Proposiciones para la creación del Mercado Común Latinoamericano», denominado también «Documento de los Cuatro» <sup>(3)</sup>.

<sup>(1)</sup> Podemos observar, como la preocupación de este gran estadista, las asimetrías, se vuelven a repetir hoy día en el Mercosur.

<sup>(2)</sup> Ver carta del presidente de Chile en Mayobre, J. A; Herrera, Felipe; Sanz de Santa María C., y Prebisch, R., *Hacia la integración acelerada de América Latina. Proposiciones a los presidentes latinoamericanos*. Fondo de cultura económica, México, D.F., 1965, pp. 1-6.

<sup>(3)</sup> *Ibíd.*

Las propuestas que hacen estos economistas a la demanda que les formula el Presidente Frei, tienen como objetivo hacer un llamado a los líderes políticos de la región, para una pronta formulación de una política que favorezca el proceso de integración y recomiendan: «... aprender a trabajar en comunidad para formar la comunidad de pueblos latinoamericanos» expresando además, «... no se trata solamente de responder a las exigencias de la técnica, ni de que tengamos que trabajar en comunidad para lograr un espacio económico y dilatar el horizonte cultural, científico y tecnológico. Necesitamos también hacerlo para alcanzar una mayor gravitación política en el plano internacional» (1). Este ha sido el ideal superior que trazó el primero de los Convenios Sociales de Integración: «El Convenio Andrés Bello de integración educativa, científica, tecnológica y cultural» que nace el 31 de enero de 1970. Observamos además que este objetivo está claramente reflejado en el Tratado de Asunción de 1991 que dio nacimiento al Mercosur. En su preámbulo, se expresa la importancia de «lograr una adecuada inserción internacional de sus países» teniendo presente la evolución que han experimentado los acontecimientos internacionales, especialmente los referidos a la consolidación de grandes espacios económicos.

Uno de los autores del Documento de los Cuatro, Felipe Herrera, en su libro *Comunidad Latinoamericana de Naciones: Presencia de Chile*, veinte años más tarde, citando este documento, plantea la necesidad que existe en la región de realizar «una acción colectiva vigorosa y tenaz dirigida a formar un amplio mercado común latinoamericano que abarque a todos los países de la región para obtener una amplia legitimación por parte de la opinión pública continental».

No hemos logrado ese amplio mercado común latinoamericano, pero hoy día los países que integran Mercosur y la Comunidad Andina, con la creación de la Unión de Naciones Suramericanas (Unasur) y recientemente en la I Cumbre de Presidentes de América Latina y el Caribe sobre Integración y Desarrollo (CALC) (2) convocados por el presidente de Brasil, Luiz Inácio Lula da Silva, está demostrando una mayor solidaridad para avanzar unidos de manera de enfrentar en la mejor forma los desafíos que debemos asumir frente a la crisis financiera mundial.

Dada la proyección de estos antecedentes del Acuerdo subregional Andino, especialmente en su dimensión social, estimamos que nos permiten comprender mejor el éxito que ha tenido este proceso y que ha incluido en su organización institucional organismos similares al proceso de integración en Europa. Una clara muestra de la influencia europea la constituyó,

(1) Mayobre, J., y otros, op. cit., 1965, p. 14.

(2) Cumbre de América Latina y el Caribe, 15 y 16 de diciembre de 2008, Costa de Sahuípe, Brasil.

en el Acuerdo de Cartagena, la creación del Consejo Asesor Económico y Social –CAES–, formado a semejanza del Comité Económico y Social Europeo, que posteriormente, cuando se implanta el Sistema Andino de Integración –SAI– con el Protocolo de Trujillo de 1996, se transforma en el Consejo Laboral Andino y el Consejo Empresarial Andino. Además, el Acuerdo de Cartagena en sus inicios contempló la Junta, un órgano técnico de carácter netamente comunitario semejante a la Comisión europea, porque debía actuar en función de los intereses de la subregión. Hoy día este organismo ha pasado a denominarse la Secretaría General y tiene su sede en Lima, Perú. Se ha constituido en un organismo administrativo muy eficiente, que le otorga un impulso renovado a este proceso de integración.

Diez años después de iniciarse el Acuerdo de Cartagena, en 1979, se crea la Corte de Justicia Andina, a semejanza del Tribunal de Justicia de la entonces Comunidad Económica Europea, lo que le ha conferido un carácter supranacional, que lo hace superior entre los procesos de integración de América Latina (1). Mercosur tiene un estilo netamente intergubernamental, lo que ha dificultado mucho la adopción de sus normas por parte de los países miembros. El Mercado Común Centroamericano también ha creado la Corte de Justicia Centroamericana, pero a diferencia de la Comunidad Andina, no han participado en su constitución todos los países miembros.

En el Acuerdo Subregional Andino se fijó como finalidad última «el mejoramiento persistente del nivel de vida de los habitantes de la región», lo que permitió que a comienzos de la década de los 70, el proceso adquiriera una dimensión fundamental gracias a la creación de los convenios sociales denominados: Convenio Andrés Bello de Integración Educativa, Científica, Tecnológica y Cultural; Convenio Hipólito Unanue en salud y Convenio Simón Rodríguez en lo socio laboral. Todos ellos sufrieron modificaciones importantes, especialmente el Convenio Andrés Bello, el cual, con la adhesión de España significó a sus miembros suscribir un nuevo Tratado en 1990, denominado Organización del Convenio Andrés Bello. Este tiene el mérito de haberse anticipado a la Cumbre Mundial del Desarrollo Social al proclamar en su Reglamento (art. 5RG) que la dimensión humana del desarrollo sea una prioridad. Esto es confirmado en 1992, cuando los Ministros de Educación declaran que las áreas que cubre el Convenio Andrés Bello, «constituyen cada día más los fundamentos en los cuales se asienta la democracia, el respeto a los derechos humanos, las libertades esenciales y toda posibilidad de enriquecimiento espiritual del hombre» (2).

(1) Sus normas prevalecen sobre las nacionales; son de ejecución inmediata y obligatoria y rigen a partir de su publicación en la gaceta oficial del Acuerdo de Cartagena.

(2) *Declaración de Santiago de Chile sobre Educación, Ciencia y Cultura del Convenio Andrés Bello*, Santiago de Chile, 1 de septiembre de 1992 en *El Convenio de Andrés Bello, Instrumento de Integración con Mercosur y Unión Europea*, Iris Vittini, Editores Ril, 2002, p. 263.

Hoy día, uno de los mayores méritos de la Organización del Convenio Andrés Bello, es la armonización de los sistemas educativos que contempló el primitivo Convenio y posteriormente la adopción del régimen de equivalencias de los certificados de estudios, tanto a nivel primario como secundario en vigencia desde 1983 <sup>(1)</sup>. Son muchos los estudiantes de América Latina que se han beneficiado y posteriormente, la incorporación de España como miembro pleno, les abrió las puertas de las universidades europeas.

En el área de la educación reviste particular importancia el programa de las cátedras Andrés Bello de integración, que se han venido creando en los países miembros, y que, con las sucesivas adhesiones que hoy suman trece países, son un aporte considerable para la docencia y la investigación en las respectivas universidades <sup>(2)</sup>.

Como lo sostuvo la Profesora Pilar Armanet en su exposición con motivo de la Cátedra Andrés Bello que se realizó en Chile, el Convenio Andrés Bello y su institucionalidad constituyen una instancia privilegiada para crear un Espacio Común de Educación Superior en América Latina, teniendo como modelo la experiencia europea en el denominado Espacio de Educación Superior y que contribuirá, a su vez, a la creación del Espacio Europeo Latinoamericano de Educación Superior que se viene promoviendo en las Cumbres Birregionales <sup>(3)</sup>.

Felipe Herrera <sup>(4)</sup> se destacó por su pensamiento a favor de la integración de América Latina y comprendiendo la importancia que tenía el Convenio Andrés Bello en las relaciones internacionales, le dedicó especialmente un libro titulado «El Escenario Latinoamericano y el Desafío Cultural: el Convenio Andrés Bello» <sup>(5)</sup>. Sostuvo, en la década de los 70, que desde una perspectiva latinoamericana existe una interacción entre los procesos globales del desarrollo con las perspectivas culturales. «América Latina es una región que ha demostrado ser excepcionalmente proclive a las proyecciones de lo que pudiéramos denominar “la revolución del conocimiento” proceso que sólo puede entenderse de

<sup>(1)</sup> Resolución 03-XII- RMECAB, Santiago de Chile 1983.

<sup>(2)</sup> Actualmente forman parte del Convenio Andrés Bello los siguientes países: Argentina, Bolivia, Colombia, Cuba, Chile, Ecuador, España, México, Panamá, Paraguay, Perú, República Dominicana y la República Bolivariana de Venezuela.

<sup>(3)</sup> *El Espacio Europeo de Educación Superior. Lecciones para América Latina*. Pilar Armanet, en Los Procesos de Integración y Cooperación Regionales, Vol. 2. Iris Vittini, (compiladora) Cátedra Internacional Andrés Bello, Editores Ril, Santiago de Chile, 2004, p. 166.

<sup>(4)</sup> Abogado y Economista chileno, fundador y primer Presidente del Banco Interamericano de Desarrollo (BID), tuvo además una destacada participación en el Informe de Naciones Unidas «Aprender a Ser» (*Learning to Be*) en la década de los 70 como asesor de UNESCO, en la creación de la Universidad de Naciones Unidas y en la gestión del Fondo Internacional de Promoción de la Cultura, 1976.

<sup>(5)</sup> Felipe Herrera, «El Escenario Latinoamericano y el desafío Cultural: El Convenio Andrés Bello», Secretaría Ejecutiva del Convenio Andrés Bello, Tercera Edición, 1988.

una evolución histórico-cultural y en la cual el factor educativo juega un papel decisivo. América Latina, desde el principio de la década de los 60, ha estado en una verdadera revolución educativa y en general de impacto en cuanto a la formación de nuevos recursos humanos» (1). Para este destacado internacionalista «el gran tema del presente» lo constituirá el Escenario Cultural que él describió como «el proceso por el cual el hombre es capaz de desarrollar una armónica convivencia con sus semejantes, con el medio natural y físico que lo rodea, con las tradiciones y experiencias del pasado y concepciones filosóficas y religiosas. Hoy, más que nunca, es nuestro común trasfondo cultural el gran factor dinámico de la integración latinoamericana» (2).

Los países miembros del Acuerdo de Cartagena suscribieron el Acta fundacional del Convenio Andrés Bello, la Declaración de Lima, el 5 de febrero de 1971, que fijó el Planteamiento Doctrinario Común sobre Política Cultural, Educacional, Científica y Tecnológica de los países signatarios del Convenio: Bolivia, Colombia, Chile, Ecuador, Venezuela y Perú.

En la Comunidad Andina que hoy día la conforman como miembros plenos Bolivia, Colombia, Ecuador y Perú –y donde Chile participa como país asociado conjuntamente con Argentina, Brasil, Paraguay y Uruguay–, uno de sus mayores logros en materia de desarrollo social, lo constituye la Agenda Social Andina.

En cumplimiento de los acuerdos adoptados en la Asociación Estratégica Birregional, Unión Europea América Latina y Caribe (UE-ALC), donde se le ha otorgado la primera prioridad a la cohesión social, los países miembros de la CAN en la Cumbre Presidencial de Quirama (2003), se proponen avanzar en la dimensión social de la integración, para lo cual se comprometen a construir en forma gradual una política social comunitaria.

Adoptaron un Plan Integrado de Desarrollo Social (PIDS) que, mediante la Decisión 592, contempla programas y proyectos en materia de empleo, salud, educación, desarrollo rural, seguridad alimentaria, interculturalidad, medio ambiente y desarrollo fronterizo. Consideran que de esta forma van a poder definir una Estrategia Andina de Cohesión Social y, por otra parte, potenciar las políticas nacionales de lucha contra la pobreza y la inequidad social. Así, se pueden subsanar aquellos problemas que ponen en riesgo la cohesión social y la gobernabilidad democrática de los países andinos, pero además, son un obstáculo para la integración y para su inserción internacional.

(1) Felipe Herrera, «Comunidad Latinoamericana de Naciones. Presencia de Chile». Editorial Universitaria, Santiago de Chile, octubre de 1983, p. 190.

(2) Felipe Herrera, *ibid.* p. 191.

Según la información proporcionada por la OIT, en la Comunidad Andina el desempleo se ha duplicado entre 1990 y 2007. Además, el 20 % más rico concentra más del 50 % del ingreso, mientras que el 20 % más pobre logra menos del 5 % (1).

Institucionalmente, la ejecución del Plan de Desarrollo Social estará a cargo del Consejo Andino de Ministros de Desarrollo Social; Comités Nacionales, PIDS (Decisión 601) y de la Red Andina de ONGs y entidades académicas (Decisión 553) (2).

Resulta interesante observar cómo cada país asume sus propias responsabilidades en los comités nacionales: Bolivia, tendrá a su cargo lo socio-laboral, menos empleo; Colombia, educación y cultura. En este último país está la sede de la Secretaría Ejecutiva del Convenio Andrés Bello, que es la que lleva adelante los programas de los Ministros de Educación y es el organismo encargado de su ejecución; Ecuador, especialmente desarrollo rural y la seguridad alimentaria para los pueblos indígenas; y Perú, medio ambiente y seguridad alimentaria. Venezuela estaba a cargo de salud y empleo, pero dejó de ser miembro de la CAN en el 2005 y está en proceso de adhesión al Mercosur.

El Consejo Consultivo Andino de los Pueblos Indígenas, cuya creación es uno de los logros de la CAN en lo social, político y ambiental, tendrá un rol fundamental para llevar adelante el compromiso con la seguridad alimentaria que asumen estos países. Este no es un tema nuevo en el proceso de integración subregional. En la década de los 80 se aprobó el Convenio Celestino Mutis sobre agricultura y alimentación, recogiendo las recomendaciones de la FAO sobre esta materia (3).

Lamentablemente, siendo un instrumento jurídico tan trascendental para el desarrollo económico y social, éste quedó en la retórica. En esa misma época, en el marco del Sistema Económico Latinoamericano (SELA), se crearon los Comités de Seguridad Alimentaria, que no lograron los resultados esperados. Hoy más que nunca es un tema que debe tener una prioridad en la Agenda Social, porque estimamos que el problema del hambre amerita soluciones creativas y mucha solidaridad. Esto último puede desarrollarse en el contexto de la Asociación Estratégica con la Unión Europea.

(1) Seminario Subregional: Fortalecimiento de redes sindicales en materia de protección social en la región andina. Oficina Regional de la OIT, Lima 26-29 de mayo de 2008.

(2) Uno de los logros de la CAN ha sido crear la Red Andina Académica y de Organizaciones Sociales y la Red de Comunicadores Sociales. [www.comunidadandina.org](http://www.comunidadandina.org)

(3) Vittini, Iris: *Seguridad Alimentaria en América Latina*. (Food security in Latin America), Serie de Publicaciones Especiales números 66 y 68 respectivamente. Instituto de Estudios Internacionales, Universidad de Chile, Santiago, año 1985.

En la Cumbre de Lima del Consejo Presidencial Andino (julio 2005), se acordó crear un Fondo Humanitario Social para atender las necesidades de los sectores más pobres y también para ir en ayuda de calamidades públicas, cuando se requiera un auxilio inmediato.

Bajo la influencia del Convenio Simón Rodríguez en lo socio-laboral, los trabajadores migrantes andinos, mediante la aprobación de normas comunitarias, han logrado beneficios que les permiten circular libremente, acceder a la seguridad social y gozar de condiciones adecuadas de seguridad y salud en el trabajo (Decisión 584).

Se pretende fortalecer el papel de los Ministerios del Trabajo, como entes rectores de las políticas nacionales de empleo a través de una mayor coordinación intersectorial e interministerial. Esta es una de las «Líneas de Acción» que han acordado y que contribuirá a fomentar el diálogo social tripartito en el marco del Convenio Simón Rodríguez, para incrementar las fuentes de trabajo con empleos dignos. El diálogo social tripartito es una aspiración de nuestros países y es un asunto prioritario, si queremos superar las desigualdades en el ingreso y propiciar un crecimiento con equidad.

Las instituciones que conforman el Sistema Andino de Integración, los Consejos Consultivos Empresarial y Laboral Andino, podrán contribuir a formular una normativa andina de fomento del empleo. A diferencia del proceso de integración europeo, en América Latina no se ha formulado una política de formación profesional. Es esencial que en el marco del Programa de Desarrollo Social Andino se haya adoptado la Decisión 601, que establece un «Programa de Armonización Subregional de Metodologías, Criterios sobre Formación y Capacitación Laboral». Contribuirá a su éxito la experiencia que cada país pueda aportar para ir a una política y a la práctica de la capacitación para el trabajo, incluyendo la participación de las organizaciones sindicales y empresariales, sociedad civil y organismos del estado, como ha sido la experiencia europea. De esta forma se podrá avanzar para formular una política comunitaria que será decisiva para lograr la cohesión social.

El Tratado de Asunción de 1991 que da nacimiento al Mercosur, realiza a comienzos de los 90, lo que el acuerdo subregional andino viene desarrollando desde de la década de los 70, si bien este último lo hace en forma más sistematizada, porque cada uno de los Convenios Sociales de Integración creó los órganos institucionales a nivel nacional e internacional que permitió llevar adelante sus objetivos. El Tratado para la constitución de un mercado común entre Argentina, Brasil, Paraguay y Uruguay, señaló, específicamente en su considerando, que este proceso de integración tiene un objetivo económico y social, al expresar «que la ampliación de las actuales dimensiones de sus mercados nacionales, a través de la integración, constituye una condición fundamental para acelerar sus procesos

de desarrollo económico con justicia social». Desde sus inicios desarrolla una dimensión social de la integración al crear las reuniones de Ministros de Educación, Justicia y Trabajo.

El Mercosur Educativo que surge de la reunión de Ministros de Educación que se celebró en Brasilia el 13 de diciembre de 1991, le otorgó un rol protagónico a la educación. El Protocolo de Intenciones que se suscribe en esa oportunidad, acordó que su primer programa sería la «formación de la conciencia ciudadana favorable al proceso de integración; la capacitación de sus recursos humanos y la armonización de los sistemas educativos». Uno de los logros del primer período del Mercosur Educativo lo constituye la creación de las Comisiones Técnicas en Educación Superior, de Postgrado, de Información y Comunicación.

En el Plan Trienal se establece que «existe consenso en reconocer que la educación jugará un papel central en las estrategias de desarrollo de los países latinoamericanos, para afrontar los desafíos planteados por el avance de la revolución científico-tecnológica, la transformación productiva, la democratización y los procesos de integración continental» (1).

Siendo uno de los problemas más importantes y persistentes en América Latina la gran desigualdad en la distribución del ingreso, hay que destacar lo que ha sostenido la CEPAL, en el sentido que existiría un alto grado de correspondencia entre distribución del ingreso y distribución de la educación (2).

En cumplimiento de los objetivos del Plan Trienal, en materia de armonización de los sistemas educativos, se ha logrado avanzar en la suscripción de los siguientes Protocolos de Integración Educativa y Reconocimiento de Certificados, Títulos y Estudios de Nivel Primario y Medio, no Técnico (Buenos Aires, 4 de agosto de 1994); Revalidación de Diplomas, Certificados, Títulos y Reconocimiento de Estudios de Nivel Medio Técnico (Asunción, 28 de julio de 1995); Protocolo de Integración Educativa para la Prosección de Estudios de Postgrado en las Universidades de los Países Miembros del Mercosur (Montevideo, 30 de noviembre de 1995); Integración Educativa para la Formación de Recursos Humanos a Nivel de Postgrado entre los países del Mercosur (1995); y de Admisión de Títulos y Grados Universitarios para el Ejercicio de Actividades Académicas de los países del Mercosur (11 de junio de 1997). Este Protocolo fue modificado en 1999 y está en estudio la acreditación de carreras de Medicina, Ingeniería y Agronomía.

(1) Vittini Iris, «El Convenio Andrés Bello de Integración Educativa, Científica y Cultural y su proyección en América Latina – Mercosur» en Laredo y otros, en *Estado, Mercado y Sociedad en el Mercosur. Pautas para su viabilización*. Departamento de Publicaciones, Secretaría Académica, Facultad de Ciencias Agrarias, Universidad Nacional de Rosario, Argentina, 1994, p. 156.

(2) Panorama Social de América Latina 1997; CEPAL, Santiago de Chile, febrero de 1998.

El Mercosur Cultural, que comenzó a desarrollarse en 1995 (Decisión 2/95 del Consejo del Mercado Común) creó la Reunión de Ministros de Cultura a fin de: promover la difusión y conocimiento de los valores y tradiciones culturales de los países del Mercosur, así como para hacer propuestas de cooperación y coordinación en el campo de la cultura a este Consejo.

La Reunión Especializada de Cultura ha promovido la enseñanza del Español y del Portugués en todos los países, como asimismo los Programas de Integración Regional Fronteriza y la armonización de las legislaciones culturales. En este último aspecto, el Convenio Andrés Bello ha venido elaborando programas de armonización de las legislaciones culturales desde 1980.

Resulta muy interesante que el tema de integración fronteriza sea una materia a tratar por los Ministros de Cultura, porque estimamos que debido a la importancia que está adquiriendo la integración física en la Unasur con los corredores bioceánicos, les va permitir un mayor desarrollo económico, cultural y social a zonas fronterizas que mayormente han estado muy aisladas de los centros.

En la actualidad, varios autores le atribuyen los mayores méritos al Mercosur Educativo y Cultural, no obstante que su mayor desarrollo lo podemos observar en el Mercosur Educativo.

La influencia del proceso de integración europea en el Mercosur se ve reflejada especialmente en dos instituciones: El Foro Consultivo Económico y Social y, en estos últimos años, la creación del Parlamento del Mercosur.

El Protocolo de Ouro Preto de 1994, que vino a completar la estructura institucional del Tratado de Asunción, dio nacimiento al Foro Consultivo Económico y Social con la asesoría del Comité Económico y Social de la Unión Europea. Este organismo lo han integrado empresarios, trabajadores y representantes de las universidades, pero su organización no incluye todos los sectores económicos y sociales de los países miembros del Mercosur, como se establece en el articulado del protocolo citado.

Producto de la labor del Foro Consultivo Económico y Social y del impulso que le imprimen al proceso los presidentes del Mercosur, no se pueden dejar de mencionar aquellas normas que se han aprobado y que demuestran claramente la preocupación por los temas del desarrollo social como son: la Declaración Socio-Laboral del Mercosur, el Acuerdo Multilateral de Seguridad Social y la Carta de Buenos Aires sobre compromiso social en el Mercosur, Bolivia y Chile.

El Protocolo de Ouro Preto creó asimismo la Comisión Parlamentaria Conjunta, para propiciar una mejor relación entre los Poderes Ejecutivo con los Congresos de cada Estado Parte. Sin embargo, entre otras cosas, no logró involucrarse con los partidos políticos y esto se reflejó en la escasa participación para reducir el déficit democrático. Se esperaba además, que este organismo tuviera un mayor protagonismo para lograr la incorporación de las normas aprobadas por los Estados Partes. Su mayor contribución fue lograr que la agenda avanzara hacia el contexto regional y su principal logro fue la creación del Parlamento del Mercosur (PM), un nuevo actor institucional que se crea mediante la Decisión CMC 49/04 <sup>(1)</sup>.

La influencia europea en este logro es evidente porque se concretó gracias a la asesoría técnica, institucional y financiera del Parlamento Europeo <sup>(2)</sup>.

En la reciente Cumbre de Lima ALC-UE del 16 de mayo de 2008, la Asamblea Parlamentaria Eurolatinoamericana, reunió a 120 parlamentarios del Parlamento Europeo, del Parlamento Andino, del Parlamento Centroamericano y del recientemente constituido Parlamento del Mercosur, así como de la Cámara de Diputados y del Senado de Chile y de México. Los Congresales apoyaron plenamente el contenido de la Agenda de Lima contra la pobreza, la exclusión social y la desigualdad, como asimismo la preservación del medio ambiente y los recursos naturales y la lucha contra el cambio climático. Esta Asamblea, desde que fuera aprobada en la Cumbre de Viena, fomenta la participación de la sociedad civil para la promoción y defensa de los valores comunes de ambas regiones.

Estimamos que la Asociación de Estudios de Integración de la Unión Europea (ECSA) debe tener una cooperación activa para incorporar mecanismos de consulta y participación ciudadana, de manera que el diálogo parlamentario Eurolatinoamericano tenga un papel legitimador de los distintos procesos de integración, como lo ha recomendado el informe del Parlamento Europeo.

Un significativo avance para la promoción de la cohesión social que ha experimentado el Mercosur y bajo la influencia que han ejercido los Fondos Estructurales que contempla la Unión Europea, estableció el Fondo para la Convergencia Estructural del Mercosur (FOCEM), mediante la Decisión CMC 45/04. Está destinado para ir en ayuda de los países de menor desarrollo como son Paraguay y Uruguay.

(1) Su composición en la primera etapa de transición (2007-2010) contempla 18 miembros por país.

(2) Recientemente la Unión Europea apoyó el fortalecimiento y las iniciativas del Mercosur, donde ha venido participando desde su creación en 1991, particularmente para la provisión de apoyo técnico e institucional a sus nuevas estructuras, en Informativo Celare de 27 de noviembre de 2008.

La adhesión de los países del Mercosur, Paraguay, Uruguay y recientemente Argentina a la organización del Convenio Andrés Bello, ha contribuido a la coordinación de sus actividades en los temas del desarrollo social y, además, ha venido a favorecer la convergencia que hoy presenciamos entre los procesos de integración de la Comunidad Andina y Mercosur.

En Centroamérica, incluso con mucha anterioridad al Mercado Común Centroamericano que se reconstituye en 1960, son muchos los antecedentes que demuestran su interés por lograr que el proceso de unidad a que aspiran les proporcione un mejor nivel de vida a sus ciudadanos. En efecto, en el Tratado de Confraternidad Centroamericana que suscriben 1934, se reconoce que «la unión política de Centroamérica es la suprema aspiración de sus pueblos». En materia de educación, contempla disposiciones para ir al reconocimiento de estudios en la enseñanza primaria, secundaria y de los títulos universitarios. El Consejo Universitario que se creó, es el antecedente de la Confederación de Universidades Centroamericanas de 1948, que es el origen, a su vez, del Consejo Superior Universitario (CSUCA), que ha proyectado su labor en el actual proceso de integración.

En 1949 se creó la Unión de Universidades latinoamericanas, con sede en Guatemala, que incluyó al Consejo Superior Universitario, encargado del estudio de los problemas del desarrollo económico y social en el marco de integración continental <sup>(1)</sup>.

La Carta de la Organización de Estados Centroamericanos (ODECA) de 1962, tuvo por objetivo otorgarle un mayor impulso al proceso de integración que comenzara en 1960 con el Tratado de Managua. En el proceso de integración centroamericano el objetivo principal será reconstruir su unidad política.

El conflicto fronterizo que se gestó entre Honduras y El Salvador en 1969, no fue obstáculo para continuar avanzando en el proceso de integración creando instituciones que pudieran dar un mayor bienestar a sus habitantes. En 1974, se creó el Fondo de Desarrollo Social como una institución del Banco Centroamericano de Integración Económica, que incluyó el Tratado de 1960.

Bajo la inspiración del proceso subregional andino, se elaboró el proyecto de la Comunidad Económica y Social de Centroamérica (CESCA), pero lamentablemente no lograron concretarla. Hoy el Sistema de Integración Social Centroamericano que establece el

<sup>(1)</sup> En Santiago de Chile se celebró, en octubre de 1998, la XIII Asamblea General de la Unión de Universidades de América Latina (UDUAL), con el fin de abordar temas como las políticas y estrategias para la universidad latinoamericana del futuro. A esta reunión asistieron representantes de 150 universidades correspondientes a 22 países.

tratado del Sistema de Integración Centroamericano-SICA, considera fundamentalmente «la participación democrática de todos los sectores sociales» (art. 4), mediante la adopción del Protocolo de Tegucigalpa a partir de diciembre de 1991 <sup>(1)</sup>. Este instrumento jurídico tuvo además el mérito de crear la Corte de Justicia Centroamericana en 1992, a fin de garantizar el respeto del derecho tanto en la aplicación como en la interpretación del protocolo. En esa oportunidad, la Corte de Justicia la integraron Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua y Panamá, pero actualmente está vigente para El Salvador, Honduras y Nicaragua (art. 48 del Estatuto de la Corte Centroamericana de Justicia).

El Protocolo de Guatemala, que se adopta en 1993, vino a modificar el Tratado General de Integración Económica Centroamericano, para avanzar y profundizar en el proceso de integración económica a diferentes velocidades, según el nivel de desarrollo económico relativo de los Estados de los países miembros.

El carácter sistémico que adquiere este proceso de integración con la creación del SICA, se ve reflejado con el programa *La Alianza Centroamericana para el Desarrollo Sostenible* (Alides) del 12 de octubre de 1994. Alides se define en la introducción del protocolo, como «... una iniciativa de políticas, programas y acciones a corto, mediano y largo plazo que delinea un cambio de esquema de desarrollo, de las actitudes individuales y colectivas, de las políticas y acciones locales, nacionales y regionales hacia la sostenibilidad política, económica, social, cultural y ambiental de las sociedades centroamericanas» <sup>(2)</sup>. Ello viene a demostrar la importancia que le otorga este proceso de integración a la protección del medio ambiente, al que le han dado una prioridad. En efecto, las políticas se impulsan a través del convenio constitutivo de la Comisión Centroamericana de Ambiente y Desarrollo y Alides.

Otro tratado de gran connotación en el desarrollo social lo ha constituido el Tratado de Integración Social Centroamericano del 30 de marzo de 1995 <sup>(3)</sup>, que vino a satisfacer la necesidad de establecer un marco jurídico institucional en el área social.

Entre sus principios, figura en primer lugar «el respeto a la vida en todas sus manifestaciones y el reconocimiento del desarrollo social como un derecho universal; el concepto de

(1) El SICA entró en vigor el 1 de febrero de 1993.

(2) Introducción de Alides, Managua 12-10-1994. Ubaldo García Ruiz, *El Proceso de Integración Centroamericana en Los Procesos de Integración y Cooperación Regionales*, Volumen 2, Cátedra Internacional Andrés Bello, Iris Vittini compiladora, RIL editores, 2004, p. 39.

(3) Fue suscrito por Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua y Panamá.

la persona humana como centro y sujeto del desarrollo; la familia como núcleo esencial de la sociedad y eje de la política social; la promoción del acceso universal a la salud, la educación, la vivienda, la sana recreación, así como una actividad económica digna y justamente remunerada» (1).

La Reunión de Presidentes, que es el órgano máximo del SICA, le ha otorgado un impulso sin precedentes a este proceso al que se han sumado Belice, Panamá y República Dominicana. Producto de este dinamismo, se ha aprobado en el presente año (20 de febrero de 2008), en la Reunión Extraordinaria de Jefes de Estado y de Gobierno del SICA, bajo la Presidencia Pro Témpore de El Salvador, el Subsistema de Integración Social, porque se ha comprobado que la Agenda de Integración Social requiere un impulso mayor para atender los desafíos de la cohesión social.

Los Consejos de Ministros de Relaciones Exteriores y del Sector Social del Sistema de Integración Centroamericano, aprobaron, el 29 de agosto de 2008, la Agenda Social Estratégica donde, entre otras cosas, contemplan programas para garantizar la seguridad alimentaria y nutricional.

Es importante que este tema adquiera la relevancia que tuvo en la Comunidad Andina durante la década de los 80.

### **ACUERDO DE ASOCIACIÓN ENTRE CHILE Y LA UNIÓN EUROPEA (AA) Y SU POTENCIAL PARA LA COHESIÓN SOCIAL EN AMÉRICA LATINA**

El Acuerdo de Asociación que Chile suscribió con la UE el 14 de enero 2003 (2), ha venido a demostrar que lo que Chile logró negociar, es muy significativo en relación a los compromisos adquiridos en los acuerdos marco de cooperación de la década de los 90. Comprende el dialogo político una dimensión económica-comercial y de cooperación. Estimamos que su mayor potencial reside en esta última área relativa a la educación, la formación y la cultura.

Las partes se comprometen, especialmente, a establecer vínculos permanentes entre sus respectivas entidades especializadas de manera de favorecer la puesta en común de los recursos técnicos y el intercambio de experiencias.

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(1) Capítulo II «De los principios, objetivos y alcances del proceso para la integración social centroamericana». Ver: [www.sieca.org.gt](http://www.sieca.org.gt)

(2) Acuerdo de Asociación entre Chile y la UE fue publicado en el Diario Oficial de Chile, el 14 de enero 2003.

Las acciones se realizarán mediante acuerdos entre estas instituciones de educación y formación, como asimismo, mediante encuentros encargados de estas funciones. La cooperación cultural además incluye la información, cuyos fundamentos se encuentran en los estrechos lazos culturales de las partes y tomando en cuenta los programas bilaterales en los países miembros. Se prestará particular atención a la promoción de actividades conjuntas incluyendo a la prensa, al cine y la televisión. Se pretende estimular los programas de intercambio de jóvenes señalando, específicamente, las áreas que cubren la cooperación y deja abierta la posibilidad de crear otros programas en interés de ambas partes para desarrollar en el futuro.

Teniendo presente que el Acuerdo de Asociación que venimos citando, permite la cooperación triangular con terceros países y la cooperación birregional en áreas de interés común, además de consagrar la cláusula evolutiva, no cabe duda que esta cooperación sería de todo interés extenderla a los países del Mercosur, y en el futuro a la Comunidad Andina.

Mencionamos en primer lugar el Mercosur, porque el Acuerdo Marco Interregional del Mercosur con la Unión Europea (1995), en lo que se refiere a la cooperación institucional, establece un compromiso en materia de formación, educación, comunicación, información y cultura.

Además, Chile viene participando activamente como país asociado en las reuniones del Mercosur Educativo y Cultural. El Mercosur Educativo en su Plan Trienal (1998-2000) fijó la promoción de las políticas regionales de capacitación de recursos humanos y mejoramiento de la calidad de la educación. En el período 2001-2005, promueve una educación de calidad para todos, políticas de formación y de capacitación de recursos humanos competentes y un espacio educativo regional de cooperación solidaria. Este compromiso incluye la participación de los docentes, los estudiantes y las escuelas del Mercosur.

Dadas las características particulares de América Latina, continente con las mayores desigualdades en la distribución del ingreso, los gobiernos han otorgado particular atención a la dimensión social. En Chile, durante el presente gobierno de la Presidenta Sra. Michelle Bachelet, se han aprobado leyes que benefician a la mujer dueña de casa y a la que desempeña un trabajo remunerado; como asimismo se han creado becas que facilitan el estudio y perfeccionamiento de los estudiantes fuera de Chile.

Como un resultado de la Estrategia Nacional de Innovación y Competitividad que ha emprendido el gobierno, se han aprobado 2 500 becas de postgrado, como una manera de invertir en capital humano. A los estudiantes chilenos se le han abierto las puertas en las

universidades de Estados Unidos de América, especialmente en California, Australia, Nueva Zelanda y en los países de la UE que han manifestado interés por participar <sup>(1)</sup>. Como reconocimiento a la labor de la Presidenta Bachelet, en la reunión que dio nacimiento a la Unión de Naciones Suramericanas (UNASUR, Brasilia 23 de mayo de 2008), recibió el honor de ser la primera Presidenta *pro tempore* de este bloque, mediante el consenso de sus 11 miembros participantes <sup>(2)</sup>. El compromiso político de lograr consensos en el desarrollo de políticas sociales: infraestructura, energía e innovación, son los temas de la agenda que ha privilegiado la Presidenta Bachelet.

La importancia de extender la cooperación del Acuerdo de Chile con la UE al Mercosur, especialmente en lo que se refiere a la educación y formación y considerando lo vasto del tema, estimamos que es importante comenzar por la formación de profesores. No basta implementar grandes reformas educacionales si no se comienza con la revisión y desarrollo de los programas de formación de profesores. La UE puede prestar apoyo a través del asesoramiento a las universidades con Facultades de Pedagogía, con el objetivo de preparar una generación de docentes con la mentalidad y disposición necesaria para implementar una reforma de acuerdo a los tiempos actuales y a los cambios que experimentan las relaciones internacionales.

La Cumbre de ALC-UE de Lima, refiriéndose al diseño y la implementación de políticas sociales efectivas, entre otras, se pronuncia expresamente por universalizar la educación preescolar, mejorar la calidad de la educación básica y ampliar la cobertura y calidad de la educación secundaria y superior; promover la educación profesional y vocacional e incrementar las tasas de empleos y establecer programas de formación laboral <sup>(3)</sup>.

Se hace necesario implementar en nuestros tratados de integración una política de formación profesional, como lo viene realizando la UE desde sus inicios en el Tratado de Roma. Como lo ha expresado la Comisión, la celebración del progreso técnico es factor determinante de la evolución de la formación profesional. El Consejo, por su parte, determinó que uno de los objetivos fundamentales de esa política es el derecho que tienen todos de recibir una formación profesional adecuada. Hoy observamos que es un derecho consagrado en la Carta de los Derechos Fundamentales de la UE.

<sup>(1)</sup> El área de la ciencia y la tecnología es otro logro importante del AA, específicamente se celebró un convenio que permite que nuestros investigadores participen en igualdad de condiciones en los Programas marcos de ciencia y tecnología de la UE. y en forma conjunta celebrar seminarios y actividades de investigación y de desarrollo científico y tecnológico.

<sup>(2)</sup> Unasur, originalmente se le denominó Comunidad Sudamericana de Naciones y es el resultado de la convergencia de la Comunidad Andina con el Mercosur. La integran además, como miembros plenos, Chile, Guyana y Surinam.

<sup>(3)</sup> V Cumbre de América Latina y Caribe-Unión Europea, Perú 2008, Declaración de Lima, p. 5

El interés de la entonces Comunidad Europea, por la formación profesional, se concretó en la creación del Centro Europeo para la Formación Profesional, con sede en Berlín (Cedefop), 1975, para los efectos de promover y asesorar la puesta en práctica de la política comunitaria de formación profesional que contempló el Tratado de Roma.

El Cedefop en su programa de trabajo, Educación y Formación 2010, se fijó tres principios para los sistemas de educación y formación: mejorar la calidad y la eficacia de sus sistemas y facilitar el acceso para todos los ciudadanos y que les permita abrirse al mundo exterior <sup>(1)</sup>.

Nuestro interés en esta materia, es hacer una propuesta que permita que la cooperación en educación, en el marco del AA, y haciendo uso de la cooperación triangular, nos permita crear en Chile un Centro de Formación Profesional similar al Cedefop en el que puedan participar los países del Mercosur y Comunidad Andina, sin perjuicio de su proyección regional.

Otra iniciativa a este respecto, lo puede constituir que Chile y los países del Mercosur pudieran acceder a los programas de la Fundación Europea para la Formación (European Training Foundation –ETF–) que tiene su sede en Turín, Italia y que contribuye al desarrollo de los recursos humanos a través de la reforma a la educación, formación y sistemas de mercado laboral en el contexto de la política de Relaciones Exteriores de la UE. Su trabajo se basa en la convicción que el desarrollo de los recursos humanos desde la perspectiva de aprendizaje para la vida, pueda ser una contribución significativa a la prosperidad, creando crecimiento sustentable y motivando la inclusión social en economías en transición <sup>(2)</sup>.

De esta forma estaríamos dando cumplimiento a lo que expresa el Acuerdo de Asociación entre Chile y la UE, al compromiso de establecer vínculos permanentes en sus respectivas entidades especializadas, de manera de favorecer la puesta en común de los recursos técnicos y el intercambio de experiencias.

La Comisión Europea, para promover la cohesión social en América Latina, y como producto de lo acordado en el año 2004 durante la Cumbre de Guadalajara, ha creado el programa EUROsociAL, que ha contribuido a implementar políticas públicas en educación, salud, fiscalidad, justicia y empleo. Chile ha participado activamente en actividades relacionadas con las temáticas del empleo, fiscalidad, educación y justicia entre los años 2006 y 2007 <sup>(3)</sup>.

(1) 3 Cedefop años 2006-2008. Formación y enseñanza profesional. La clave para un futuro mejor. Prioridades a mediano término del Cedefop. (traducción libre).

(2) Traducción libre de la página web de ETF.

(3) Para una mayor información ver: «Análisis de los cinco años de los acuerdos de asociación Chile-UE», Seminario organizado por el Centro Latinoamericano para las Relaciones con Europa (Celare) celebrado el 28 de noviembre de 2008.

## CONCLUSIONES

Las instituciones del proceso de integración europeo a las que Jean Monnet les dio tanta importancia, las vemos reproducidas en el proceso de integración de América Latina, Comunidad Andina, Mercosur y en el Sistema de Integración Centroamericano (SICA). Sin embargo, la heterogeneidad que impera en nuestra región como lo hizo notar a la Comisión el europarlamentario Bertens en su oportunidad, y por otra parte, las asimetrías intraregionales y las urgencias políticas que imperan en América Latina, nos han impedido avanzar hacia etapas superiores de integración.

La inclusión de la «cohesión económica y social» en el Tratado, producto del avance que significó en Europa el Acta Única, les permitió a los europeos asumir en forma solidaria la problemática de la desigualdad regional.

La ayuda financiera que se les otorgó a las regiones menos desarrolladas a través de los Fondos Estructurales, a través del Fondo de cohesión social, permitió que Irlanda, Grecia, España y Portugal alcanzaran un mayor desarrollo económico y social. Este es un buen ejemplo a seguir por nuestros países.

La Asociación Estratégica entre la UE, América Latina y el Caribe iniciada en 1999, ha venido a demostrar el potencial que existe entre ambas regiones para avanzar en la cohesión económica y social que constituye su primera prioridad. Y nos está abriendo el camino para que en la integración de América Latina prime el principio clave de su fortaleza: «la solidaridad».

En la V Cumbre Birregional de Lima (2008) el documento «Respondiendo juntos a las Prioridades de nuestros Pueblos», nos permite acentuar el diálogo político, económico-comercial y de cooperación, que es la forma en que se viene negociando con cada uno de nuestros procesos de integración, pero como lo señalara recientemente Edgardo Agas, Viceministro ecuatoriano de Comercio Exterior, «podemos discutir otros temas, como los de educación, salud, medio ambiente, que son los que verdaderamente quieren los pueblos para sentir que la integración les está mejorando sus condiciones de vida».

La Agenda Social de la Comunidad Andina y la que se está gestando en Centroamérica en el Sistema de Integración Centroamericano (SICA), está apoyando estas iniciativas mediante la implementación de políticas públicas que han impulsado, especialmente los gobiernos de izquierda, como el de la Presidenta Michelle Bachelet, Chile; así como el de los Presidentes Luiz Inácio Lula da Silva, Brasil; Evo Morales, Bolivia y Hugo Chávez, Venezuela. Es un hecho extraordinario que un obrero haya llegado a ser el Presidente de

un país continente, como es Brasil, y que tiene actualmente un Acuerdo de Asociación Estratégica privilegiado con la UE; y por su parte, Evo Morales, en un país donde las etnias han estado siempre marginadas del progreso, un indio haya llegado también a ocupar la Presidencia y, con muy buenas intenciones, tratando de hacer lo mejor para Bolivia. Estimamos que estas son señales auspiciosas para nuestros países que además, en los últimos años, han fortalecido sus sistemas democráticos.

La inclusión de los temas de educación y formación, ciencia y tecnología, en el Acuerdo de la UE con Chile, que con mucho éxito se viene desarrollando desde el 2003, nos han dado el fundamento para hacer una propuesta que en aplicación de la cláusula de cooperación triangular, se pueda extender este Acuerdo, en materia de educación y formación, a los países del Mercosur y en el futuro a los países de la Comunidad Andina, de manera de crear en Chile un Centro de Formación Profesional similar al Cedefop que se estableció en la Comunidad Europea en la década de los 70, o bien que nuestros estudiantes puedan acceder a los programas de la Fundación Europea para la Formación (European Training Foundation –ETF–), que tiene su sede en Turín, Italia.

Como en su oportunidad lo sostuvo Felipe Herrera, «el gran tema del presente» lo constituirá el Escenario Cultural, porque como lo expresara «hoy más que nunca, es nuestro común trasfondo cultural el gran factor dinámico de la integración latinoamericana». El destacado escritor peruano Mario Vargas Llosa, expresó «lo que ahora necesitamos es que América Latina lleve a cabo en el ámbito político y social las mismas proezas que sus creadores han realizado en el dominio de la literatura, la plástica, la música y el cine» (1).

La capacidad de diálogo que hemos alcanzado con la UE y teniendo como fundamento la Comunidad de Valores que compartimos, nos permite sostener que desde el momento que los temas de desarrollo social están vinculados a la paz y la seguridad, y por otra parte, en el fiel cumplimiento a los acuerdos adoptados en las Cumbres Birregionales, en apoyo del multilateralismo y de lograr un consenso eurolatinoamericano para ir a la reforma de la Carta de Naciones Unidas, particularmente su Consejo de Seguridad, estimamos que tal como lo afirmara S.S. Benedicto XVI en Naciones Unidas, «el Multilateralismo está en crisis por su subordinación a unos pocos» y su advertencia sobre que «la indiferencia o falta de intervención es lo que causa un daño real». Lo hemos comprobado con los ataques que Israel iniciara contra la Franja de Gaza, en diciembre de 2008, donde hemos

(1) Vargas Llosa Mario, «América Latina: unidad y dispersión» en *América Latina: ¿Integración o Fragmentación?*, Ricardo Lagos (compilador), Editorial Edhasa, septiembre de 2008. p. 589.

visto que las mayores pérdidas de vida han sido de mujeres y niños inocentes, así como de funcionarios de la Cruz Roja Internacional y lo más increíble, el bombardeo a la oficina de Naciones Unidas.

La Comunidad Académica de profesores especialistas en integración europea y de América Latina, como lo hemos venido sosteniendo en otras publicaciones <sup>(1)</sup>, debe tener un rol central, como sociedad civil organizada, en ese marco institucional que le ha conferido la Asamblea Parlamentaria, EUROLAT, a las Cumbres Birregionales, especialmente en la aplicación de la Carta Euro-Latinoamericana para la Paz y la Seguridad, la iniciativa del Parlamento Europeo y en el compromiso asumido en la Cumbre de Viena a favor de estos valores. El humanismo constituye la esencia misma del ser latinoamericano y que comparte con los europeos, lo que nos permite desarrollar una poderosa capacidad de respuesta a los problemas que hoy enfrentan todos los pueblos de la tierra.

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(1) Vittini, Iris «*Propuesta en Homenaje a la Memoria del Dr. Werter Faria*», en Direito no Século XXI, Em Homenagem ao Professor Werter Faria. Elizabeth Accioly (coordinadora). Juruá Editora, Curitiba, Paraná, Brasil 2008.

## IV. European citizenship, migration and intercultural dialogue

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# The EU leading by example

## COPING WITH CHALLENGES AND VALUES

I started the session on European citizenship, migration and intercultural dialogue by referring to the 60th anniversary of the Universal Declaration of Human Rights. We are still in the European Year of Intercultural Dialogue. Indeed, a very fertile coincidence. The 2002 Jean Monnet Conference devoted to the very subject of intercultural dialogue advanced the debate that has been brought to the present European year. We cannot but be proud of having contributed to this initiative with new ideas and visions.

At this year's conference we were asked to elucidate the relationship between three crucial and sensitive items. The subject at stake is a hard one. The reality of immigration flows in the European space does question politics, economics, culture, religion, education. Needless to emphasise that immigration in Europe has become a dramatic independent variable. *Felix culpa*, I would say, for us, the academics; for it gives us the opportunity to revise and redefine concepts, even theories.

Europe is subject to the stress of coping with this multidimensional and multilevel challenge. When I say Europe I mean the European identity and the European capacity of good governance by going beyond and leading by example.

We cannot but appreciate the endeavours of the EU institutions to better manage migration flows by a more coordinated and coherent approach which takes into account the economic and demographic situation of the EU. And I hope and expect that much will be made to link, in a more explicit and binding way, current policymaking to the paradigm of universal legal and moral values which are the foundations of the whole EU system. A more effective and coherent (and integrated) EU role is needed within the United Nations system.

The restrictive immigration policies carried out since the early 1970s in many EU countries have proved to be neither effective nor consistent with sustainable governance and the 'constitutional' core of the EU legal system.

Large numbers of legal and illegal migrants and of genuine asylum seekers continued to penetrate the borders of nation states of the EU space. We know how many smuggling and trafficking networks exist across the EU countries that exploit and destroy people dreaming of a more humane stay upon this earth. Heavy resources have been spent to counter and repress traffickers and smugglers. Each EU country used to decide on its own policies. The situation started to change at the end of the 1990s in the direction of finding a more cooperative way of addressing the phenomenon.

The Tampere meeting of the European Council in October 1999 endeavoured to set out some key elements for a common EU policy on immigration. Let me emphasise that this event happened under the Finnish presidency of the EU, which was very active also in dealing with human rights issues: tribute should be paid to that presidency also because in its semester the first annual EU Report on human rights was issued and discussed in Brussels at an ad hoc forum, with a large participation of NGOs, academics and MEPs.

The Tampere agenda was meant primarily to overcome the prevailing legal-criminological-security approach that was going on in the different Member States by combining, within a comprehensive approach, the humanitarian and economic dimensions of immigrant admission.

In November 2000, the European Commission presented a communication recommending a common approach to migration that would facilitate integration policies based on fair treatment, respect for diversity, and the prevention of exclusion, racism and xenophobia. A further communication in 2001 proposed an open method of coordination in the field. In 2004, the Tampere lines were developed, in accordance with a more pronounced policy-oriented approach, in the Hague programme which specifies the objectives for strengthening freedom, security and justice in the EU system from 2005 up to 2010.

The European Commission endeavours to address, in a coherent manner, the challenge of balancing security needs with basic human rights, particularly in sensitive fields such as illegal migration and the return of illegal residents, family reunification, EU long-term resident status and the admission of students and researchers. Besides formal EU legislation, we have precious material for implementing policies and measures such as, among others, the reports on migration and integration and the handbook on integration for policymakers and practitioners.

### THE HUMAN RIGHTS CHALLENGE

In 2008, the European Parliament and the Council jointly adopted the directive on ‘common standards and procedures in Member States for returning illegally staying third-country nationals’, the so-called ‘Return Directive’ (at the EP: 367 in favour, 206 against, 109 abstentions). Accordingly, with this crucial legal instrument, it is up to the EU Member States to decide whether to deport the immigrants (asylum seekers are not included) or to regularise them. Those who refuse to return voluntarily could be forcefully removed and not permitted to come back to the EU territory for five years. In certain cases it is permitted to detain irregular immigrants for up to 18 months, more than what is provided for, in most EU countries.

We know that this instrument has raised harsh criticism at home — in the EU — and abroad, including official instances such as the UN High Commissioner for Human Rights and reputable NGOs such as Amnesty International.

I would refrain from adding my personal criticism, but let me take advantage of this embarrassing circumstance to present some brief reflections on how the crucial issue of migration in the EU could be addressed in a legitimate and positive way by developing a new concept of plural, democratic citizenship that could also be useful to enhance intercultural dialogue.

First of all, priority should be given to the principles which are enshrined in the International legal instruments on human rights. When a legal system founds itself on human rights and fundamental freedoms, it enters a new stage of human-centric maturation that we can easily call *plenitudo iuris*, the law of plenitude. The existence in force of the International law of human rights, that is rooted in the (first part of) the UN Charter and in the Universal Declaration of Human Rights — a pan-human law — indicates that this achievement is marking the world system.

Especially with the Amsterdam Treaty and the Nice Charter of Fundamental Rights, the European Union, as a comprehensive system of supranational governance, has entered the new stage of its life, the very stage of *plenitudo iuris*. Hence it should cope with this fertile axiological enrichment, bearing in mind that Europe is certainly the historical

source of both the coherent philosophy and the juridical language and technicalities of human rights.

### IT IS TIME FOR A NEW, PLURAL CITIZENSHIP

Nowadays, owing to the very paradigm of universally recognised human rights, we are in the middle of a process of cross-fertilisation of cultures and political visions. In this 'universal yard', a rich variety of actors are playing significant roles. It should be stressed that the topic of international legality based on human rights and multilateralism has become familiar to the transnational world of civil society; not only for denouncing, with increasing competence and full legitimacy, dictatorships, hegemonies, illegal use of force (preventive war), economics without social justice, realpolitik behaviours, but also for conceiving and proposing suitable policies and institutions, positive measures, and good practices to achieve goals of global (good) governance.

The passionate and creative reality of civil society organisations and movements acting across and beyond state borders demonstrate that civic and political roles, as part of active citizenship, are no longer limited to the intra-state space, and that a suitable 'geometry' for democracy is really extending and building up.

According to international law of human rights, citizenship should be defined as the legal status of the human being (*statut juridique de la personne humaine en tant que telle*) in the space that is proper of that law. This enlarged constitutional space coincides with the common vital space of 'all members of the human family' (Universal Declaration). The legal status of the human being does not stem from the anagraphical power of the state, it is a status not *octroyé* but simply 'recognised', for the holder is an 'original' subject of law, not the 'national' or the 'subject' of whatever state. All human beings, being formally recognised as born with dignity and rights (Universal Declaration), are by nature citizens of the planet earth. The primary or universal citizenship is a common citizenship. Anagraphical, national or European citizenships are secondary or complementary citizenships, as such they should be consistent with the original (universal) legal status of the human being.

A metaphor could serve our didactic purpose: citizenship is like a tree, whose trunk and roots are the juridical status of the human being, that is the universal citizenship (*la citoyenneté de la personne*), and the branches are national and sub-national citizenships. Citizenship is a plural conceptual and legal category.

National citizenship is traditionally theorised and taught as a matter of collective identification *ad intra* around the symbols of national history and national statehood, and

of exclusion *ad extra*, with respect to what does not fit within the national borders. It should be remembered that the paradigmatic French Declaration of 1789 referred to *les droits de l'homme et du citoyen*, which gave way to interpreting fundamental rights as a privilege for those who already are registered citizens of a particular state. Its implicit rationale is *ad alios excludendos*, and as such is contradictory to the immanent universality of human rights.

As already pointed out, before the advent of the international human rights law, citizenship was essentially characterised as being national, unilateral, *octroyée* by the state, and based on the *ius sanguinis* (right of blood) or on the *ius soli* (right of land), in a perspective of distinction-discrimination, in short *ad alios excludendos*.

Today, in the globalised world, we have entered the phase of *plenitudo iuris*, whose principles postulate the *plenitudo civitatis*, the civilisation of full citizenship. Human dignity is the central value of *plenitudo iuris*, implying equal dignity of all members of the human family.

The 'new' citizenship is modelled on such a statute that is therefore fundamentally universal, *ad omnes includendos*, and it is articulated in the plural, in the sense that the universal dimension does not cancel particular citizenships but rather opens towards the experience of a richer identity. The universal citizenship is not *octroyée* and particular citizenships (the branches of the tree) must be regulated according to the respect of universal citizenship (the trunk and roots of the tree).

This implies that *the ius humanae dignitatis* parameter should prevail over the traditional parameters of the *ius soli* and of the *ius sanguinis* making them complementary compared to the former, and functional for the harmonious exercise of identities. Even for the identity of individuals with universal citizenship, the expression 'united in diversity' applies: in this case, 'unity' means the ontic identity of the 'human being', which is enriched and develops in different cultural and institutional contexts. Universal citizenship sums up and harmonises anagraphical citizenship, and the inclusive city is a place that favours this process, thus plural citizenship and the inclusive city postulate each other.

In the inclusive city, particularly through intercultural dialogue, evolutionary dynamics of identity develop in a direction of a 'transcendental civic identity', a superior identity that is authentically secular because it is universalistic, trans- and meta-territorial, and trans-cultural. This transcendental civic identity is the *plenitudo iuris* that is interiorised by individuals, an identity that is open to sharing responsibilities in the inclusive city, in the inclusive European Union, and in the inclusive United Nations.

New citizenship in tandem with the impact of the necessary intercultural dialogue aimed at democratic inclusion can revitalise the public sphere in a perspective of multilevel and

supranational governance. Thus this kind of political architecture is congruous with the need to guarantee universal citizenship rights in the enlarged space that belongs to it. And it is in fact the ‘phenomenology in the plural’ of citizenship, dialogue and inclusion that obliges institutions to redefine themselves according to telos, and therefore to open up and develop multiple channels of representation and democratic participation.

### **‘EU CITIZENSHIP’ AND HUMAN RIGHTS: WHAT CONSISTENCY?**

‘EU citizenship’ was formally established by the Maastricht Treaty in 1992, exactly 40 years after the first European Community Treaty. By the subsequent Amsterdam Treaty in 1997, human rights were proclaimed as part of the founding principles of the European Union. Finally, on 10 December 2000, in Nice, the Presidents of the European Parliament, of the Council and of the European Commission, jointly proclaimed the EU Charter of Fundamental Rights, which was prepared by the ad hoc European Convention. The Charter, now included in Part II of the Treaty establishing a Constitution for Europe, is at the same time an achievement, because it makes the matter more coherent and systematic, and a starting point for further developments towards the full ‘constitutionalisation’ of the EU system; in particular providing a suitable ground for a more correct foundation for EU citizenship.

In fact, human rights issues were addressed in the European system long before the 1990s, thanks to the enlightened case law of the Court of Justice of the European Communities and to the passionate advocacy of the European Parliament. Furthermore, we should not forget that human rights were included in the first draft of the European Constitution (Altiero Spinelli draft), endorsed by the European Parliament in 1984, but not by the Council. The European Commission, mainly through its Unit on Human Rights and Democratisation, has been very active in the field, providing political and financial support to NGOs and universities providing information and education on human rights and democratisation.

Since 1999, the human rights reports of the European Parliament have been accompanied by the annual EU human rights report, prepared by the Council and discussed at the annual session of the EU Human Rights Forum that takes place under the EU presidency, with the participation of representatives of the EU Member States, EU institutions and organs, NGOs and academics. In the field of external relations, human rights, linked with education and civil society structures, have high visibility in the framework of development cooperation with the ACP countries (Lomé and now Cotonou system). Since the early 1990s, a human rights clause has been included in treaties with third states establishing that implementation can be suspended if the concerned state does not comply with human rights and democratic principles.

The important role of the EU institutions in fostering the establishment and the functioning of the International Criminal Court should also be emphasised. The European Union is endowing itself with specialised machinery to deal with human rights. The European Parliament has the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Petitions, the Subcommittee on Human Rights, the Committee on Foreign Affairs, and the Human Rights Unit at the Secretariat General.

The Council has a specialised standing human rights working group (COHOM). Its Secretary-General/High Representative has a Personal Representative for Human Rights. The Commission, in particular the Directorate-General for External Relations, has a directorate for multilateral relations and human rights and a unit for human rights and democratisation. A European Agency for Fundamental Rights is functioning in Vienna. And of course, there is the European *médiateur* which, since its establishment, is carrying out its functions following an approach that is explicitly human rights-oriented.

More recently, the consolidated practice of ‘social dialogue’ has been complemented by the so-called ‘civil dialogue’, with the aim of involving civil society organisations (OSC) in EU policymaking in a greater and more substantive way. In this context, a specialised ‘human rights network’ is developing.

There are suitable grounds for revising the present ‘EU citizenship’ for which [as it is explicitly stated in the Treaty establishing the European Community (consolidated version), Part Two (Citizenship of the Union, Articles 17-22)] belonging to an EU Member State constitutes a prerequisite. This means that ‘nationality’ still remains the primary requirement and the overall philosophy is still *ad alios excludendos*.

In the present EU legal system, provisions regarding citizenship give way to a paradox: the ‘tree of citizenship’ is enriched without overcoming discrimination and contradictions.

The least we can say is that the Nice Charter legitimates wondering why EU citizenship is not based on human rights as is any national democratic citizenship. Such a logical, natural foundation, while in principle not incompatible with the parameter of complementarity of national and European citizenship, would allow the latter to become physiological and consistent with the international law of human rights and the principle of non-discrimination, a well-known principle of *ius cogens*, or customary law. Furthermore the principle of interdependence and indivisibility of all human rights should make sense also in the EU legal system. This implies that the special rights that mark EU citizenship (in particular, freedom of movement, franchise and eligibility at the municipal level, right of

petition, and diplomatic protection abroad) cannot be separated from the comprehensive set of all other fundamental rights (civil, political, economic, social and cultural), that is, from their natural womb.

No doubt the specific rights of present 'EU citizenship' are justifiable in a concrete way, but this argument should not give way to discrimination between those who are citizens of a EU Member State and those who regularly live in the EU territorial space without that 'privilege'. I think that advocating a correct and consistent foundation of EU citizenship with reference to the universal paradigm of 'all human rights for all' cannot but become an important part of the active implementation of the present (though limited, privileged) European citizenship, a cause deserving great commitment, especially in the field of immigration.

### **INTERCULTURAL DIALOGUE AND TRANSCEND CIVIC IDENTITY IN A CONTEXT OF HUMAN SECURITY**

The topic of intercultural dialogue, in its natural global and transnational context, is strictly linked with the topic of citizenship as it is with the democratic practice. Sharing the human rights paradigm as the same axio-legal roots, democracy (national and transnational), citizenship and intercultural dialogue are interlinked. There is also an instrumental function of that paradigm as a code of communication symbols, as a transcultural tool that facilitates moving from the potentially conflicting condition of multiculturalism to the dialogic stage of interculturalism. But dialogue could still be limited to only an exchange of information, a reciprocal exchange of images and stereotypes. This is certainly a prerequisite but not enough to achieve the principal aim that is: the inclusion of all in the political community to benefit from equal fundamental rights. The right answer to the question 'intercultural dialogue for what?' is: dialogue for working together, to imagine and put into practice common projects for achieving good common goals.

To be fructuous, dialogue among individuals and groups with different cultures should occur among equals; if not, the case will be another kind of interaction, for instance the deliberate homologations from one side or another. Equality in our case is the ontic equality of human beings as assumed and explicitly highlighted by the law and the orthodox doctrine of human rights. The 'equals' are the original holders of universal citizenship. The dialogue we are interested in is one that should be carried out in the context of daily life. If we start from the human rights paradigm, dialogue should be carried out more than on abstract principles — education should play a major role to

help internalise values. Above all, it is on how principles are translated into behaviour and policies, and what should be done together, as equal beings, in the same polity. As mentioned above, dialogue should be goal-oriented more than comparison-oriented. The strategic common goal is building up and developing the inclusive city as the result of the contributions of many cultures. The fertiliser of this democratic inclusion-building is once again the human rights paradigm.

Once more, we emphasise that the culture and strategy of inclusion has a direct relationship with both internal peace (social cohesion) and international peace. These are the two faces of the same coin: the inclusive city is the ground of a peaceful and a just world.

In the light of its citizens' 'transcendental civic identity', Europe is urged 'to transcend' the negative part of its historical 'western world' identity, that is of hegemonic power, of 'conquest', colonialism, world wars. To 'transcend' for Europe means to redefine itself on the basis of the positive part of its historical identity, as a basin of minds reflecting on the meaning of a universal European polity that promotes itself before the world as an inclusive space within its borders and as an actor of inclusion on a world scale.

Europe is challenged to overcome the 'utilitarian' (and 'securitised') approach to immigration.

In the current context of multi-ethnic and multicultural conflicts that need new forms of political organisation of the world, it should be stressed once more — opportune and inopportune I would say — that citizenship should be considered as an evolutionary concept, as is the case for security and development, I mean in a multidimensional vein. Analogies are clear and convincing. Until recently, security was meant as 'state', 'national' and 'military' security, aimed at pursuing the national interest, nowadays we speak of human security as primarily 'people' security, a multidimensional concept including social, economic, and environmental aspects, as well as reference to a collective and supra-national machinery. In the years following World War II, development was addressed as an economic concept for purposes of quantitative growth; today we say 'human development' relating to a rich basket of both quantitative and qualitative indicators, relying on the principle of the centrality of the human being as emphasised by the United Nations Declaration on the Right to Development of 1986.

A common EU policy on immigration, balancing both economic and demographic needs and human rights obligations, should be conceived accordingly with interconnection between human security and human development.

## ADDENDUM

Hopefully the above summary can contribute to further enhance the huge and fertile amount of thoughts provided since the year 2002 by the Jean Monnet/ECSA gatherings in Brussels devoted to the following themes: 'Intercultural dialogue' (20 and 21 March 2002); 'Peace, security and stability: international dialogue and the role of the European Union' (5 and 6 December 2002); 'Dialogue between peoples and cultures: actors in the dialogue' (24 and 25 March 2004); 'The European Union and emerging world orders: perceptions and strategies' (30 November and 1 December 2004); 'Dialogue between peoples and cultures: the artists and the cultural actors' (Brussels, 25 and 26 February 2005); 'Europe's challenges in a globalised world' (Brussels, 23 and 24 November 2006); 'The Reform Treaty and the EU's future' (Brussels, 20 and 21 September 2007); 'The European Union and world sustainable development' (Brussels, 5 and 6 November 2007); 'The European Union and the Balkans' (Zagreb, 23 and 24 June 2008).

I also hope that attention will be given to two documents below, issued at the Jean Monnet/ECSA Conference in 2002, and at the final Conference of the European Research Project on 'Intercultural dialogue for the development of a new (plural democratic) citizenship' (2007).

## DECLARATION

### **Symposium on Intercultural Dialogue, European Commission, Brussels, 20 and 21 March 2002**

1. After the dramatic events of 11 September 2001 the European Union is called upon to take up its moral and political responsibility, in close cooperation with its partners of the Mediterranean area. The governance of peace in the region and the respect for human rights are set within a shared responsibility.

2. A policy of intercultural dialogue, next to traditional economic and diplomatic relations, plays a vital role in the governance of the shared responsibility. In this perspective intercultural dialogue is an efficient instrument to prevent and manage conflicts at all policy levels. In a context of cultural diversity, dialogue between peoples favours mutually enriching understanding. In a globalising world a policy of intercultural dialogue guarantees applied and constant reflection on the respect for human rights, the functioning of democracy as well as on the roots of violence and terrorism.

3. A policy of intercultural dialogue by the European Union needs to be inspired by a mobilising global vision, in constant search for coherence. The Mediterranean region must be an exemplary area of common values, rooted in a shared respect of human rights, tolerance, solidarity and mutual comprehension, aware of cultural diversity and the religious dimension. It is to become an area of free exchange of ideas, an area of peace and reconciliation after a long history of conflicts.

4. The policy of an intercultural dialogue by the European Union should focus on youth, education and communication:

- (a) The education of young people in the spirit of tolerance, comprehension and respect of the other is a priority field of action. A strong policy in favour of exchanges between young people from different cultures should be promoted.
- (b) This policy should also encourage the dialogue between peoples in the Mediterranean region, cooperation between civil societies and local encounters as close as possible to citizens.
- (c) The policy of the European Union should also stimulate dialogue between intellectuals, academics, journalists, and economic and political actors. In this context the role of the media is crucial. Moreover, intercultural dialogue must be embedded in daily life.

Aware of the shared responsibility that the Union and its partners have to take up, the academic community, meeting in Brussels for the conference on intercultural dialogue, invites the Union to commit itself to an ambitious policy in favour of intercultural dialogue. In this perspective the world of academia and culture will contribute without hesitation to the promotion of common values in intercultural dialogue.

## FINAL DECLARATION

Conference on 'Intercultural dialogue for the development of a new (plural, democratic) citizenship', University of Padua, 3 March 2007

In recognition and follow-up of previous Jean Monnet conferences, the European research project: 'The role of intercultural dialogue for the development of a new (plural, democratic) citizenship', promoted by a network of Jean Monnet chairs, European Community studies associations and Jean Monnet centres of excellence, resulted in a rich

outcome, deep reflection and debate between academics, practitioners and students. Furthermore, we are convinced that true intercultural dialogue brings about substantial democratic virtues:

1. the cognitive virtue: meaning that, if opinions are not fixed, open dialogue gives rise to new, better-articulated points of view and increased mutual knowledge;
2. the civic virtue: meaning that intercultural dialogue forms ‘better’ (more informed, active, and responsible) citizens and lowers propensity to intolerance and violent behaviour;
3. the governance virtue: meaning that processes and decisions involving all segments of society through active citizen participation lead to a stronger polity with greater legitimacy and more effective policymaking.

Aware of the importance of a balanced approach to a polity and confidence-building process of the future of the EU for all its citizens,

We declare our conviction:

1. That all men and women are created equal and have the right to full and equal opportunity. That the EU has the responsibility to pursue the common good of all, not only of those within it but also in its ‘neighbours’, near and far.
2. That this responsibility is a responsibility shared with its partners. That in a diverse, pluralist ‘society’, the first imperative and the overriding principle of democratic governance is participation and the right of all individuals and groups to be taken into respectful consideration in the pursuit of what the common good requires, for maximum cohesion with full solidarity.
3. That the human rights paradigm, at its highest possible level of attainment, is the basis for the integral development of each human person.
4. That real and respectful intercultural dialogue is the necessary art and instrument for identifying and pursuing the common good.
5. That together, across and beyond the European Union’s Member States and peoples, we can realise the idea of plural and inclusive citizenship, rooted in human rights, common values and the pursuit of the common good.

6. That the idea of inclusive citizenship, practised in the cities, at all levels, in all fora of decision-making and in civil society, in particular in the Euro-Med partnership, implies: (i) the exclusion of no one and of no belief or value system from participating in decision-making and from life-enhancing or even life-saving policies and actions; and (ii) the fundamental principle of 'non-domination'.

7. That in this way we will continue to discover that there is more that unites us than can divide us.

8. That the European Union's Member States and peoples are willing to engage fully in action-oriented dialogue and to consider devising as a joint venture with their partners new mechanisms for developing citizenship. That we welcome the initiative of 'pre-emptive' Euro-Arab dialogue proposed by the Minister of Foreign Affairs of Malta, Dr Michael Frenndo, and determine to explore every such opportunity across all areas.

9. That any and all reality or perception of lack of principle or moral values, or of 'double standards' can be allayed, and proper witness be given by the European Union of its commitment to the values inherent in European culture and its political, social and moral foundations.

10. That this openness to universal, equal and inclusive citizenship and this coherence on the part of the Union's Member States and peoples can lead — if reciprocated through full dialogue and commitment to shared values — to a new level of unity in diversity. Translating values into action together through dialogue will strengthen and render irreversible citizenship-based partnerships in the pursuit of the common good.

Padua, 3 March 2007,

The Athens Research Team

The Lodz Research Team

The Malta Research Team

The Padua Research Team.

**Dora Kostakopoulou**

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## Citizenship, migration and intercultural dialogue: defending the connections

Long gone are the days when citizenship was generally considered to be a monocultural (and monochrome) institution. Since the late 1980s, the requirement of states that citizens identify with an overriding social and cultural entity, the nation, which furnishes ‘the ties that bind’ by endowing the relations among individuals with trust and mutual affection, has been seen to rest on questionable premises. This is not only because it represents an oversimplified picture of a much more complex reality of composite peoples having multiple identities, multiple commitments both within and beyond state borders, multiple rights and obligations and, more importantly, a reflexive and tactical subjectivity. It is also due to the fact that national citizenship fails to recognise cultural diversity and, consequently, to address an array of existing inequalities by concealing multicultural, multi-ethnic and polyglossal realities behind homogenising narratives (1).

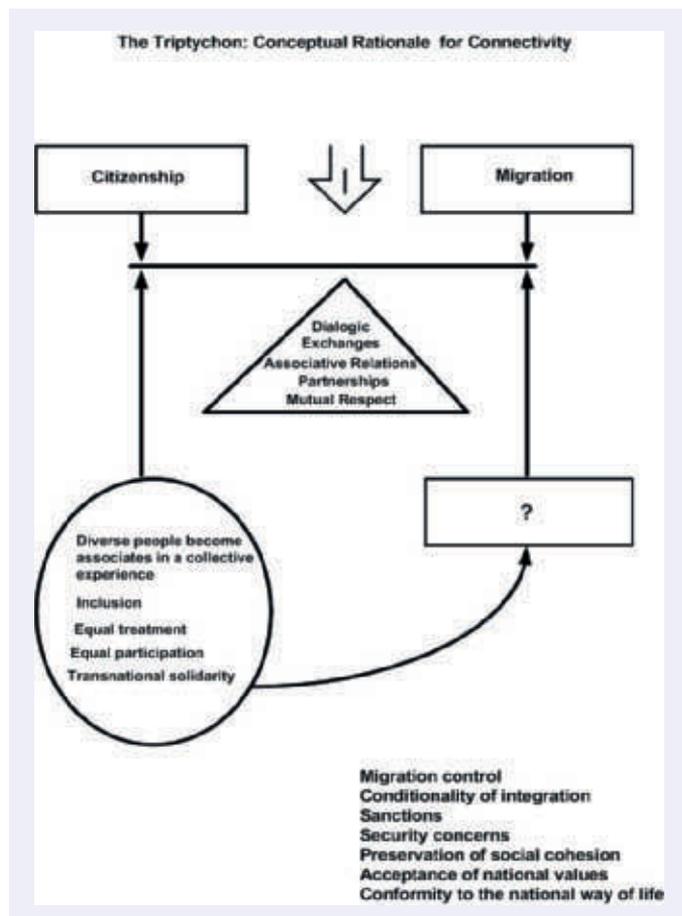
The establishment of European Union citizenship by the Treaty on European Union (1 November 1993), and its subsequent institutional development, showed that community belonging does not have to be defined on the basis of organic-national qualities, cultural

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(1) Young, Iris Marion (1990), *Justice and the politics of difference*, Princeton University Press; Kymlicka, Will (1995), *Multicultural citizenship*, Oxford University Press.

commonalities or conformity to a certain way of life. Instead, it can be forged out of de facto associative relations and connections that individuals establish by crossing national borders and residing within the territory of another Member State and with *de jure* equal membership irrespective of nationality. Intercultural dialogue provides the normative and institutional resources that are needed for reconstructing political belonging and for creating a collegiate environment within which individuals are given the opportunity to thrive and to be respected partners.

Although citizenship and intercultural dialogue are interconnected in both the European Union and in contemporary polyethnic and multicultural societies, the connections between intercultural dialogue and migration have not been well established. The question that might be worth considering, here, is this: how should we conceive the relation



between migration and interculturalism? Is it a relation of complementarity or of contradiction? Could it be the case that we tend to believe that links between citizenship and interculturalism are strong because migration has very low connectivity with interculturalism? In this short presentation, I would like to defend the connections between citizenship, migration and interculturalism and to argue that any attempt to dissociate the links would be an unappealing project (see Figure 1). Loosening the connections among them would be counterproductive, since it could undermine democracy, weaken principles, divide civil societies and erode good community relations. Otherwise stated, citizenship, migration and interculturalism could be considered to be a triptychon, thereby forming an integrated normative framework which would successfully reconcile interculturalism with both citizenship and migration laws and policies.

Let me say a few words about interculturalism and citizenship in the European Union. Born out of historical conflict and the pressing need to overcome the destructive tendencies of nationalism, the European Union represents a post-Westphalian order which can function effectively without the support of a settled institutional structure and a concrete, shared finality. Indeed, a key difference between the EU and national polities is that the former is, without a doubt, a community of communities. Endowed with equal status and an equal opportunity to shape its institutional configuration and further evolution, the Member States are entangled in an ongoing project of political experimentation which entails as much interdependence and a shared quest for improved institutional arrangements as contestations, collisions and strife. Owing to EU membership, the Member States have been forced to integrate the doctrine of sovereignty, to learn to trust each other and to accept 'Europe's' impact upon their organising principles, institutions and policies. It could be argued that what sustains the European Union, which is a community of communities, is not the Member States' identification with it. Rather, it is their willingness to participate in an ongoing adventure, which is driven by normative concerns as well as by prudential considerations, to engage with each other in various types of negotiations and to accept the fact that political decisions will not reflect partial, that is, exclusively national interests (†). The European Union is thus premised upon a model of political (and social) engagement with dynamic learning in action.

The same model applies horizontally; namely, to interactions among European citizens and other collective actors. Citizens and administrative authorities throughout the

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(†) Kostakopoulou, T. (1996), 'Towards a theory of constructive citizenship in Europe', *Journal of Political Philosophy*, Vol. 4, No 4, p. 337; Kostakopoulou, T. (2001), *Citizenship, identity and immigration in the European Union: between past and future*, Manchester University Press.

European Union have realised that the old-fashioned notions of ‘immigrant’, ‘resident alien’ and ‘temporary guest’ do not apply to Community nationals <sup>(1)</sup>. The latter are Union citizens, and this status endows them with increasing rights of participation in a wide range of associative relations beyond national borders and the freedom to choose their civic home. Accordingly, the Member States must refrain from imposing any obstacles to the exercise of fundamental freedoms and any other restriction which might render it ineffective or make it less attractive <sup>(2)</sup>. In this respect, European citizenship has changed our understanding of political community and made the boundaries of membership more open and flexible. By changing nationals of the Member States from political and often moral ‘outsiders’ to associates and Union citizens, European integration nurtures cosmopolitan sensitivities and has institutionalised an orientation of openness towards the ‘other’ (i.e. Community nationals and their family members) <sup>(3)</sup>.

But the ethos of openness and non-discrimination that has characterised intra-EU mobility coexists and, in many ways, competes with the logic of control, restriction and closure that has characterised extra-EU migration and the EU framework on integration <sup>(4)</sup>. It is interesting that in most western European states migration and integration were considered to be separate domains a few decades ago. Indeed, migration policies at national level were premised on the assumption that integration could only work if migration were restricted. It was generally argued that by building petty-fortresses to filter out the

<sup>(1)</sup> Plender, R. (1976), ‘An incipient form of European identity’, in: F. Jacobs (ed.), *European law and the individual*, North Holland; Poiares Maduro, M. (1998), *We the Court: the European Court of Justice and the European economic constitution*, Hart Publishing; Guild, E. (2004), *Elements of a European identity*, Kluwer.

<sup>(2)</sup> On non-discriminatory restrictions, see Daniele, L. (1997), ‘Non-discriminatory restrictions to the free movement of persons’, *European Law Review*, Vol. 22, p. 191; Castro Oliviera, A. (2002), ‘Workers and other persons: step by step from movement to citizenship: case law 1995–2001’, *Common Market Law Review*, Vol. 39, p. 77; Toner, H. (2004), *Partnership rights, free movement and EC law*, Hart Publishing, Chap. 6.

<sup>(3)</sup> See Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, which introduces three separate categories of residence rights and establishes an unqualified right of permanent residence after five years of continuous legal residence in the host Member State; OJL 158/77, 30.4.2004.

<sup>(4)</sup> An important pillar of the EU framework on integration constitutes the common principles for the integration of migrants in European societies. In particular, the Hague programme, the successor to the Tampere programme, which outlined the policy priorities for the development of the area of freedom, security and justice in the period 2005–10 and was agreed by the European Council on 4 and 5 November 2004, reiterated the need for greater coordination of national integration policies and EU initiatives and for the development of a clear framework on integration based a set of common principles (CBPs). The JHA Council of 19 November 2004 adopted the CBPs. The principles reflect national priorities and conceptions and incorporate the discursive shift of emphasis to migrants’ responsibilities to integrate (CBP 1), to respect the basic values of the EU (CBP 2), learn the language, history and institutions of the host society (CBP 4.1), be active societal participants (CBP 5) and the possibility of conflict of cultural and religious practices with European rights or national law (CBP 8.2).

movement of people migrants' settlement, citizenship-building and race relations would be enhanced. Liberal citizenship laws were thus seen to require tighter border controls. In the new millennium, however, we have been witnessing a deliberate alignment of migration and integration in official discourses and policies, despite the problems associated with such an alignment. True, migration brings in people who need to 'be integrated', but it is not a sufficient condition for integration to occur. Otherwise stated, migration does not promote 'integration'. But treating people, irrespective of where they come from and their nationality, with respect and facilitating their access to citizenship, does promote 'integration'. What is also noticeable in the new framing of the nexus between integration and migration is that restrictiveness now extends to both. By imposing mandatory integration conditions abroad or as a condition for the grant of a temporary or a permanent resident permit, governments place the entry and residence of migrants and their naturalisation under tighter control.

It is quite perplexing that governmental elites believe that a sense of 'shared belonging' can emerge by testing one's fluency in the host language and requiring the accumulation of factual information about life in the host state, or about its history and traditions. After all, most of the information one accumulates in this way is bound to be forgotten a few months following the written or oral examination. Certainly, one cannot disregard the Member States' agenda setting power in this field as well as the underlying ideological premises of their positions and assumptions. Ideology is crucial, because integration programmes entail not only devotion to one's values, language and culture and a commitment towards their preservation, but also an implicit or explicit assignment of greater value to one's particular traditions and the stereotyping of other traditions (1). Programmes of civic integration and social cohesion are thus allegedly justified on the basis of the need to correct the deficiencies of migrants by encouraging competence in the host language, imparting skills, preparing people for citizenship and re-educating them to respect national values — and not on the basis of national definitions of community, the prevalence of certain conceptions of the nation among elites and their advisers, anxieties about national identity and the desire to make the state (and the party in power) relevant. For if community were conceived of in political terms, qualities, such as a desire to succeed and carve out a space for yourself and your family, to create a home and a better future in foreign lands, a higher motivation to work hard, to persevere, to solve problems, to display economic creativity and entrepreneurship would be given more weight than the

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(1) This applies to national integration programmes and to the common basic principles discussed in No 6 above, such as CBP<sub>2</sub> (respect for the basis values of the EU), CBP<sub>4</sub> (basic knowledge of the receiving society's language, history and institutions) and CB8.2 (the practice of diverse cultures and religions must not conflict with other inviolable European rights or national law).

acceptance of traditional markers of national identity, such as knowledge of the language, civics and internalisation of national (and European) values.

It is unfortunate that the political understanding of community and the outward looking and dynamic notion of society which was dominant in the 1990s is under threat. Much of the present policy is firmly embedded in a present that not only draws on a nationalist and misremembered past, but it also disregards the long-term point of view. Security concerns and discussion about the role of Islam in western societies might make provincialism an attractive position for some, but one must bear in mind that globalisation cannot be reversed and that even a world in financial turmoil is pushed closer together. In addition, multilingualism and diversity are no longer optional extras and the demographic picture makes it quite likely that the future well-being of western societies might well depend on the sacrifices and labour of the very persons they seek to exclude from membership. The European pact on immigration and asylum does not take this into account (1). Nor does the EU framework on integration reflect the process-like nature of adaptation and settlement and prioritises interaction, mutual learning and cooperative association between newcomers and existing citizens. Table 1 below shows that intercultural dialogue and pluralism continue to remain credible alternatives, as they put emphasis on what really matters; namely, on developing partnerships, cultivating mutual respect, fostering interactions and dynamic learning in action among majority and migrant communities.

A pluralist approach would recognise that whether newcomers will develop feelings of belonging and a sense of identification depends as much on the kind of institutions and practices of membership that will regulate their lives as on the way they will be treated by the host country. It is hard to imagine, for example, an organisation that, as part of its admissions policy, chooses to impress markers of difference upon new recruits, stressing continually that they are unlike the existing members and that they need to overcome

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(1) The French presidency of the European Council sought a 'renewed political commitment on asylum and immigration' in the form of adopting a European pact on immigration and asylum which would entail the foundations of a common migration and asylum. Following several drafts, agreement on the text of the European pact was reached at the JHA Council on 25 September 2008. This was adopted by European Council on 16 October 2008 in Brussels. The pact endorses the global approach to migration, which was adopted in 2005, and Commission's communication on a common migration policy, and proposed the implementation of five political commitments which would have to be implemented by national and European measures: the organisation of legal migration to take into account the priorities, needs and reception capabilities determined by each Member State and to encourage integration; to control illegal immigration by ensuring the return to illegal migrants to their country of origin or a country of transit; the reinforcement of external border controls; to construct a Europe of asylum; and comprehensive partnership with the countries of origin and transit to encourage synergy between migration and development.

their alleged deficiencies in order to become part of it. Even if such an organisation existed, it would be neither well functioning nor successful. It has been well established that the key to creating a collegiate environment within which individuals are given the opportunity to thrive and to contribute to the success of the organisation, is the provision of support to newcomers, parity of treatment and giving them a sense of being stakeholders. Any other approach simply would not work. By analogy, if the aim is to encourage social cooperation and a sense of shared belonging in European polities and within the European Union, governments would have to refrain from adopting neo-national narratives of fear and division; instead, emphasis should be put on the things that people can do together and on what can be done to improve the conditions and experience of social membership and citizenship for everybody. Institutionalising indirect discrimination based on nationality erodes the credibility of admissions policies and placing multiple hurdles on the path to citizenship or putting people on probation undermines the credibility of naturalisation policy. Given the European institutions' interest in devising a coherent a framework of migration governance, a new deal can be struck in this domain by adopting a common-sense and principled approach that calls for closer links between internal mobility and migration and defends pluralism and intercultural dialogue as principles of political morality in the Member States and within the European Union.

The integration frame	The pluralistic frame
Obsession with national identity.	Belonging as something that develops as a matter of course.
Re-education: newcomers have to unlearn the old and learn the new before being admitted into the country and into political membership.	Newcomers are welcome and encouraged to express their individuality.
The content of re-education is determined by state authorities and includes formal courses, compulsory attendance, specified hours and curriculum.	Learning occurs as matter of fact in everyday life — social interactions, the workplace, the market, religious ceremonies are sites of learning and newcomers should be encouraged to take part in as many spheres of social life as possible.
Learning is an obligation and the cost should be borne by newcomers themselves.	Learning is self-directed, unavoidable and the host society should be actively committed to investing in human capital.
Education to learn the language, history and ways of life of the host society is a means of ensuring social cohesion and harmony.	Linguistic adaptation is a question of time and a positive context of reception facilitates this process. Knowledge of history and ways of life is obtained via living and working in the host country and migrants should be allowed the freedom to pursue their own priorities of making a living, settling and creating a home for themselves and their families.

The integration frame	The pluralistic frame
Coercion — penalties for non-attendance and exam failure.	Being made to feel at home — civic and political participation encouraged and valued.
Passive and subjected status — they must know their place.	Collaborators, stakeholders and citizens in waiting.
It is the responsibility of the newcomers to demonstrate their commitment to the country by jumping over the hurdles and their devotion to its national values.	It is the responsibility of the newcomers to be law abiding and willing contributors to the commonwealth.
Re-certifying their commitment at multiple gates — ‘should they really be here?’; who is worthy to belong to the community of citizens?’	A common sense approach — accrediting their resources, skills, hard labour, commitment, dynamism, problem-solving capacity and resilience.
Through integration processes newcomers become part of the nation.	Newcomers become members of the society and their involvement in communities, groups, associations and parallel networks does not create parallel societies; it merely attests the complex and multifaceted character of ordinary life.
Nationality is the foundation of the unity of society — homogeneity (linguistic, cultural, religious or ethnic) is an ideal and the norm.	The unity of society is achieved by doing things together, solving problems together by designing appropriate institutions and by valuing the efforts of all those who contribute to the commonwealth.
Ethnocentric communities by design or default.	Dynamic and relaxed communities.
Integration as hierarchy and intolerance.	Emphasis on participation, equal treatment and non-discrimination.

**Table 1: Integration and its alternative**

## V. The world economy today

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# The international banking crisis: lessons and EU reforms

## 1. INTRODUCTION

Financial market globalisation was reinforced in the decade following 1995, and one might expect major benefits from sustainable globalisation. There is no doubt that securitisation of loans and foreign direct investment of banks as well as the internationalisation of the banking business has intensified over time (Deutsche Bundesbank, 2008; ECB, 2008); the home bias in the use of savings — emphasised in earlier empirical analysis of Feldstein/Horioka (1980) — has reduced over time, particularly in the EU (Jungmittag/Untiedt, 2002). While one should expect considerable benefits from financial globalisation organised in a consistent framework, such globalisation can have negative national and international collateral effects if the institutional framework is incomplete and inconsistent: a low degree of transparency resulting from this could raise systemic risks and generate negative international external effects. The international banking crisis which started in 2007 in the US sub-prime mortgage market shows that the institutional framework is incomplete and that there is a broad challenge for the EU countries and other OECD countries as well as China, India and other NICs in implementing a new global financial architecture. At the same time the USA, the euro area and other countries will have to adopt reforms in the domestic sphere. For the euro area, the transatlantic banking

crisis is a welcome test for its institutional set up, and it seems that the euro area countries are doing rather well in the difficult transatlantic crisis; the ECB and several central banks deserve credit for their flexible and rather consistent crisis management in 2008, although the crisis has not yet been fully resolved.

The USA has faced a banking crisis in 2007/08 which spilled over to Europe and later to the whole world. This major crisis brought about enormous depreciations on portfolios of banks and funds and could entail a new Great Depression as the real economies in OECD countries, Russia, China and elsewhere face a simultaneous decline in 2009. In September/October 2008, the USA government and European governments organised multi-billion dollar rescue packages to recapitalise banks, but national governments have not addressed the true structural problems. Iceland, Hungary, the Ukraine, Estonia and Latvia were among the countries facing balance-of-payments financing problems in October 2008. The euro area's financial market stability was relatively satisfactory, while the epicentre of the banking crisis was in the US and to some extent in the United Kingdom, where banking supervisors had followed a similar benign neglect-attitude as their counterparts in the USA. In the euro area, Spain (Calvo-Hornero/Sanchez, 2008) and to some extent Italy pursued rather strict regulatory approaches, which have helped them avoid facing major sub-prime problems. The US sub-prime mortgage markets were the trigger of the financial market crisis in August 2007, but there is no doubt that the whole US banking system was off course with respect to sustainable banking in 2007. It is quite important to understand what went wrong, since successfully fighting the crisis requires measures based on adequate theoretical analysis. While the G20 meeting in November 2008 came up with a long list of 47 measures to be considered, it is doubtful that the key reform elements necessary were on the radar screen of policymakers. Overcoming the strange confidence crisis among banks is one of the key challenges as is a more realistic and more long-term profit maximisation strategy for banks and other actors in financial markets. Better regulation and more regulation for big banks in the USA and other OECD countries are also high on the agenda. Beyond the financial sector — shaped by high innovation dynamics, high volatility in 2008 and declining confidence among banks — the focus of policymakers is on the real economy with consensus forecasts for 2009 being rather bleak. This holds despite the big interest rate cuts of OECD central banks in the second half of 2008, which were designed to contain the turbulence to financial markets and to avoid a big recession.

Financial markets are crucial for financing investment and innovation, thus they are indispensable for economic growth (Saint-Paul, 1992). Asymmetric information and moral hazard problems are specific aspects of financial markets and thus financial markets are not

working perfectly. There could be credit rationing under specific circumstances (Stiglitz/Weiss, 1981). The risk a bank runs is specific to the banking sector and hence the confidence of depositors and depositor protection are crucial elements of the institutional set-up in the banking industry (Diamond/Dybvig, 1981). From a theoretical perspective, there are sound arguments for why there should be *ex ante* rules — regulations — for banks (Dewantripont/Tirole, 1995) and not simply an application of the general competition law whose rules apply *ex post*, except for the field of merger control. Central banks are interested in systemic stability, as turbulences could undermine the effectiveness of monetary policy, and certainly investors and the general public have a strong interest in systemic stability (De Bant/Hartmann, 2000). For EU countries eager to create capital-based pension systems — as a complementary element to pay-as-you-go systems — the stability of financial markets is also quite crucial. While many banks run stress tests, it is unclear to what extent such tests are tailored adequately. From an economist's perspective, one may wonder whether prudential supervisors run simulations on the bankruptcy of individual banks. Part of the economics research community was not really good at understanding the problems of the US sub-prime financing. For example, Peek/Wilcox (2006) argued on the basis of empirical analysis that the growth of asset backed securities markets had contributed to stabilising housing investment in the USA.

An important aspect of financial market developments concerns the links between financial innovations, investment and instability which is a Schumpeterian perspective on financial and real instability (Minsky, 1990). Financial innovation such as securitisation and asset-splitting had already been created in the 1980s (BIS, 1986). An increasing role for private equity funds has been observed since the 1990s, and such funds have reinforced the adjustment and innovation pressure on firms. In certain cases, however, they have also weakened the long-term ability of firms acquired to survive in the market (Van den Burg/Rasmussen, 2006). The innovation dynamics of the real sector in turn affects asset markets, in particular stock markets; patents affect the stock market prices significantly (Griliches/Hall/Pakes, 1991). In imperfect capital markets, equity capital is important not least for financing international mergers and acquisitions, and a real depreciation of the currency — implying that foreign investors have a larger amount of equity capital expressed in the currency of the target country — will bring about higher foreign direct investment inflows relative to GDP (for the case of the USA, see Froot/Stein, 1991). Thus, the international banking crisis must be explained in a broader context. An interesting feature of the US crisis is the fact that the USA could still attract high capital inflows in 2007/08, although its current account-deficit GDP ratio had reached 5–6 % in that period. While conventional modelling suggests that high cumulated current account deficits imply a depreciation of the exchange rate (Hansen/Röger, 2000), the USA has experienced

a rather strong appreciation of its currency in the second half of 2008, where a nominal appreciation reinforced the effect from the rise in the price level.

These puzzling effects as well as other issues must be analysed, and one may ask to which extent the USA is able to stabilise its economic system. While the USA as a large economy should indeed be able to stabilise its banking system (paradoxically, part of the US automotive industry, including GM, is an element of the banking sector) through adequate policy measures, it is nevertheless obvious that a further acceleration of the banking crisis in 2009/10 — fuelled by a strong US recession weakening banks further — could bring serious problems, as neither private US investors nor private investors from OECD countries are likely to be willing to recapitalise US banks if necessary. The US government and US banks would have to approach sovereign investment funds abroad, which politically would be a conflict-prone alternative. Another option would be further capital injections through the government, but such state-ownership of banks stands in sharp contrast to the principles of the US system. The options for international bank refinancing in the OECD are also weak, and this is largely due to the disaster with the bankruptcy of Lehman Brothers.

The transatlantic banking crisis intensified after the USA decided to let Lehman Brothers go bankrupt on 15 September 2008: a decision which was totally inconsistent given the previous bailout of the smaller investment bank Bear Stearns in March 2008, and taking into account that a few days later AIG, the giant insurance company, was saved by the USA government. The bankruptcy of Lehman in the midst of the banking crisis has fully destroyed confidence in OECD interbank markets and thus represents an irresponsible step on the part of the Bush administration. Freddie Mac and Fannie Mae had been rescued by government, not least under the pressure of China whose central bank held large amounts of bonds issues by those two semi-public mortgage banks. It seems that neither the EU nor Japan had warned the USA not to let Lehman Brothers go bankrupt — the large majority of unsecured claims against Lehman Brothers were in Japan and the EU, while the US share was only about 10 %. While the US government might have speculated that Lehman Brothers would be a cheap case of bankruptcy for the USA, it was in effect the ultimate impulse for wiping out confidence in interbank markets of OECD countries. Thus the Bush administration committed a serious policy failure with large global negative external effects — with costs greatly exceeding simply the wiping out of international claims vis-à-vis Lehman Brothers. Lehman Brothers going under Chapter 11 signalled that no bank in the USA was safe, and a fortiori, no bank in Europe.

In 2004, Wall Street Investment Bankers achieved a softening of SEC regulations, namely that the permissible leverage ratio was raised to 40 — but in the end this softening

only raised the speed of high-risk investment banking, and all major investment banks went under or were merged with traditional banks in 2008. There are serious doubts that value-added of investment banks on Wall Street were positive in the period 2002–08; the losses incurred and losses imposed on other banks, firms and countries most likely have exceeded profits and wages paid in that period. Moreover, big banks in the USA — all too big to fail — obtained government capital and thus it seemed that those banks faced a soft budget constraint, a phenomenon which had been emphasised by Kornai (1980) in his book about socialist command economies. While his argument referred to banks and firms, the US case is mainly limited to the banking system, but if ailing automotive firms and other sectors were to also come under the umbrella of the US government, the soft budget phenomenon would gain relevance. The USD 700 billion rescue package offered by the US Congress for saving the banks and insurance companies — to this sum one must also add some USD 250 billion for rescuing Bear Stearns and Fannie Mae and Freddie Mac — will have been spent by mid-2009, and there is some risk that the US government will have to come up with even higher amounts of capital injections, guarantees and subsidies in the coming years. The recession of 2008/09 will aggravate the problems of banks and insurance companies, and depreciations of portfolios will become a serious problem again.

The IMF (2008) warned early that depreciations of banks and hedge funds and investment funds could reach about USD 1 000 billion worldwide, while updates of the IMF in the summer of 2008 suggested even higher figures. Moreover, the Stability Report of the Bank of England (2008) in autumn 2008 warned that depreciations could reach even USD 2.8 trillion. Such depreciations would partly reflect the impact of the recessions in the USA, the United Kingdom and other countries affected by the international banking crisis. This crisis which apparently started in the US sub-prime mortgage market in 2007 and caused major problems in the interbank market accelerated in the summer of 2008 — with the collapse of the US investment bank Lehman Brothers on 15 September causing market panic.

In a historical perspective, the US banking crisis is the most severe crisis since the Great Depression, and the enormous international collateral damages and high costs to the US economy — facing recession in 2008/09 — raises the question about the causes of this disaster, the impact of the international banking crisis and the options for dealing with the crisis. As regards the latter, one should clearly make a distinction between crisis management necessary to overcome the banking crisis in the short run and the structural reforms required in the context of more long-term systemic changes.

In the short run, it will be necessary to save the banking systems in the USA, the United Kingdom and the euro area. Without a stable banking system there is a serious risk of

another Great Depression. Governments have offered multi-billion dollar packages for partial nationalisation of banks — read recapitalisation of banks — and guarantees for banks which want to sell bonds in a shaky securities market and an almost non-existent interbank market. Given the small number of big US banks, competition among banks is rather weak as there is a rather general ‘too big to fail problem’ in the US (provided that the bank considered faces a large share of unsecured claims of USA private and corporate citizens; hence the Lehman Brothers case is not really a counter-example).

Banks have lost confidence in each other, and the starting point was the growing tendency of bankers in the USA (and Europe) to avoid regulatory equity requirements by transforming loans into asset-backed securities which could be sold in the capital market and often ended up in the special investment vehicles created by the banks themselves. The banks thus have created a market for lemons problem: that is, there was increasing quality uncertainty among bankers who could no longer draw reliable information from balance sheets about the financial status of potential partner banks. The classical lemons problem (Akerlof, 1970) which was identified as a potential source for market failure in goods markets is now visible in financial markets; with confidence among banks declining liquidity for many products has dried up.

Since banks no longer trust each other, the refinancing of banks through state-guaranteed bonds is one of the few alternatives for restarting both the interbank market and the capital market. This will go along with mergers and acquisitions and government participation in major banks as well as other bailout measures of governments. The governments of the USA and of many EU countries have strongly intervened in the banking markets, thereby creating bigger banks as part of the rescue operations in the USA. Such developments are, however, in contrast to what structural reforms require, namely more competition among private banks and dismemberment of large banks in order to bring about effective competition. The following analysis takes a look at the dynamics of the banking crisis (Section 2), considers some key theoretical aspects (Section 3) and suggests necessary reforms in the EU and at the global policy level (Section 4).

## **2. THE DYNAMICS OF THE BANKING CRISIS**

At first glance, the US banking crisis started in sub-prime mortgage financing, as house prices started to fall in 2007. This implied serious doubts about the value of mortgage-backed securities largely held by special purpose vehicles (SIVs) of banks which had organised increasingly off-balance-sheet activities through SIVs. Most SIVs held large positions of asset-backed securities (ABS) which represented loan portfolios which had

been sold in national and international capital markets. The originate-to-distribute model which became popular in the late 1990s assumed that banks could easily sell loan portfolios in the capital market; banks created SIVs to unload ABS and to widen off-balance-sheet activities. Hence the incentive for banks to broaden risk management was weakened and this held all the more as banks alternatively could not sell a loan portfolio but rather only the risk associated with that portfolio (we will refer to the relevant credit default swaps — the insurance instruments part of which was traded in the market — subsequently). As SIVs relied on refinancing through short-term commercial papers, the collapse of the US commercial paper market in summer 2007 forced banks to take the portfolios of their respective SIVs back on to their own books — the credit lines which banks had given to their respective SIVs when setting up the SIVs were enormous and had not really been meant to be drawn upon. The very purpose of the large credit line was to get a top rating for the SIV and to thereby make sure that the SIV had low refinancing costs.

Falling house prices in the USA undermined confidence of investors into mortgage-based securities (MBS) held by SIVs and problems with refinancing MBS indicated serious problems in the ABS market. The price of portfolios representing MBS related to the mortgage sub-prime market in the USA fell quickly in summer 2007. However, the crisis was not confined to the USA. In the United Kingdom, a bank run on Northern Rock occurred in 2007, and the government quickly decided to save the bank whose problems could have been anticipated if the regulator had more carefully studied the aggressive expansion strategy of that mortgage bank (Mullineux, 2007). In early 2008, the UK government decided to nationalise Northern Rock and this became the starting point of heavy government involvement in the UK banking crisis. British banks had largely adopted similar business models as their US counterparts and several banks were involved in the markets for MBS/ABS. As refinancing of SIVs became more and more difficult in summer and autumn 2007 the prices of the respective assets fell sharply: lack of liquidity in the markets became a major problem.

The US banking crisis is serious and has undermined the stability of the US and the transatlantic financial system. While the Fed — by sharply cutting interest rates — and the US government have taken emergency measures to stabilise the economy, there is no sign that the USA has adopted adequate structural reforms. With the quasi-nationalisation of Fannie Mae and Freddie Mac (plus Citibank), the USA has indeed paid a high price for the lingering mismanagement of the banking crisis and for years of insufficient prudential supervision as well as a framework which allows rating firms to effectively operate on very weak professional standards (USSEC, 2008). The latter has contributed to the sub-prime

crisis and the collapse of the interbank markets in the USA and Europe. Moreover, there were strange developments which have almost fully eliminated the normal risk premia — for example measured through the spread between corporate bonds with A-rating and government bond yields — in the USA from 2003 to 2006 (Goodhart, 2007). Too many A-rated sub-prime bonds were unloaded on to financial markets and for unclear reasons, the senior tranches of almost all mortgage-based securities, exploding in volume between 2002 and 2006, could easily obtain an A rating in the USA.

It is widely accepted that the US banking crisis started in the summer of 2007 when the housing prices started to fall and doubts about the substance of mortgage-based securities (MBS) spread, thus making the refinancing of special investment vehicles — with a strong focus on asset-backed securities (ABS)/MBO — increasingly difficult. However, the sources of the fragility of US banks and financial markets dates back to the late 1990s when hedge funds with high rates of return on equity created enormous pressure for Wall Street banks.

- The unregulated hedge funds with their high rates of return — about 20 % in the late 1990s — put enormous pressure on banks to come up with similar rates of return on equity. Twenty-five per cent became a kind of magic number announced by top managers of US banks and with some delay also by bankers in the EU. Raising the return on equity became a top priority of bankers and stock markets, and the owners of banks quoted on the stock market cheered when top managers announced ever higher target rates of return — although basic economics suggests that even a rate of return on equity of 15 % would be quite remarkable if achieved over an extended period of time. The UBS in the USA has indeed created its own hedge funds. Many banks in the USA and the EU created off-balance-sheet activities and special purpose vehicles to raise the rate of return; SIVs invested in ABS/MBS and collateralised debt obligation (CDOs) — CDO are repacked bundles of ABS with specific tranches in terms of risk profiles — and relied on short-term commercial paper for refinancing. This model collapsed once the participants in commercial paper market faced doubts about the inherent value of mortgage-based securities (MBS). With US real estate prices falling in 2007, doubts emerged quickly, and banks had to take the papers of their respective SIVs back on to the balance sheet. The basic point is not that house prices can fall over time; the key problem is that hedge funds were unregulated and their indirect role for systemic instability was not recognised. Most critics looked only at the problem of leverage in hedge funds, but the associated high pressure on banks to come up with higher returns was largely ignored.

- A very serious problem is the market for lemons problems created by banks themselves. With increasing off-balance-sheet activities, effective banking operations could no longer be monitored through balance sheets. As rumours about problems in off-balance activities became widespread, the confidence in banks generally declined. A second problem is the lack of transparency and the incompleteness of balance sheets. To achieve this goal, banks created off-balance-sheet activities, largely in the form of special investment vehicles, which bought long-term asset-backed securities and hoped to easily refinance those portfolios through short-term commercial papers; many banks had created ABS, since an expansion of the business loan could thus be reconciled with regulatory capital requirements. In order to get a top rating for the SIV and hence low financing costs, the respective SIV typically obtained a large credit line from the parent bank. Banks did not have to put up any equity capital for such credit lines under Basel I rules.
- Banks packed dozens of loans in asset-backed securities and sold ABS and related papers in the capital market. In many cases, the banks wanted to maintain the loans on their books but wanted to get rid of the risk associated with the loans; the financial innovation used for this purpose were the credit default swaps (CDSs), which banks bought from special service providers and insurance companies — but CDSs in turn were traded in the capital market, mostly in the over-the-counter market. This market lacks transparency for both the prudential authorities and for the market as such. Regulators indeed allowed the CDSs to be sold around the world, and no one kept track of these transactions, although it would be wise to know those market participants representing the counterparty risk and whether they would be able to fully pay once the insurance case became reality. As lack of prudential supervision created a global veil of ignorance with respect to the allocation of CDSs — there was no clearing house or global registry — currency markets and bonds markets are not only facing an impossible challenge, namely to correctly assess risk premia for various countries (it makes a big difference if most CDSs were held within the USA, the euro area, the United Kingdom or China). Moreover, the market value of the underlying loan portfolios also became difficult to assess as it makes a big difference whether there is credible insurance for the loan. Allocation of CDSs across countries remained opaque, and hence the efficiency of financial market pricing remained low. While the USA recorded high growth rates of credit in the period 2000–06, the risk premia in credit markets declined to nearly zero in the period 2003–06, which was quite an abnormal situation. Part of this phenomenon could be explained by overgenerous rating

agencies which accorded top ratings to too many financial products and business models, including SIVs.

- Rating agencies often came up with fantasy ratings which were much too good to be true. For example, even two days before Lehman went bankrupt, the leading US rating agencies had almost top ratings for the bank. Many ABS/MBS had top ratings, although it seems that the rating agencies' methods were highly doubtful. In the context of Basel II, external ratings have a quasi-official status, and it is of paramount importance to make sure that ratings are carefully awarded and also swiftly corrected if needed over time. As long as ratings are flawed, there will be misjudgement of risks in capital markets and an under pricing of risks. US prudential supervision remained quite weak under the Bush administration. The USSEC — responsible for investment banks — was mainly interested in investor risk. However, it did not consider systemic risk issues, and the number of employees dealing with risk management fell dramatically under the presidency of George W. Bush. The Federal Reserve which was in charge of traditional banks (bank holdings) had adopted a laissez-faire attitude under Chairman Greenspan; banks in the USA and in the EU could incur increasing risks without regulators requiring enhanced risk management. Stability reports of various central banks (such as the Bank of England the ECB) warned about the rising risk banks were taking within OECD countries, but the regulators and the banks ignored such warnings. Moreover, the IMF's financial sector assessment programme analysed many crucial OECD countries, except for the USA. It was only in 2006 that the US government agreed to a report being published on the US system in 2009.
- Time horizons of managers and traders were rather short, and there were inadequate incentives for long-term investment horizons in banks. Many top bankers pursued high risk strategies and generated high bonus payments for managers and traders as long as the economic boom — along with rising asset prices — continued in the USA and Europe. However, in the medium-term, as asset prices fell, many banks suffered high depreciations and losses from such 'front-loaded' investment strategies. The typical assumption of most textbook economics — namely that investors maximise a profit function over a very long (infinite) time horizon — was not realistic, rather a hit and retire approach was often observed. As long as the boom continued, one could hit high goals, and once a crisis befell the market, early retirement was the ideal option for managers naturally willing to incur big risks for their respective banks.

The following figure summarises the key dynamics of the US banking crisis which resulted not only in the collapse of the commercial paper market and the interbank market in late 2007, but also in the US Central Bank and the ECB providing emergency liquidity to banks that could no longer obtain loans in the money market and the interbank market. Mistrust among banks in the euro area is so great that more than EUR 100 billion in excess reserves were kept at the ECB during several weeks in 2008, although market rates in the interbank markets were higher than what could be earned at the ECB account. It is not surprising that the problems in US real estate market and US banks brought about a fall of the stock market price index in 2008; stock market prices in the euro area also fell strongly in autumn 2008.

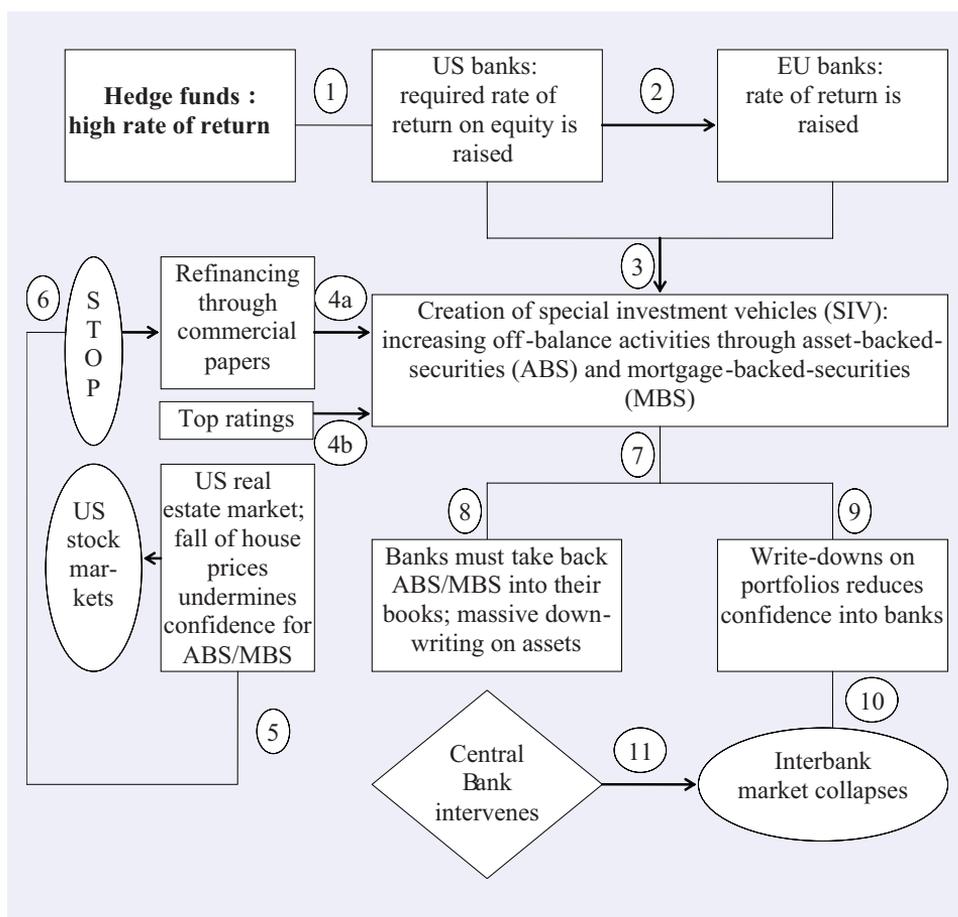


Figure 1: Dynamics of the interbank market

Coping successfully with the banking crisis and avoiding repeating this crisis within a few years can only be achieved if the causes of the banking crisis are recognised and adequate policy reforms are adopted. The problems in the US and European banking sectors are not really surprising if one considers the early warnings emphasising the risk of falling house prices in the US and Artus/Viard (2005), who warned that high rates of return on equity implied a high risk premium and hence incurring high risks.

- The laws of economics imply that, in the long run, the nominal interest rate ( $i$ ) must be equal to the sum of the inflation rate and the real interest rate ( $r$ ), and  $r$  must be equal to the growth rate of real output ( $g_r$ ). The rate of return on capital in turn should be equal to the risk free government bond interest rate  $i$  plus a risk premium  $\Omega$  in the stock market being equal to the price of risk times the variance of the stock market price. If the risk free nominal interest rate is 4 % and the required rate of return on equity is 25 % the implication is that the bank management aims at investment projects which stand for an average risk premium of 21 %. Part of the typical strategy to chase for a high required rate of return of 25 % was to use a high leverage (see Appendix 3) through raising off-balance-sheet activities which allowed one to bypass the Basel I/II minimum requirements on regulatory capital. Many banks achieved 25 % rates of return for a few years, but in 2007/08 they suffered high depreciations and massive losses so that there was no sustainable profit rate. As regards big banks' volatility of rates of return on equity were rather high. For example, considering the variance as a measure of volatility the case of Germany shows that volatility of rates of return of big banks were much higher than the volatility of savings banks, cooperative banks or *Landesbanken*/regional state-owned banks.
- The banks gave loans to the private sector, but loans were quickly sold as ABS or MBS in the capital market, thus making the incentive for the originator bank to screen those who took the loans weak; by implication risk management weakened. As the originate-to-distribute model worked all the more poorly, the more stages of repackaging loans existed. When housing prices in the USA fell, special investment vehicles holding MBS faced problems, since refinancing through short-term commercial papers no longer worked, as the commercial paper market had collapsed. The market price of mortgage backed securities, particularly sub-prime securities, fell quickly and as banks were hardly able to give large credit lines to their respective SIVs, they took the SIVs' portfolios back on to their books. Since the market price of MBS/sub-prime papers fell strongly in 2007/08, banks suffered high depreciations. The interbank market and the money

market collapsed in 2008 as banks lost confidence in each other — not knowing how large off-balance stakes were on the one hand and how big risks associated with various portfolio positions, often involving previous CDS transactions, really were on the other hand. Banks stopped lending to each other or did so only against collateral which was unusual hitherto. In the euro area, moreover, banks with high liquidity would rather channel excess liquidity into the accounts of the ECB than offer such liquidity overnight to banks at interest rates well above the central bank's deposit rate.

In fact the banking crisis is not a real surprise, and one has to blame both banks themselves and prudential supervisors in the USA and the EU to have allowed such chaos in financial markets to emerge. The US dynamics largely show that the big banks no longer understood the system they had created and that US policymakers had failed to implement a clear system of supervision — instead the USA had refused to adopt the Basel II rules which would have imposed at least a small amount of equity capital for extending large credit lines to special investment vehicles (in this perspective the UK banking sector looks better positioned than the USA). By refusing to adopt Basel II, the USS not only created an uneven transatlantic playing field for banks, but it also prevented greater transparency — in a world economy with high growth — from being achieved.

The priority reforms are therefore obvious; they must correspond to the problems identified and should be adopted by the relevant policy layers:

- Regulation of hedge funds: hedge funds — largely active from tax havens — with more than EUR 1 billion should be required to register with the Bank of International Settlements; BIS must reserve the right to raise equity requirements if deemed necessary, and trading in CDSs could be restricted. Hedge funds which do not comply with BIS rules must not be permitted to trade government bonds in any member country of the IMF; this clause might require that government bonds be traded only through international clearinghouses, thus excluding over-the-counter trade — in this manner, tax havens would be subject to rules and guidelines set at the European and global policy level.
- Banks must establish fully consolidated balance sheets, in the sense that a total balance sheet includes all off-balance-sheet activities; banks which do not comply must face sharply restricted access to central bank liquidity. The central bank should encourage interbank activities by according different discount rates, namely a low discount rate to banks strongly active in the interbank market; banks

with low activities in the interbank market would face higher discount rates. Thus one would have an incentive for banks to engage in the interbank market. The enormous expansion of ECB liquidity provision in euro-area interbank markets would be a doubtful exercise if it were to continue in the long run; this would undermine both the efficiency of monetary policy and the incentive of banks to engage in the interbank market, which is normally a market important for the efficiency of the banking system — monitoring and signalling are crucial elements of the normal competition process in the interbank market.

- ABS products must be standardised in order to avoid complex pricing problems, and all CDS should be registered in a global data bank; a bank issuing ABS should keep 20 % of the equity tranche in its books (this gives a strong incentive to really consider the risks contained in the loans which back the ABS) and declare its willingness to buy back the ABS product at 50 % of the original price at any point in time, thereby avoiding pricing uncertainty even in the critical case that markets for specific financial products should collapse; the underestimation of liquidity risks, which was a serious element of the US/transatlantic banking crisis, must be avoided in the future. New transactions with CDSs should be possible only through a clearing house, and previous CDS transactions should be required to register worldwide — otherwise, confidence in financial markets cannot be restored.
- Rating agencies must face new rules and should be required to obtain a licence as proposed by the European Commission. In addition, there should be random checks and fines for poor rating accuracy. Conflicts of interests (in the traditional regime, banks placing a bond issue having paid the respective rating agency) must be avoided. Specifically, a two-stage financing procedure would be useful; banks, firms or governments wanting to place bonds in the market should pay into a pool, and this pool then would finance the rating process on the basis of competitive tenders. At the bottom line, fees to be paid should reflect market shares of issuers — with a top-up for weak ratings of the respective placement of bonds. Thus, the information derived from ratings should be considered as a public rather than a private good. It would be useful if the EU or the ECB would encourage the creation of at least one major European rating agency.
- A new tax regime is necessary for banks, funds and insurance companies. Taxing the profits ( $\Pi$ ) of banks should be only one basis for taxation. In addition, the variability of the rate of return on equity should be considered. The higher the variance ( $V'$ ) on the rate of return, the higher the overall tax rate to be applied

should be. The tax to be paid by an individual bank would thus be:  $T = \tau'\Pi + \tau'V$ . For example, in the case of Germany, the figures show that private big banks would have faced a high variance tax burden,  $\tau'V$ , as the variance of their return on equity was relatively high. Banks anticipating such a tax burden would have an incentive to take a more long-term view — in the long term, the variability should be smaller than in the short term, and bank managers can influence the variance of the respective bank's rate of return.

<i>Hedge funds:</i>	<i>Balance sheets:</i>	<i>ABS and CDS:</i>	<i>Rating agencies:</i>	<i>New tax regime:</i>
Must register with BIS; equity requirement; hedge funds which do not comply with rules cannot trade in government bonds markets.	Full disclosure of bank's activities: including all offshore balance activities.	Standardisation of ABS products; 20 % of the equity tranche remains at the bank and bank must declare that it is willing to buy back the ABS at 50 % of the original price.	Agencies should face new rules such as obtaining a licence; agencies should be subject to random checks, fines for poor work; two-stage financing.	Taxing profits and taxing the variability (variance) of the rate of return on equity.
Aim: controlling risk from HFs.	Aim: restoring confidence.	Aim: transparency, reduced transaction costs.	Aim: improving the quality of the ratings process; raising the quality of information.	AIM: encouraging long-term time horizon of banks, funds and insurance comp (avoid short-term hit and retire strategy and inadequate bonus systems).

**Figure 2: Structural reforms to be adopted: priority reforms for overcoming the international banking crisis**

A variance tax would be a true innovation in the OECD tax systems, but such a tax is indeed quite useful since it would help to avoid excessive short-term decision-making which results in excessive risk taking and high negative national or international external effects (i.e. international instability spillovers and problems related to systemic instability causes by non-sustainable bankers' strategies). Indeed, a variance tax could be considered a special PIGOU tax which helps to internalise negative external effects. There could be a minor problem in recessions when the rate of return on equity falls, hence making the variance tax pro-cyclical. However, government could introduce a partial or full waiver for variance taxation in recessions.

Taking stock of the key elements of the banking crisis identifies seven areas of weakness, as follows.

1. Deficiencies of US banking regulation: the Paulson reform programme, which suggests that the Fed should have a larger role in regulation, is a doubtful programme given the fact that the Fed has not used existing regulatory power — its board has made clear for years that the best regulation effectively is no regulation.
2. There was a sustained problem of market failure in the US interbank markets and in EU interbank markets in 2007/08, which represents a self-imposed market for lemons problem caused by insufficient financial reporting and opaque balance sheets.
3. Special problems of interbank market failure in the USA have emerged, namely to the extent that EU banks were squeezed out of the market — somewhat remedied by the transatlantic swap operations organised by the Fed and its counterparts in Europe; the swap operations allow EU banks with US subsidiaries — they were effectively locked out of the US interbank market after the summer of 2007 — to obtain dollar loans from the ECB, which in turn has obtained a dollar loan from the Fed. The European bank will then send the dollar liquidity to its US subsidiary, which is a very strange indicator of discrimination of foreign banks in the US interbank market. This could be understood as being counter to the GATS rules of the WTO.
4. From 2002 to 2006, leading US rating agencies have partly done sloppy work as the report by the USSEC (2008) has shown, and it is absolutely unclear why Basel II gives those rating agencies even more power — external ratings have an official status for risk management of banks — while not imposing decent standards and responsibilities.
5. The trigger for the banking crisis was not the sub-prime crisis but the strange increase in the required rate of return on capital on Wall Street at the beginning of the 21st century. EU banks were afraid of being taken over by US banks if they could not match the new Wall Street benchmarks.
6. To a limited extent, the financial innovations adopted in the OECD banking world in the context of the originate-and-distribute approach is a useful way to deal with risk, but the excessive creation of A-rated ABS is doubtful, and systematic failure to consider liquidity risk raises doubts about the overall framework within which banks operate.

7. In Germany, there are major weaknesses in the field of banking supervision, and costs for the taxpayer of dealing with the IKB problems and part of the Landesbanken are already high — here, national reforms and EU reforms are necessary.

The reforms suggested in the context of this analysis are urgent and will help to sort out the mess in the US financial markets and elsewhere. While over-regulation should be avoided, there is a need for more and better regulation. Basically, there are seven key proposals for solving the banking crisis.

(i) The interbank market is fully restored by forcing banks to disclose their positions in structured products and off-balance-sheet activities. In particular, banks must fully disclose all off-balance-sheet investments in the notes attached to the balance sheet; moreover, from a specific target rate on, banks must hold 20 % of the equity part of asset-backed securities; litigation among banks, which has increased in 2007/08 and increasingly destroys confidence in the markets, should be minimised and conflicts sorted out quickly outside courtrooms to the greatest extent possible.

(ii) Only those banks which have met the new disclosure procedures and make a full commitment to the equity part investment in ABS will get full access to central bank refinancing. These measures will restore confidence in the interbank market. In the EU, a new European Banking Standard Council should be established which monitors banks' behaviour in world capital markets; strange behaviour and obvious problems in meeting legal requirements — see UBS in the USA from 1999 to 2008 — will have consequences, namely that banks considered in breach of critical rules and standards are excluded for at least five years from all transactions in the context of the emission of government bonds in the EU/euro area.

(iii) As regards the EU, greater efforts in terms of harmonising national prudential supervision should be adopted. So far, the EU indeed offers a bewildering range of institutional arrangements. For example, the central bank is involved in some countries, in some countries it is not involved at all and in still other countries it has exclusive competence for the supervision of banks and financial markets.

(iv) The European Commission should publish regular reports on the banking systems in EU countries, and Member States should quantify the welfare costs of major banking crises. In such a way, a new field of benchmarking would be established. Medium-sized and large hedge funds should become more involved in reporting as soon as they have the needed leverage, and an option should also be introduced for central banks to impose a

maximum leverage ratio. In 2006/07, the IMF did a poor job in economic policy assessment. Its lukewarm reports on the US economy were not in line with what sober analysis of the US economy and US economic policy — required as part of regular surveillance of IMF member countries — would have shown, namely critical faults in US prudential supervision and massive growth of credit along with strongly declining risk premia in US bonds markets from 2003 to 2006. The reporting procedures in the IMF should therefore be adjusted in a way which enables external experts to contribute to surveillance activities. Finally, within the WTO, it remains to be analysed to what extent the asymmetric collapse of the US interbank market represents a discrimination of a foreign sense. The transatlantic banking crisis should be taken seriously, and adopting key reforms is urgent for both OECD countries and the global economy. If such reforms are not adopted in a timely fashion, there could be a backlash in globalisation, and indeed some backlash in financial globalisation has already become visible. As regards shoring up the shaky US housing market, the proposal of Feldstein (2008) should be realised quickly. With respect to the costs of the US banking crisis, a preliminary assessment is that the per capita cost for every American is about USD 1 000 (mainly related to the Freddie Mae, Fannie Mac and Lehman Brothers failures), whereas the international external costs are about USD 360 billion annually in 2008 and 2009, which in turn is equivalent to USD 1 200 per US citizen. Such large external international costs are unacceptable in a fair global economic framework. The world economy is paying high costs for the lack of a consistent US regulatory framework. Financial globalisation implies that sorting out the problems in the US banking market will be much more complex than the case of the BCCI bankruptcy in 1991.

The banking rescue packages designed by the United Kingdom, Germany, France plus other EU countries and the USA will hardly work, as they help to stabilise the banking systems only temporarily. As long as confidence in the interbank market is not restored, there is a risk of silent socialisation of the banking system through ever increasing liquidity injections from the central banks (plus explicit socialisation through governments buying stocks and warrants of banks). Confidence in the interbank market can only be restored if parliaments in OECD countries adopt laws which force banks, hedge funds and the like to sell all products with CDS elements to a clearing house, which in turn then reallocates the CDSs in a transparent way. Bank mergers sometimes could be a hidden avenue to raise the silent risk exposure of banks, as merging bank I and II typically implies that the bank taken over could have large stakes of CDOs part of which are a combination of ABS and CDS, both of which are products difficult to evaluate. Such opacity cannot be accepted and bank supervisory agencies and merger commissions should carefully look into the merger dynamics. The short-term options of saving the banking system — including mergers and acquisitions — are absolutely in contrast to what a solid efficient banking system

looks like: smaller banks in a more competitive environment; the more mega banks (representing the ominous too-big-to-fail) there are, the more stricter regulations will have to be imposed. If the USA does not accept Basel II+, there can be no free capital movement as the distorted US system would continue to create big international negative external effects.

### 3. THEORETICAL ASPECTS OF SUSTAINABLE FINANCIAL MARKET GLOBALISATION

As regards sustainable financial market integration, one can expect long-term globalisation only under certain conditions. Financial market integration can generate considerable benefits by reducing international transactions costs, stimulating financial product innovations and efficiency gains as well as through a better diversification of risks. However, those benefits will not be generated automatically; in a multi-country world economy, the leading countries must implement a consistent international framework which creates a competitive level playing field on the one hand and establishes clear responsibilities on the other hand; the requirements for sustainable globalisation are as follows.

- Long-term benefits on the basis of a consistent institutional framework and clear responsibilities can be expected; this implies that no major player in the world economy imposes large negative external effects on other countries — as it was the case with the USA in 2007/08. The US policy in 2008 brought about a rise in the US inflation rate; about 5 % was reached in summer 2008, and this imposes an inflation tax on those countries holding foreign reserves in USD. While one might argue that most foreign reserves are in dollar-denominated bonds, it is clear that the interest rate on US bonds is not really rising in parallel with the inflation rate. One may argue that the crisis-induced rise in the inflation rate was four percentage points. With about USD 600 billion reserves worldwide in 2008, the depreciation effect on reserves is USD 240 billion in that year; as regards the EU there are additional costs for the Community in the form of a fall of real output which is roughly one percentage point in 2009 compared to the business-as-usual scenario — to this effect, a fall in output of about USD 180 billion one would have to add the drop in real output in other trading partners of the USA. This is an international resource transfer in favour of the USA amounting to about 2–3 % of the rest of the world's GDP), and this is more than the USD 300 billion the US taxpayer is likely to pay for the rescue of Fannie Mae and Freddie Mac plus Lehman Brothers in 2008/09. It could well be that the rest of the world will face higher costs from the US banking crisis than the US itself. The key players in the world economy will

hardly be willing to accept a US-led financial globalisation process if it turns out that it imposes major costs on non-US countries.

- The cost of achieving political consensus at the international level will affect the ability to cope with international crises. If there is a consistent mix of regional organisations (responsibilities) and global organisations, international frictions in running the global system will be relatively low. In this perspective, the EU principle of home-country supervision for bank affiliates abroad — in other EU countries and the European Economic Area — is doubtful, as the ongoing internationalisation of the intra-EU banking business means that national regulators face an increasingly tough challenge for effective regulation of banks. Moreover, banks from non-EU countries can easily set up a subsidiary in an EU country and subsequently engage in bank business in all EU countries through affiliates. If banks create a separate legal entity, a true subsidiary in another EU country, the host country's supervisors will be responsible for supervision. However, this leaves a difficult moral hazard problem on the part of supervisors, since the supervisor in the host country has a relatively weak incentive to effectively supervise the subsidiary. If the subsidiary is in trouble, the parent bank, in any case, will have to foot the bill, and, if not the parent bank, then it will be the ministry of finance of the headquartering country. Creating colleges of supervisors — as suggested by the European Commission for big banks with international operations — is rather strange as well. A better system would follow the logic of regulations in telecommunications in the EU, that is, by establishing a supranational framework and making sure that national regulators have to adopt a combined legal and economic analysis while notifying key approaches to the European Commission which will produce a comparative report on prudential supervision in each EU country. National central banks — politically independent and not directly involved in monetary policy — should be involved in prudential supervision, and ideally, the national supervisory agency would have a similar institutional setup across the euro area countries.
- Effective crisis management in an international crisis of financial markets is crucial. It is rather doubtful that the world economy has an institutional platform for effective crisis management. The interplay between the Bank for International Settlements and the International Monetary Fund is rather unclear. While the Bank of International Settlements has an analytical focus on world capital markets and is also home to the Basel Group of Supervisors, the BIS has an incomplete global coverage of (member) countries, while the IMF has no real competence

in prudential supervision. It could have at least some reporting competence if the IMF statutes were changed in such a way as to require member countries to accept regular financial sector assessment programmes, whose results would then be published. The OECD could also play a more important role, namely by conducting more research on financial market stability, prudential supervision and financial innovations. As regards the OECD reports of 2007/08, one may argue that there is neither much theoretical reflection nor can one identify a critical assessment of the USA (see the OECD's 2007 opaque country report on the USA).

- An international system can be sustainable only if there is acceptance of burden sharing. In other words, the costs of a major crisis must be shared in a way which is politically acceptable and gives no perverse incentives (for example for countries to ignore international external costs of domestic policy pitfalls). To some extent, one might argue that the IMF will be in charge of helping countries with high current account deficits and problems occurring in the context of massive exchange rate swings. However, the case of an international banking crisis has not really been defined within the mission of the IMF, although it seems to be logical that the organisation which is in charge of maintaining the international payments system should have certain competences here as well. The IMF should create a special facility for helping countries which are subject to an external shock from a major banking crisis. The World Bank, which is engaged in financial institution building in developing countries, should offer particular support to very poor countries and help to convey best practice in prudential supervision, namely in the context of international benchmarking.
- Leadership in the global economy's governance is crucial in the standard model of the international system dominated by a large economy. In the second half of the 20th century, the USA was the dominant country and its share of world GDP was still close to 30 % at the beginning of the 21st century. This is much above the 20 % of the EU. Figures based on PPP look smaller for the USA, namely 20 % (in 1929 the nominal share of the USA in world GDP was 38 %, but considering the fact that USA multinational companies subsidiaries abroad are more important for GDP outside the USA in 2008 than in 1929 one may assume that the economic impact of the effective US economy has not decreased). However, with the rapid rise of China, there is no doubt that the exclusive leadership role of the USA becomes less credible and legitimate over time. The alternative to a global system shaped by dominance would be one of joint leadership through an

institutionalised policy club such as the G8 or the G20. Indeed, the meeting of the G20 in Washington in November 2008 suggests that the broader international G20 policy club is a feasible platform. The G20 policy club is relatively complex to organise since it has a relatively large number of member countries which have relatively heterogeneous characteristics. Given the fact that Chinese bankers — in Hong Kong and Shanghai and in Singapore — are quite experienced and influential, one will probably have to deal with certain global governance issues at the level of the G20 or a future G25 which should additionally include Spain. The G8/G20 is the group of policymakers which most likely will discuss the need for global reforms in prudential supervision. The IMF (Strauss-Kahn, 2008) also plays an important role.

While the IMF effectively is in charge of designing a new architecture of the global financial system, it is not fully clear why more regulation in banking sectors is really needed. One may argue that the basic alternative is to engage in broad national or international dismemberment of big banks and thus to reinforce competition in the banking sector of each country (dismemberment could be realised after nationalisation of banks: privatisation gives an ideal starting point for splitting up banks which have exceeded a critical size). With smaller banks we have less problems of the too-big-to-fail type. Competition would therefore be relatively strong and hence light regulation is appropriate. If, however, there is no dismemberment of big banks (and possibly insurance companies) in most countries, competition will be relatively weak and in this case stricter regulation is necessary. Strict regulation is the natural policy response to a system characterised by a few big banks, which are all too big to fail. In this perspective, the US government under President Bush pursued an inconsistent policy: bank mergers had brought about a system of Wall Street banks which were too big to fail, and at the same time, the government was not eager to implement strict regulation.

#### **4. GLOBAL AND EU POLICY OPTIONS**

The international banking crisis started in the USA, whose banking market has dominated international developments for decades — sometimes joined by British banks which benefited from deregulation in the 1980s. While the internationalisation of banking intensified in the 1990s — in Europe through the creation of the EU single market in 1992 — the world's leading economy, the USA, allowed effective regulation to weaken over time. The personnel for risk management in the USSEC declined dramatically under the Bush administration, surprisingly in a period in which the investment banks for which the USSEC is the relevant supervisor expanded heavily. The Fed has held the view — under

Greenspan and also under Bernanke — that reducing regulation should be the appropriate policy approach for traditional banks (bank holdings). The result has been insufficient equity capital for the growing risks taken by big banks in New York. Some of the Wall Street investment banks were major players in the sub-prime mortgage market. There were also some banks from the United Kingdom, Germany, the Netherlands and France as well as Switzerland active in that market. As regards Germany, IKB Deutsche Industriebank and SachsenLB were among the large players in the US markets; the absolute volume of sub-prime deals represented by these two medium-size German banks was larger than that of the German leader, Deutsche Bank. The IKB had no clear idea of the type of business it was undertaking; indeed, on its website it explained the role of special investment vehicles and it claimed that investment in ABS are 'in the short run an almost risk-free investment' (see Appendix 4). In its 2006 annual report, IKB claimed that it had adopted a conservative strategy in the field of risk — one may argue that this is a straightforward lie. Interestingly, faulty statements in company reports are not liable. From this perspective, a key element of EU reforms should be to require company statements in the annual reports to incur a specific liability if key statements are wrong — statements about the risk strategy should be earmarked as being of particular sensitivity, and it would be useful to develop a new indicator system by which one could measure the degree of risk incurred. A new EU directive is urgent here and it is obvious that intra-EU capital flows are distorted by misleading statements of bankers with respect to risk and risk management, respectively. One also should note that the EU single banking market will be distorted by asymmetric government-led bank recapitalisation in individual member countries; here the European Commission has an important task in pushing for common principles for recapitalisation of banks.

As regards cooperation between the EU and the USA, it would be useful to establish a transatlantic and global parliamentary debate on financial globalisation. The BIS should become the core of enhanced financial regulation in a global context. This will require broadening membership on the one hand. On the other hand, the BIS should be subject to special international parliamentary control. Selected members of the European Parliament, the US House, and other parliaments should be delegates of a newly established Parliamentary Assembly at BIS. The OECD Development Centre could also be used as a forum for a policy debate involving industrialised countries, Brazil, China and other newly industrialised countries. Thus the pressure on the BIS to come up with better and more consistent work could be reinforced, and this would reinforce global governance. The IMF will have a crucial role for stabilising countries facing sudden strong capital outflows and hence high devaluations; a particular problem will occur in countries with high foreign debt. Eastern European EU accession countries could face serious problems in 2009/10

as a decline of the real economy could overlap with a second wave of the banking crisis and high capital outflows or reduced capital inflows. Individual EU countries as well as the Community should help Eastern European accession countries. As regards Iceland — a country in the European Economic Area — the EU should also help the country since there is a global fragility which implies that bankruptcy of any country in Europe would be a signal for investors worldwide that countries in Europe could indeed go bankrupt. Country risk premia would increase while the USA would benefit in such a situation from higher capital inflows driven by safe haven considerations (Appendix 1 presents theoretical reflections which highlight the impact of financial market integration and changes in risk premia, respectively). As regards the euro area one may emphasise that membership of the euro area is quite useful for some Mediterranean countries. Without the euro area and the ECB all EU countries would be part of the European monetary system (EMS I) and there is no doubt that the international banking crisis would have created enormous tensions on the continent — with Greece, Italy and Portugal being among the prime targets for speculative attacks.

As regards the EU one may conclude that the best way to reform the system of prudential supervision is to combine stricter national regulations with a new EU-based complementary framework on prudential supervision. There are good arguments in favour of European supervision, to some extent, of the integrated financial EU market (Priesemann, 1997; Welfens, 2008; Wolf, 2007). If the United Kingdom should be reluctant to support an EU-wide framework regulation of financial markets, the euro area countries should undertake their own policy initiative. It should be possible to create a euro area-wide regulatory framework quickly, namely through a treaty among central banks of member countries of the euro area. This would be in line with the creation of the European monetary system in 1979 when Heads of States or Governments were sceptical that a traditional international treaty — requiring ratification in parliaments of all EU Member States — could work. Thus, the EMS was created on the basis of a treaty among EU central banks.

Better regulation is required to overcome the banking crisis of 2007/08 (which could be reinforced by a global recession in 2009). Several principles should be emphasised here as elements of a solution.

- Typical remedies for coping with the market for lemons problem considered in the relevant goods market (e.g. used automobiles) should also be applied in the interbank market. Guarantees or warranties are one element, carefully building up a reputation is the second, while conveying quality signals are a third aspect. One should note that a quality control system can be developed by

the banking industry itself, it is not really necessary for government to do this; rather government could encourage banks to develop quality signals, guarantee schemes, etc.

- A useful new rule should stipulate that banks creating an ABS or similar financial papers must declare that they will be willing to buy back the assets at any point of time for no less than 50 % of the initial market price. Such a clause would avoid uncertainties about valuation in an economic crisis. At the same time banks would have a strong incentive to carefully consider the creation of markets and the range of partners involved in ABS transactions. Banks launching ABS should maintain a 20 % stake in the equity tranche so that the respective banks have a strong motivation to carefully consider the risks involved in loan portfolios and securitisation (the German Minister of Finance has also advocated for such a 20 % rule).
- As regards revitalising the interbank market, it is obvious that the mega rescue packages and guarantee schemes implemented by many OECD countries are a rather artificial way to jump-start the interbank markets. The rescue packages of September and October 2008 could be useful to some extent and are indeed helpful in creating some extra time to come up with truly adequate reform initiatives. However, it will be necessary to give incentives to banks to become more active again in the interbank market. The ECB should give preferential interest rates for access to central bank liquidity to those banks which are active in the interbank market; banks which are more active in the medium term should have more favourable access than banks which are mainly in the short-term interbank market.
- As creating trust among banks is quite difficult, it could be useful to encourage the creation of small homogenous groups of banks which are willing to resume interbank lending. Such arrangements could indeed be encouraged both by central banks and the ECB. In a second step the regional clubs of banks could be merged in order to create a euro area-wide banking community which is active in the interbank markets.

There is some risk that the global G20 deliberations will lead to discussions about a very long list of reform steps which are difficult to implement and which effectively create more confusion than progress in solving the critical problems. A very long and complex list of measures invites external pressure for delaying the process through confusing and

complex debates. Thus, setting priorities is quite important, and five priorities have been highlighted here. A new regulatory approach in financial markets should follow the successful example of telecommunications markets; benchmarking, EU regulatory reviews and an ongoing dialogue with scientific experts are indispensable elements. The European Parliament should restore the EP's research service (former DG-IV of the EP), which is quite crucial for optimal legislation in an increasingly complex world economy.

If the USA should fail to adopt Basel II rules — plus some additional key regulations for banks, hedge funds and insurance companies — the EU should consider imposing restrictions on transatlantic capital flows. It is not in the interest of the EU (nor of the world economy) that in the context of uneven regulatory conditions for banks, insurance companies and the like, capital from the EU flows to the USA with its partly artificially high rates of return on equity. At least in the run-up to the banking crisis, many banks and other financial companies enjoyed a cost advantage by not having to comply with Basel II rules. A US system which has neither consistent domestic regulation nor Basel II rules is creating negative external effects as the chaos of the US banking crisis of 2007/08 has created in international financial markets. This is neither a level playing field nor a system in line with basic requirements for efficiency and stability. One should note that imposing capital export taxes on investments of EU firms with realised plans for portfolio investment in the USA simply reflects a type of PIGOU tax which is designed to help internalise negative external (international) effects. It is up to the USA to avoid such effective barriers for international capital flows.

The EU should push for the creation of a formal Group of International Supervisors (GIS), which would become a twin organisation to the existing BIS. The GIS should include supervisors from all countries of the world and be mainly organised in regional groupings (e.g. EU, NAFTA, Mercosur, ASEAN). The BIS/GIS should be subject to direct international parliamentary control in order to avoid bureaucratic inefficiencies and lack of transparency.

The IMF could have a new role, namely in organising global annual meetings of GIS/BIS along with the World Bank and WTO. In such a manner, one could look more deeply into the interdependencies of setting international rules for the world economy. One could thereby create a more consistent international division of labour across international organisations.

Thus we can summarise the overall analysis as follows. The diagnostic part of the US banking crisis is obvious:

1. The optimum (national) size of banks grows along with the volume of global financial markets; the rapid expansion and internationalisation of financial markets after 1991 increased the size of banks and insurance companies in the USA as well as in Europe.
2. Once certain banks and insurance companies obtained critical size, the potential risk of bankruptcy for each represents a systemic risk. The managers of these banks and insurance companies can then pursue strategies of excessive risk-taking in the context of chasing higher expected rates of return on equity — those managers can bet on a bail-out through the government in the case of bankruptcy, and therefore the competition process is seriously weakened. For example, as long as the bank was not on the brink of bankruptcy, the investment bank Goldman Sachs could pay its 26 000 employees USD 16 billion in bonus payments during 2006. Raising the required rate of return on equity to 25 % at the beginning of the 21st century set in Wall Street — and in other OECD banking centres — an illusionary target, which testifies to the ignorance of top managers about firmly established laws in Economics. With a 4 % rate of return on risk-free government bonds, the target ratio of 25 % implied a risk premium of 21 % and hence implied furthermore that bankers were chasing very risky deals.
3. In the case of a banking crisis, major banks can obviously blackmail government and prudential authorities to impose a ban on short sales of banking stocks. In the USA, Secretary of the Treasury Paulson imposed such a ban in September 2008 (possibly after a call from the boss of Morgan Stanley).
4. While it is true that the US administration did not bail out Lehman Brothers — it filed for protection under Chapter 11 — no big bank or insurance company faces a credible threat of bankruptcy as there is a visible ‘too-big-to-fail problem’. Thus, competition in the banking sector is weakened, and in other sectors linked to the banking system directly (for example, the US automotive firms and their respective banks, which represent themselves high stocks of asset-backed securities/ABS, collateralised debt obligations/CDOs, a mixture of various ABS, and credit default swaps/CDSs, which are a kind of insurance for loan packages). The government’s bail out of the big insurance company, AIG, provides more evidence of this problem; indeed, it had to be saved once Lehman Brothers was pushed towards Chapter 11, because AIG sits on an enormous stock of credit default swaps, including those which cover part of the claims against Lehman Brothers. AIG also had to be saved, because its high stock of CDSs would have been worthless once AIG had gone bankrupt. As CDSs provide coverage against ‘failure of bonds/loans packaged in ABS’, it is clear that enormous depreciation on portfolios in many banks and insurance companies would have been triggered once CDSs of AIGs had become worthless. It is noteworthy that CDSs and

credit derivatives were sold worldwide at the beginning of the 21st century. For example, even Allianz probably had about EUR 1 000 billion of CDSs on its books at the end of 2007. As there is no global inventory list on CDSs, it is absolutely unclear which countries — and to what extent — are infected by toxic CDSs. This, in turn, reinforces the lack of confidence in financial markets in general and in interbank markets in particular.

5. At the bottom line the big banks, big funds and big insurance companies are in a situation coined in a phrase by Janos Kornai — there is ‘soft budget constraint,’ as a government bailout is fully anticipated when anything goes seriously wrong (Kornai’s soft budget constraint originally referred to socialist countries where central banks had to ratify whatever overruns in costs occurred in state-owned firms). As the threat of bankruptcy is not faced by managers of these companies, there are few incentives for good governance. Moreover, the incentive to take excessive risks is strong. It is strange that the phenomenon of the soft budget constraint once used by Kornai to discuss the notorious inefficiency of socialist command economies must now be discussed in the context of the 2007/08 crisis of the US financial system.

6. The work of rating agencies has been poor and implies that financial market actors suffer from opaque signalling in bonds markets.

7. From the above list of problems and weaknesses, the necessary remedies for coping with the crisis and for avoiding future crises can be derived. The world economy needs competitive and efficient banks acting within a more long-term framework of open competitive markets.

Government bailouts of major US banks and US insurance companies — or nationalisation — is only one element of solving the crisis where we assume that those firms will be restructured and privatised in the long run. Other necessary reform elements are as follows.

(a) Restrictions on the size of banks and insurance companies — and even dismemberment of oversized firms which exhibit the ‘too-big-to-fail problem’; in the absence of dismemberment stricter regulation is absolutely necessary. Insurance companies with standard insurance business should not be allowed to be active in the CDS market and related fields, as this pillar of potentially very large risks could easily undermine the stability of the respective insurance companies.

(b) Taxing banks, funds and insurance companies on the basis of both profits and volatility of rates of return (the higher the volatility, the higher the tax rate), so that the apparently

short-term bonus/profit maximisation strategies no longer look attractive; banks which sell asset-backed securities must keep 20 % on their books and guarantee that they will buy back the assets sold for at least half of the selling price.

(c) The large US rating agencies which represented — according to a SEC report — such a visible lack of proficiency should become subject to a licensing procedure while imposing random testing of the quality of rating projects; a group of experts should conduct regular testing, and at the same time, high fines must be imposed for faulty ratings and insufficient documentation of rating decision-making.

(d) Comprehensive regulations for banks and hedge funds as well as related actors in financial markets are needed, and prudential supervisory bodies should be more professionally organised in terms of research and a scientific advisory body (Germany's BaFin is a relevant, weak example in this field, and it should indeed be reorganised).

(e) All CDS contracts should be registered in a global database, and regulators should adopt broad requirements in terms of transparency, on the one hand, and restrictions, on the other. For example, CDS contracts should not be accumulated by banks or insurance companies on a large scale, which effectively implies that they would no longer face any threat of bankruptcy (since they signify a systemic risk in case of bankruptcy).

(f) Rating agencies will no longer obtain fees directly from the issuing of bonds; instead, there should be a two-stage financing pool, according to which rating firms obtain fees only from a large pool to which all companies issuing bonds should contribute.

(g) As regards prudential supervision, a Europeanisation of the process is advisable to make sure that crisis management in the EU single financial market can be organised effectively; there is also a need to somewhat restrict regulatory arbitrage within the EU.

These minimum reform agendas for the USA — and also for the EU — should not be understood as simply reflecting a new Fed policy with a bias in favour of regulation and control. Rather, this agenda is the logical response to the problem of a soft budget constraint on the part of the banking and insurance sector in OECD countries; 'too-big-to-fail' has become a serious challenge. This clear preference in favour of more and better regulation can partly be justified by referring to arguments by Cooter/Schaefer (2008), who discuss the role of regulation for the specific case of (developing) countries with weak rule-of-law. With such a weakness, it is quite useful to have regulations as a kind of general remedy. In the USA and the EU, one should realistically consider that the soft budget constraint

of big banks and big insurance companies is an important problem and that market discipline and competition forces are often rather weak. Hence tighter regulations — and, in some cases, dismemberment of companies — are preferred policy options for coping with the problem of too-big-to-fail. It is noteworthy that ongoing financial market globalisation will reinforce the tendency for a growing role of big banks and big insurance companies. Such growth dynamics are only acceptable by policymakers if there are strict regulations or remedies in favour of more competition (for example a fall in sunk costs and hence a greater likelihood of newcomers entering the market). The visible tendency of the USA to internationally externalise a considerable share of the costs of its banking crisis makes reforms urgent, which helps to internalise negative external effects. It is not implausible to assume that the rest of the world bears a larger share of the costs of the US banking crisis than the USA itself.

Without better regulations or more competition in the banking sector — as well as better prudential supervision, which should follow a more economic approach as compared to the largely legalistic approach traditionally applied — no internationalisation of the EU CO emission certificate markets should take place. Similarly, there could also be no feasible pension reforms in Europe which would encourage individuals to embark more on private retirement savings. The apparent knowledge gap of bankers in some big banks suggest that the compulsory retraining of managers would be useful; as much as retraining among medical doctors is standard, there is an equal need to make sure managers understand through teaching units — provided by independent universities and institutes — the challenges they face. Moral hazard remains a big problem.

The ECB should exploit opportunities for reducing the interest rate. Such a step is unlikely to directly stimulate economic expansion, but it would reinforce the profitability of banks in the euro area that face considerable problems with respect to profitability (see Appendix 2 for regressions on banks' profitability in the USA, Switzerland, Germany, the United Kingdom and the EU, respectively). Banks in the euro area will welcome profits from intermediation in a situation where high depreciations on portfolios of banks are common. With lower short-term interest rates it could be possible to avoid an inverse yield structure; such a yield structure already has been observed in the USA where safe-haven effects have channelled a high share of savings and capital inflows into long-term government bonds. Profitability of banks is key for revitalising the banks' loan business in the medium and long run.

The EU would be wise to adopt an expansionary fiscal policy in 2009, namely in a situation in which monetary policy has lost its effectiveness (partly because banks hardly pass on

the ECB's reduction of the central bank interest rate to the banks' clients; problems with the Keynesian liquidity trap could also play a role). Many countries simultaneously face a recession, and the recession could be unusually deep judging from forecasts of the IMF, the EU and the Deutsche Bundesbank in November 2008. In such a situation one should consider options for expansionary fiscal policy with a clear focus on stimulating innovation and investments; in some countries, measures to stimulate consumption could also be adequate. The EU countries should spend more money on improving infrastructure. This should include modern telecommunications, and here it would be quite useful for the European Commission to remove unnecessary (regulatory) obstacles for higher investment. The EU should try to enhance cooperation with the new US administration; on both sides of the Atlantic, an expansionary fiscal policy with a strong focus on green IT could be useful. The new US administration will consider climate policy as a more important field than the Bush administration has, falling more in line with the EU countries' year-long emphasis on fighting global warming. Thus it seems attractive to consider a joint expansionary policy with a triple focus on green IT, infrastructure modernisation and selected impulses for higher innovation and investment. At the bottom line, it should be emphasised that restoring confidence in the interbank market is of paramount importance for overcoming the US and global crisis.

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## APPENDIX 1: THEORETICAL ANALYSIS — MODIFIED BRANSON MODEL AND THE BANKING CRISIS

Financial market globalisation is related to regional monetary integration — see particularly the case of the euro area — and to financial product innovations, which amounts to raising the marginal utility of financial instruments. In integrated markets, the fixed costs of financial innovations could be more easily spread across world markets than in a world economy with fragmented markets. Hence, integrated financial markets should generate a higher rate of product innovations. At the same time, one may emphasise that the financial market crisis of 2007/08 amounts to some transatlantic disintegration of both financial markets and banking services, not least since EU banks' subsidiaries in the USA could no longer get refinancing in the USA in 2007 — to some extent this could be considered discrimination against EU banks in the USA (since December 2007, transatlantic swap agreements between the Fed and the ECB had to make sure that European banks could get sufficient dollar liquidity. The Fed gives a USD loan to the ECB, which thus can give a dollar loan to big EU banks — with a subsidiary in the USA. The European bank's respective headquarters then gives a USD loan to its subsidiary in the USA).

The Branson model is a useful analytical starting point to understand some of the key aspects of financial market integration and disintegration. The model determines the nominal interest rate  $i$  and the nominal exchange rate  $e$  — denoted here in price notation — in a system of flexible exchange rates. It is a short-term model with three assets, namely (short-term) domestic bonds whose stock is  $B$ , money  $M$  and foreign bonds  $F$  (denominated in foreign currency). The desired share of each asset in total wealth (real wealth is  $A'$ ) is denoted as  $b$ ,  $n$  and  $f$ , respectively, and each asset demand is assumed to be proportionate  $A'$ . We can thus state the equilibrium conditions for money market, the domestic bonds market and the foreign bonds market as follows ( $i^*$  denotes the sum of the exogenous foreign interest rate  $i^*$  and the exogenous expected depreciation rate  $a^E$ ):

$$(1) \quad M/P = n(i, i^*)A' \quad \text{MM curve}$$

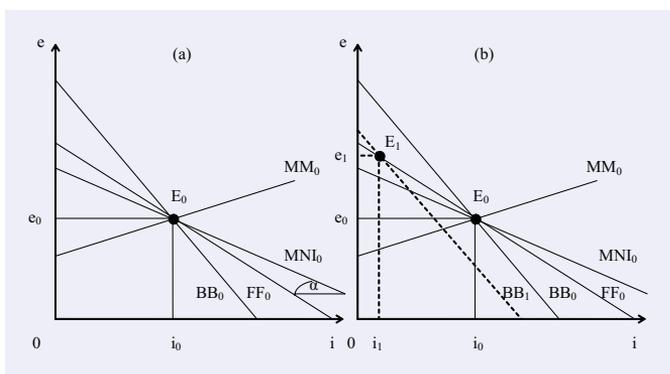
$$(2) \quad B/P = b(i, i^*)A' \quad \text{BB curve}$$

$$(3) \quad eF/P = f(i, i^*)A' \quad \text{FF curve}$$

$$(4) \quad A' = M/P + B/P + eF/P$$

The budget constraint (4) implies that only two of the three equations are independent. As  $n$  and  $f$  are a negative function of  $i$ , while  $b$  is a positive function of  $i$ , the  $MM$  curve has a positive slope in  $e$ - $i$ -space. The  $BB$  curve and the  $FF$  curve have a negative slope, but the  $FF$  curve is steeper than the  $BB$  curve.  $B$ ,  $F$  and  $M$  are given in the short run.  $F$  will increase if there is a current account surplus;  $B$  will increase if there is a budget deficit. For simplicity, one may assume that we initially have neither a budget deficit nor a current account deficit. In the medium term the current account will react to a change in the real exchange rate (as the price level at home and abroad is assumed to be constant, we can consider changes in the nominal exchange rate as a change in the real exchange rate). Here we emphasise that a change of the exogenous variables will shift the  $BB$  curve or the  $FF$  curve or the  $MM$  curve; in some cases all curves will shift. If we consider an expansionary open market policy ( $dM = -dB$ : thus real wealth is not changing in the short term), the  $MM$  curve does not shift, but the  $BB$  curve shifts to the left. The short-term reaction is a depreciation and a fall in the interest rate (see point  $E_1$ ), which brings about a medium-term improvement of the current account as exports of goods will increase and imports will decline as a consequence of the rise in the exchange rate. This in turn will cause a downward shift of the  $FF$  curve (this current account effect is neglected in the traditional Branson model), so that the  $FF$  line runs through the intersection of the  $BB_1$  curve and the  $MM_0$  curve. Note also that the diagram (b) contains an additional  $MNI$  curve which indicates monetary neutrality in the sense that — following the logic of the monetary condition index — a real depreciation and a fall in the real interest rate are expansionary with respect to real GDP. Point  $E_1$  is above the line of the monetary neutrality index ( $MNI_0$  line which has a negative slope) and thus real income increases. With a given capital stock  $K$  the implication is that average capital productivity will increase, and if we consider a Cobb-Douglas production function it is clear that the marginal product of capital has also increased, which in turn stimulates investment and will increase both the real interest rate  $r$  and the nominal

**Figure 3: Branson model (a) and expansionary open market policy (b)**



interest rate  $i$ . We leave it open here how the long-run adjustment will be, but one may emphasise that even economic growth can be considered in a modified Branson model (Welfens, 2008c).

Next we consider a fall in the foreign interest rate. The leftward shift of the BB curve is given by  $-b_{i^*}/b_i$  ( $b_{i^*}$  and  $b_i$  denote the partial derivative of  $b$  with respect to  $i$  and  $i^*$ , respectively) and thus becomes stronger with increased financial market integration, as  $b_{i^*}$  will rise in absolute terms through integration. The leftward shift of the FF curve is indicated by  $f_{i^*}/f_i$ , and as financial market integration implies that  $f_i$  will rise in absolute terms, the leftward shift of the FF curve is smaller under strong integration than under weak integration. Thus the following graph with case (b) is more typical for the case of international financial market integration than case (a): a fall in the foreign interest rate will thus entail a fall in the interest rate.

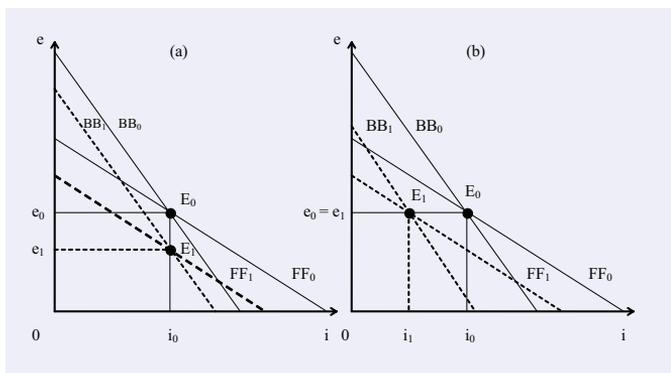
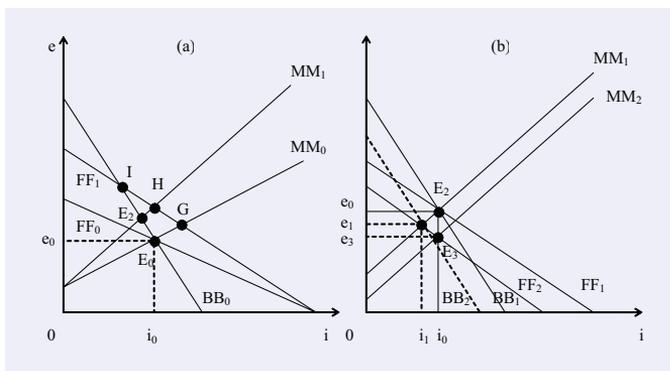


Figure 4: Effects of a fall of the foreign interest rate under weak (a) and strong financial market integration (b)

There is an additional aspect of financial market integration that has to be considered, namely changes in the slope of the curves. With more intensive financial market integration — implying that a larger range of liquid (substitutes for money) assets becomes available — the MM curve becomes steeper. The slope of the MM curve can be expressed as  $-eE_{n,i}/(f_i)$ , where  $E$  with two subscripts denotes elasticity. The FF curve also becomes steeper with enhanced financial market integration (read: there is a rise of  $E_{f,i}$  in absolute terms). As we can see, the main effect here is a depreciation of the currency. The intersection of the  $BB_0$  and the  $MM_1$  curve in point H is a depreciation which improves the current account so that the  $FF_1$  curve shifts downwards and goes through  $E_2$  (the  $FF_2$  curve is not shown in the subsequent graph (a)).

The international banking crisis of 2007/08 implies a disintegration of financial markets and thus should bring about a rise in the nominal interest rate. Moreover, we can

**Figure 5: Enhanced financial market integration (a) and role of risk premium (b)**



consider the role of a risk premium which has visibly emerged in 2008 — after a strange period in 2003–06 in which the risk premia in US markets declined. Let us assume that B represents only government bonds and F are foreign bonds (could include bonds placed by foreign multinational companies). In a period of high market turbulence and rising risk premium, we may consider the following modified model where  $\Omega$  denotes risk premium:

$$(1) \quad M/P = n(i, i^*, \Omega)A' \quad \text{MM curve}$$

$$(2) \quad B/P = b(i, i^*, \Omega)A' \quad \text{BB curve}$$

$$(3) \quad eF/P = f(i, i^*, \Omega)A' \quad \text{FF curve}$$

The demand for money is a positive function of the risk premium, and the demand for domestic government bonds is also a positive function of  $\Omega$ ; hence the MM curve shifts downwards and the BB curve to the left. The demand for foreign bonds declines if the exogenous  $\Omega$  increases and hence we get a leftward shift of the FF curve (FF<sub>2</sub> instead of FF<sub>1</sub>): a fall of e implies that there is a negative net supply effect (gross supply eF minus induced demand from the change of e which related to A'). The higher risk premium thus brings about a nominal — and real appreciation. Taking the USA as the relevant country to be considered, one may argue that the USD appreciation in autumn 2008 can thus be explained. There is a caveat in that the USA represents a large economy and therefore a two-country model would be more appropriate than the simple approach presented here. However, the qualitative results would not really change in a two-country model. For all countries with high foreign debt — denominated in USD — this implies additional problems, as foreign debt expressed in domestic currency will rise.

## APPENDIX 2: REGRESSION RESULTS FOR BANKS' PROFITS

The following analysis looks at the profits of banks in the period 1980–2007 (annual data). To the extent that there are no lags of endogenous variables, we use the Durbin Watson test to check for auto-correlation. If there are lags of endogenous variables to be considered, we use the relevant Ljung-Box Q-statistics. A straightforward hypothesis is to assume that profits are negatively influenced by the central bank interest rate and the interest structure (three-month interest rate/long-term rate: this ratio indicates the profit potential from intermediation); in like manner, profits should positively depend on stock market volumes and nominal GDP. As regards Switzerland, the central bank rate has a significant negative impact, but the interest rate structure has a positive sign; the adjusted R<sup>2</sup> (0.56) is relatively high. For the United Kingdom, it is rather difficult to find a good fit, as stock market volumes are neither significant on a current basis nor on the basis of lags. As regards the USA, the equation with the two variables discount rate and GDP presents a good fit and R<sup>2</sup> is 0.82. In the case of Germany, we have two relevant variables, namely the discount rate and the interest rate structure — both with the theoretically correct sign; also the stock market volume is significant. For the EU-15, the equation shows a relatively low R<sup>2</sup>, the stock market volume positively affects profits, and the discount rate has a negative impact on profits. The EU-15 equation might be blurred by exchange rate changes which could particularly affect figures for the United Kingdom. If the banking sector is to be stabilised in Germany, it would be important to avoid an inverse yield structure.

Dependent variable: DBG		<u>Switzerland</u>	
Included observations: 17 after adjustments			
Variable	Coefficient	t-Statistic	Prob.
C	1,898177	1,412786	0,1831
DDISCR(-1)	-2,065266	-2,387576	<b>0,0343</b>
DGDP	0,744485	2,360272	<b>0,036</b>
DIR_RATIO	7,366168	2,216426	<b>0,0467</b>
DSMV	-0,010434	-1,334539	0,2068
R-squared	0,667601		
Adjusted R-squared	0,556801		

Dependent variable: DBG		<u>UK</u>	
Included observations: 16 after adjustments			
Variable	Coefficient	t-Statistic	Prob.
DIR_RATIO	67,21117	1,504203	0,1584
DIR_RATIO(-1)	-68,26024	-1,511647	0,1565
DSMV	0,207897	0,246016	0,8098
DSMV(-1)	0,71439	0,777999	0,4516
R-squared	0,322577		
Adjusted R-squared	0,153221		

## Definition of variables:

<b>D:</b>	<b>differentiated variable (first time difference)</b>
<b>DBG:</b>	<b>bank profits (first difference)</b>
<b>DISCR:</b>	<b>discount rate (central bank rate)</b>
<b>DDISCR:</b>	<b>discount rate (first time difference)</b>
<b>DGDP:</b>	<b>GDP (first time difference)</b>
<b>IR_Ratio:</b>	<b>three-month interest rate relative to 10-year bond rate</b>
<b>DIRRatio:</b>	<b>first difference of IR_Ratio</b>
<b>SMV:</b>	<b>stock market volume</b>
<b>DSMV:</b>	<b>first difference of stock market volume</b>

Dependent variable: DBG			<u>USA</u>
Included observations: 17 after adjustments			
Variable	Coefficient	t-Statistic	Prob.
DDISCR	-1,102426	-1,939272	<b>0,0715</b>
DGDP	1,174455	9,029179	<b>0</b>
R-squared	0,834837		
Adjusted R-squared	0,823826		
Durbin-Watson stat	2,250786		

Dependent Variable: DBG			<u>EU-15</u>
Included observations: 17 after adjustments			
Variable	Coefficient	t-Statistic	Prob.
C	2,14516	1,353922	0,1972
DDISCR(-1)	-2,048125	-2,452928	<b>0,0279</b>
DSMV	0,2099	1,920008	<b>0,0755</b>
R-squared	0,341618		
Adjusted R-squared	0,247563		

Dependent variable: DBG			<u>DE</u>
Included observations: 17 after adjustments			
Variable	Coefficient	t-Statistic	Prob.
C	13,95844	2,742814	<b>0,0168</b>
DISCR	-2,167209	-1,938802	<b>0,0745</b>
DIR_RATIO	-50,72781	-4,416443	<b>0,0007</b>
DSMV	0,16535	3,570429	<b>0,0034</b>
R-squared	0,707515		
Adjusted R-squared	0,640019		
Durbin-Watson stat	1,781588		

## APPENDIX 3: RATE OF RETURN ON EQUITY AND LEVERAGE

Raising the required rate of return ( $E'$ ) on equity is a typical challenge for managers. If a banker wants to raise that rate of return he/she will consider the following equation ( $i$  is the interest rate,  $\alpha$  the ratio of equity capital to total capital,  $R'$  is the total rate of return on capital):

$$(1) \quad R' = \alpha E' + (1-\alpha)i$$

$$(2) \quad E' = (1/\alpha)R' - [(1-\alpha)/\alpha]i$$

$$(3) \quad E' = (1/\alpha)R' + [1 - (1/\alpha)]i$$

$$(4) \quad E' = i + (1/\alpha)(R'-i)$$

Hence, the rate of return on equity can be raised by lowering the equity-capital ratio  $\alpha$  as long as there is a positive difference between  $R'$  and  $i$ ; alternatively the bank can try to raise the differential  $R'-i$ . In a system of perfect capital markets (along the logic of the Modigliani-Miller theorem which argues that the structure of capital is irrelevant for the rate of return on equity) the strategy of raising the leverage, namely reducing  $\alpha$ , will bring about a rise of the bank-specific interest rate which simply offsets the initially favourable effect of lowering the equity-capital ratio. The rise of the bank-specific risk premium will neutralise the impact of a lower  $\alpha$ . If, however, the capital markets are imperfect — and this is the more realistic perspective — the bank, starting with  $\alpha = 1/10$  and  $i = 5\%$  and  $R'$  as  $6\%$ , can raise the initial rate of return on equity of  $15\%$  by a higher leverage: the equity-capital ratio will be reduced to  $1/20$  and thus the required rate of return on equity will rise from  $15\%$  to  $25\%$ . Alternatively, the bank could maintain  $\alpha = 1/10$  and try to widen the differential from the initial  $1\%$  to  $2\%$ . This also would raise the rate of return to  $25\%$ .

However,  $25\%$  is quite an unrealistic target in the long run since a market economy will face standard economic laws:

- the nominal interest rate should be equal to the real interest rate  $r$  plus the inflation rate  $\pi$ ;
- the real interest rate  $r$  should be equal to the growth rate  $g_Y$  of output ( $Y$ ).

Thus the real rate of return on equity  $E' = E' - \pi$  is given by:

$$(5) \quad E' = g_Y + (1/\alpha)[R' - (g_Y + \pi)]$$

Let us denote the real rate of return  $R' = R' - \pi$ , then we can write—assuming a function  $R'(\dots)$ :

$$(6) \quad E' = [1 - (1/\alpha)]g_Y + [1/\alpha]R'(Z, g_Y, a, \dots)$$

For the sake of simplicity we assume that the overall rate of return on capital  $R'$  depends on the risk premium  $Z$ , incurred by the representative bank, which is the real growth rate of the market (assume that this growth rate is equal to  $g_Y$ ). For the rate of technological progress in banking we can use a linearised function  $R' = q'Z + q''g_Y + q'''a$  (the parameters  $q' > 0$ ,  $q'' > 0$ ,  $q''' > 0$ ) so that we get for the case of  $q' > 1$  that output growth always has a positive impact on  $E'$ :

$$(7) \quad E' = [1 - (1/\alpha)(1 - q') ]g_Y + [1/\alpha]q'Z + q'''a$$

A period with a strong expansion of modern information and communication technology (ICT) could go along with a rise of the progress rate  $a$  and this in turn will raise the real rate of return for the representative bank. A critical issue is the risk premium  $Z$ .

In the context of the capital asset pricing model we have for the rate of return on stocks  $v = r + \Omega\sigma$  where  $r$  is the real rate of return on government bonds,  $\Omega$  is the price of risk and  $\sigma$  the volatility of the respective stock index. If the price of risk should fall artificially — through financial innovations — one would get a rise of the investment output ratio provided that  $\sigma$  is not rising.

**APPENDIX 4: INFORMATION FOR IKB CLIENTS  
(FROM THE WEBSITE OF IKB DEUTSCHE INDUSTRIEBANK);  
IKB-KUNDENINFORMATION (IKB, 2005)**



This document explains to the reader the advantages of ABS and of special purpose vehicles where the authors argue on behalf of Rhineland Funding Capital Corporation. It was created by the IKB Deutsche Industriebank as a special purpose vehicle; Rhineland Funding received USD 8.1 billion as a credit line from IKB in order to make sure that Rhineland Funding would get a top rating and hence low refinancing costs. IKB invested heavily in sub-prime products, most of which were triple A rate, but this of course did not mean absence of liquidity risk. Rhineland Funding went bankrupt in 2008 and investors received 55 % of the money invested. The main prudential supervisory agency in Germany, the BaFin, was fully aware of all the transactions of IKB and obviously did not disapprove of them although IKB's sub-prime exposure in absolute terms exceeded that of Deutsche Bank in 2006 (IKB had equity of less than EUR 2 billion). BaFin in its annual report 2008 declared in the preface that it was totally surprised by all the financial market developments

in the USA and did not have a real idea of what was going on in the USA. This is a strange statement for the prudential supervisor of the ECB's largest financial market and has remained without consequences. The IKB information shows that the bank had not fully understood its own product — liquidity aspects were not considered and hence it was argued that the product was 'without any risk in the short term'. The information on the website states (p. 3; translated by the author — this information was deleted from the bank's website in September 2008):

**Das SPV refinanziert den Kauf des Forderungsportfolios z.B. durch die Emission von Commercial Papers. Hierbei handelt es sich um Wertpapiere mit kurzen Laufzeiten von in der Regel 30 bis 60 Tagen, die durch das Forderungsportfolio (deshalb ‚Asset Backed‘ Commercial Papers) besichert sind. Um das notwendige Rating für eine Emission zu erreichen, bedarf es häufig einer zusätzlichen Sicherheitenverstärkung (Credit Enhancement). Hierbei wird z.B. ein Abschlag auf den Kaufpreis als Besicherungs-, ‚Überhang‘ (over-collateralisation) vereinbart und zusätzlich eine Liquiditätslinie durch eine Bank mit einem entsprechend guten Rating gestellt. Überdies lassen sich ABS auch mittels einer Warenkreditversicherung zusätzlich absichern. Aus Sicht der institutionellen Investoren handelt es sich hierbei also um eine sehr sichere Kurzfristanlage.**

*SPV refinanced acquisition of portfolios of claims for example through issuing commercial papers. Those papers have short maturity (typically in the range of 30 to 60 days) and commercial papers are backed through the loan portfolio (thus they are dubbed asset-backed commercial papers). Often one tries to achieve an adequate rating for a placement, namely through credit enhancement. This amounts to considering a price line below the market price so that there is over-collateralisation, and in addition one obtains a credit line from a bank with a top rating. Moreover, one could reduce the risk of ABS through insurance on the loan portfolio. From the perspective of an institutional investor such a model stands for an almost risk-free short-term investment.*

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## Enrique Barón Crespo

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# La crisis económica actual y la Unión Europea

Para la Unión Europea, la actual crisis económica mundial supone un desafío existencial. De hecho, la historia de la construcción europea es una sucesión de desafíos «in crescendo» en los que siempre se ha encontrado una respuesta que ha representado un fortalecimiento del proyecto. Siempre tengo presente la hoja doble de un cuaderno de contabilidad que Jean Monnet llevó consigo durante la Segunda Guerra Mundial, conservada en su Fundación de Lausanne, en la que cifraba los medios necesarios para un esfuerzo aliado victorioso, aprovechando su experiencia logística en la primera. El método Monnet, el comunitario, síntesis de confianza mutua, trabajo en común y voluntad política ha demostrado su eficacia en la superación de las sucesivas crisis de crecimiento de la UE.

En la presente crisis, hay también a la vez riesgo y oportunidad. Su dimensión y gravedad han sorprendido a operadores económicos y políticos en todo el mundo. Del diagnóstico inicial de una crisis del mercado hipotecario estadounidense por las hipotecas subprime se ha pasado a un tsunami mundial, en el que confluye esta crisis con una financiera e incluso con el final de un ciclo largo de Kondratieff. El cuadro resultante es la crisis más grave desde la Segunda Guerra Mundial, producida por el creciente desequilibrio de la economía USA sobre todo por su endeudamiento exterior; la vana ilusión de que la mano invisible del mercado bastaría para autorregular un sistema financiero globalizado en el que la codicia no conocía límites; la deficiente adaptación al ascenso comercial y financiero

de las potencias emergentes. La cuestión clave es cómo responder a los desafíos planteados por un proceso acelerado de globalización cuando la gobernanza a nivel global según principios democráticos no acompaña.

En este mes, dos hechos son significativos de este desafío: el primero son las elecciones presidenciales en los EE.UU., con la admirable movilización de la democracia americana en torno a programas contrastados para responder a la crisis y el segundo es la respuesta de urgencia concretada en la reunión del G-20 de Washington, a iniciativa europea protagonizada por la Presidencia francesa, tras un primer momento de reacción entre la estampida y la desbandada que ha mostrado la firmeza de la UEM y también sus carencias. El hecho de que la cuestión se haya planteado en un G-20 o 22 que representa cerca del 90 % de la economía mundial es un dato positivo, que muestra la potencia de los países emergentes y la necesidad de plantear respuestas que se inserten en el marco de la ONU que, con todas sus carencias, es el único marco global.

La UE cuenta con activos importantes para contribuir a superar esta crisis: en primer lugar, por sus sanos fundamentos económicos (cuentas exteriores en orden, déficits y deuda pública reducidos e inflación controlada), además de ser la primera potencia comercial mundial y haber creado el euro, eficaz escudo y moneda de reserva mundial. En segundo lugar, por la concepción equilibrada del papel del mercado y de lo público en una economía social de mercado y, «last but not least», por su Estado del bienestar con políticas sociales (prestación desempleo, pensiones, sanidad) que amortiguan las consecuencias negativas de la crisis y el desorden financiero.

No todo son ventajas. La UE es también más débil y vulnerable en aspectos básicos: el fundamental es el no haber consolidado todavía una Unión Económica con poderes e instrumentos comunes esenciales para responder a situaciones de emergencia. Los riesgos de desarticulación del mercado interior son grandes.

Cuando se consigue la confianza y la voluntad común, se puede dar una respuesta, pero habrá que ver como se puede garantizar la continuidad del proceso del G-20 con dos presidencias del Consejo —la checa y la sueca— en 2009 que no son miembros del Eurogrupo.

El tema es particularmente sensible en el terreno financiero. A pesar de haber creado la moneda única, a la UE le faltan instrumentos tan fundamentales como el control prudencial de las instituciones financieras y la acción gubernamental. No les hablo solo en términos teóricos: mi propia experiencia en mi país España es aleccionadora. Construimos

nuestra democracia en un proceso de transición en el que dos graves crisis bancarias llevaron al Banco de España a establecer la exigencia de dotar provisiones en los balances de las instituciones financieras pensando en la época de vacas flacas, así como la negativa a aceptar sin más la titulación de los múltiples inventos de la imaginación humana conocidos con el nombre de productos derivados. Esa es, sin duda, una de las razones por las que el sistema financiero español no se ha visto tan dramáticamente afectado por la crisis actual hasta ahora.

Pero el hecho es que no tenemos normas comunes europeas sobre garantía de depósitos, inyección de fondos públicos en el capital de los bancos, restricción de operaciones financieras como las ventas en descubierto de valores, etc. La paradoja resultante es que mientras no se puede vender al público carne contaminada de vacas locas, si se puede comerciar con activos financieros tóxicos, basta con trocear una hipoteca subprime, ponerle un envoltorio de lujo con el marchamo de garantía de una agencia de calificación y brillantes ejecutivos cobrarán primas sustanciales por colocarlos.

De momento, la acción coordinada de los principales interlocutores económicos ha conseguido parar un vertiginoso proceso de caída en picado de la economía mundial. Situación que no solo afecta a las principales potencias, sino que tiene consecuencias más graves para los más débiles y desposeídos después de un escandaloso proceso de especulación con las materias primas y, en especial, los alimentos. Por eso, es aún más importante coronar con éxito la Ronda de Doha. El problema es que en EE.UU. se abre un interregno hasta enero de 2009, fecha de la toma de posesión del Presidente Obama, con un primer semestre del próximo año electoral en la UE, período en que habrá muchas propuestas pero poca gestión y una Presidencia del Consejo en manos de un país, la República Checa, que no se ha distinguido hasta ahora por dar muestras de apoyar activamente un refuerzo de sus instituciones y políticas. Sigue encontrando todo tipo de razones para no ratificar el Tratado de Lisboa y no se distingue por su entusiasmo en entrar en el euro, mientras que su fraterna Eslovaquia lo hará el 1 de enero. En suma, tenemos una oportunidad de oro para ver si el método Monnet sigue funcionando.

## VI. World perspectives on the European Union

Malek Chebel

Kristen Silverberg

Dai Bingran

Martin Holland

Philomena Murray

**Malek Chebel**

*Anthropologist of religions and expert of Islam*



## Pour un Islam européen

*L'Esprit des lois* de Montesquieu paraît en 1748. L'auteur y procède à une illustration magistrale de la séparation des pouvoirs temporels et intemporels et au renforcement du droit au détriment des croyances, aussi honorables soient-elles. Ce livre inaugure une révolution intellectuelle et mentale qui va affecter l'Europe, l'Amérique et finalement la planète tout entière. Il y a un an tout juste, dans le journal *Le Monde* du 23 novembre 2007, deux éminents penseurs européens, René Girard et Peter Sloterdijk revenaient sur les «Terreurs de l'Occident» et parlent de ressentiment qui, selon eux, serait généralisé, allant jusqu'à évoquer la fureur religieuse, l'apocalypse. En toile de fond, l'islam.

Qu'y a-t-il de si nouveau entre l'ère de Montesquieu (ou Rousseau ou Voltaire) et celle de René Girard, Peter Sloterdijk, Marcel Gauchet et d'autres vigies de l'Occident? Pourquoi réveiller des angoisses médiévales, remonter aux Croisades ou agiter le chiffon rouge des guerres de religions en vue de masquer l'aporie d'un dialogue inter-religieux qui s'est souvent bâti sur la défiance et la suspicion? Et puis, s'agit-il encore d'essoufflement et non pas de défaitisme moral, lorsque la puissance matérielle de l'Occident est ébranlée!

Enfin, une telle rupture dans la continuité économique est-elle à sa manière un prélude à l'Éden perdu? Regardons les choses du côté de l'islam: Est-il envisageable qu'un livre comme *L'Esprit des lois* puisse être écrit par un Musulman d'aujourd'hui?

Provocation? Non, seulement une interrogation fondamentale qui nous permet de poser le diagnostic suivant: *L'Esprit des lois* ne peut être écrit par un Musulman d'aujourd'hui,

sauf si celui-ci accepte de se décentrer radicalement par rapport à l'envoûtement théocratique dans lequel se trouve englué l'hémisphère musulman, qu'il soit chiite ou sunnite. Partout, la raison peine à trouver sa place dans un tourbillon d'idéologies excessives et d'États fâchés avec les principes élémentaires de la démocratie, seul modèle connu à pouvoir offrir une émulation gratifiante pour tous les citoyens d'un pays. D'où la nécessité pour l'islam européen de recourir à plus d'État de droit, et cela dans un contexte européen élargi et assumé. Face à cette perspective, la seule posture possible est celle qui impose aux Musulmans de s'adapter aux réalités contemporaines. C'est d'ailleurs ce qu'ils font, mais à leur manière et à un rythme suffisamment rapide pour ne pas désespérer le plus grand nombre, c'est-à-dire les jeunes. Il faut sans doute qu'ils aillent plus loin, embrasser sans complexe les mutations technologiques et humaines, mutualiser les efforts individuels de ceux qui aspirent à la paix, engager une réforme équilibrée, mais urgente, pour isoler du champ de la politique, et de manière plus étanche, les incursions malignes des faux dévots.

Tel est l'«Islam des Lumières», soit une nouvelle façon de vivre son islam en terre européenne en ayant les bras grands ouverts à la modernité sous toutes ces formes, y compris politique. Dans les faits, mon combat pour cet islam «moderne» est contrarié, voire enrayé, par plusieurs forces obscures qui peinent à se projeter dans l'histoire et qui subissent de plein fouet la crise du libéralisme et de ses avatars. Parmi ces forces, certaines se disent d'ailleurs «musulmanes». Elles prônent une vision surannée de la religion de Mohammed, une sorte de paradigme immuable, lui-même fondé sur une doctrine virginale qui remonte à la Cité-État de Médine (VII<sup>e</sup> siècle). Si cet islam des temps premiers prend le dessus, on devrait vite s'interroger sur la boutade d'un Lord Cromer (1841-1917), naguère vice-roi d'Angleterre en Égypte, qui aurait dit: «Islam cannot be reformed, that is to say, reformed Islam is Islam no longer: it is something else» (Modern Egypt, II, 229).

Je défends quant à moi le droit à la complexité pour un «islam européen», dont l'originalité est précisément de passer par le truchement de ces coordonnées d'espace et de temps pour dépasser l'antagonisme dans lequel il s'est enferré depuis plusieurs décennies. Il s'agit de réformer l'islam sans le dénaturer, et parallèlement écrire L'Esprit des lois sans louvoyer avec les concepts fondateurs de l'Europe, tels les Droits de l'Homme, la Démocratie, le respect des minorités, l'égalité entre les sexes, l'accès à la culture pour tous ou l'équité dans la reconnaissance et la redistribution des dividendes du progrès.

Mais voilà, la planète musulmane est à feu et à sang. Il suffit de la regarder objectivement pour constater que le conflit des civilisations se joue *a minima*, entre les différentes fractions de l'islam lui-même. Tout fonctionne comme si l'activité volcanique planétaire a

installé son cratère au cœur d'un méridien qui traverserait la planète musulmane. Et les tensions sont, aujourd'hui encore, meurtrières au Liban, en Irak, à la frontière indo-pakistanaise, en Afghanistan, au Cachemire, au Soudan et, dans une moindre mesure, dans toute la bande sahélienne. Les pays musulmans et leurs souverains respectifs ne font pas de l'alternance démocratique un objectif principal quant à leur fonctionnement.

Chaque potentat qui accède au pouvoir suprême, en particulier dans les fausses démocraties, a une seule obsession en tête, s'y accrocher à vie, allant même jusqu'à retarder l'échéance du passage de témoin à sa propre progéniture. En dépit des nombreuses alertes venues du tréfonds de la société, les régimes au pouvoir ne veulent pas engager de réformes décisives. Ainsi, faute d'alternance régulière, toute élection libre dans les pays arabes entraînerait aujourd'hui l'affaissement de nombreux châteaux de carte encore existants, y compris dans les pays qui passent pour des modèles de vertu aux yeux d'un Occident qui reste obnubilé par son recul. En un mot, les Musulmans sont eux-mêmes le maillon faible de l'islam.

L'absence de clergé a entraîné une absence de leadership, avec une conséquence prévisible et dangereuse, à savoir la dissémination d'idées sectaires et démagogiques. Comment donc, l'Europe peut-elle avoir peur de cet islam-là et de sa supposée vitalité? Il faut raison garder, car, de l'avis même des démographes les plus sérieux, le spectre de la démographie des femmes musulmanes vivant en Europe (qui était redouté il y a à peine une dizaine d'années) est désormais ramené à sa juste proportion, soit un chiffre situé entre 2 et 2,5 de naissances par femme, ce qui est la moyenne des familles européennes à niveau socioculturel équivalent. Depuis peu, les prêches publics des imams sont pratiquement rédigés par des conseillers en communication, tandis que la déréglementation actuelle affecte l'ensemble des conduites collectives comme le port de tel ou tel vêtement, le mariage ou les interdits alimentaires.

Dans cette hypothèse, l'Europe peut-elle être une chance pour l'Islam des Lumières? Oui, à condition que l'islam européen devienne adulte au point que l'adhésion aux valeurs républicaines soit assumée par chacun de ses adeptes. Grâce à son implantation, somme toute récente, il peut aspirer à devenir le lieu où s'exprime avec force la solidarité et le respect des règles de vie commune. Il pourra être le laboratoire où se matérialise à bonne échelle l'exception européenne. À terme, ce qui est en jeu, c'est bien la possibilité que l'islam puisse devenir un facteur de paix et de prospérité dans la région, et non un boulet. Le combat qui se joue actuellement à travers cet islam réformé est tout simplement une continuation de ce qui se jouait il y a trois siècles, au temps des Lumières. Car, je ne sépare pas la pensée européenne du XVIII<sup>e</sup> siècle de celle qui lui a succédé au XIX<sup>e</sup>

et au XX<sup>e</sup>, tant en Europe que dans les pays qui étaient sous son influence. L'Europe a esaimé dans tout l'Orient, ainsi qu'on l'a vu en Égypte, en Syrie, au Liban et au Maghreb. C'est le même mouvement d'affranchissement de l'Homme par rapport aux idéologies fondées sur une Révélation divine qui se poursuit inéluctablement. Tant que la foi reste dans la sphère privée, personne ne doute de son utilité et la Constitution européenne le reconnaît pleinement. Mais l'action commune, le vivre-ensemble, le respect de l'Autre et l'observance des règles collectives nous importent davantage.

Non, l'islam ne veut ni occuper l'Europe, ni s'en passer: il est d'abord une religion citoyenne qui prend pleinement à son compte toutes les avancées humanistes et intellectuelles que l'Europe a connues. Elle veut les assimiler et les enrichir, non les détruire. Au fond, l'islam veut tout simplement jouer un rôle plus concret dans la construction de cette maison commune qu'est l'Europe, il veut aider à chasser le mauvais esprit, l'existentialisme morose, l'acceptation du pire, c'est-à-dire sa marginalisation.

Or, que perçoit l'Européen moyen de cet islam qui s'affranchit très lentement des islams nationaux, turc, marocain, algérien, sans trouver encore la force nécessaire pour endiguer la malignité des discours violents? *Quid* aussi de l'intégration? «Veux-tu t'intégrer?», «Mais à quoi, répond le Musulman, soudain inquiet. Je suis né ici, j'ai grandi entre ces tours, je travaille non loin de là, et mes enfants vont à l'école, certains même fréquentent l'université.» À quel autre cadre référentiel s'intégrer? Derrière cette question, les Musulmans comprennent souvent l'inverse de ce que disent les mots. Ils comprennent: «Veux-tu abandonner ton islam?», «Veux-tu faire acte d'allégeance à une communauté d'esprit où toutes les religions (mais surtout la tienne) soient mises de côté?»

Je pense sincèrement que l'Islam des Lumières pourrait être le meilleur paravent contre l'islamisme. Pour le dire plus clairement: aider l'Islam des Lumières, c'est aider l'Europe, car chacun sait que l'islam belliqueux se réveille systématiquement quand il est bafoué. Inversement, il est plus consensuel lorsqu'il est reconnu et valorisé, et cet Islam des Lumières est le meilleur rempart contre l'anomie totale, également source de dangers.

J'ajoute, enfin, en direction des Musulmans auxquels il faut dire, haut et fort, que Dieu n'est jamais mieux servi qu'en passant par le truchement de l'Homme, sa création. Défendre l'Homme, c'est à mes yeux défendre Dieu. Défendre Dieu en dehors de l'Homme, c'est ne défendre ni l'un ni l'autre. Lorsqu'elle sera une évidence pour tous, l'Islam européen devra faire la distinction entre religion et politique, c'est-à-dire entre une croyance intime vécue de manière privative et la «chose publique», *res publica*, qui est le bien le plus précieux que nous ayons inventé depuis la Grèce antique.

**Kristen Silverberg**

*Ambassador, United States Mission  
to the European Union*



## The United States of America and the European Union: an American perspective

In the short time we have today, it would be impossible to capture in any detail US views on the European Union or the US relationship with the EU — which is our deepest and, in many ways, most important relationship.

So, I will limit myself to three quick observations about the European Union from the perspective of the USA.

Point number one, which I hope by now is obvious: the USA supports and, in fact, believes the world needs, a strong and united Europe.

As we in the USA look ahead to the major challenges confronting global peace and security — terrorism and radicalisation, proliferation of weapons of mass destruction, failed states, poverty and disease — we assume that our most important partner will be, more often than not, the EU. We share democratic values with Europe. We share perspectives on approaches to problems. And we appreciate that progress on any of the major challenges is unlikely to be made without participation and resolve by the EU.

On the question of Iran's nuclear programme, for example, US and European cooperation has been responsible for adoption of three UN Security Council sanctions resolutions against Iran, which have begun to bring financial pressure to bear on that regime. We know that other financial centres will look to EU implementation of those resolutions as a benchmark. Without strong financial and diplomatic pressure from the EU, we are unlikely to receive it anywhere else.

Likewise, continued resolve by the EU, as a key member of the Quartet, will be necessary to build on the Middle East peace process and to support our Annapolis goals of uninterrupted bilateral discussions between the parties; construction of a better life for the Palestinian people, especially by establishing institutions of the state; and, regional and international support for the entire process.

And, of course, a strong EU is necessary on Russia. In fact, there may be no clearer example of the need for a united Europe than the question of Europe's energy security. Over-reliance on a single source of energy has never been in Europe's interest, but the abrupt halt of gas sales to Ukraine in 2006 and the events in Georgia underscore the dangers to Europe of the lack of a cohesive, external energy policy. And, of course, this is not only a strategic issue for EU, but for the global economy.

And so a strong and united EU is necessary to promote development of alternative energy sources, including gas from Caspian and central Asian suppliers, to build new gas pipeline routes through Turkey, and to hold Gazprom to the same rules of free and fair competition adhered to by other companies doing business in the EU.

To reiterate point number one: Europe is our natural partner and we, in the United States of America, need a Europe that is as strong and united as possible, ready and willing to work with us to defend our common security and advance our shared values.

Point number two: a strong Europe, able to play its part in addressing the major threats to international peace and security, will require greater contributions to our collective efforts. Here, I will focus my remarks on European security and defence policy (ESDP).

We have supported the evolution of ESDP as a valuable addition to Europe's capabilities in crisis management. As then-US Ambassador to NATO, Toria Neuland, said earlier this year, 'Europe needs, the USA needs, NATO needs, the democratic world needs a stronger more capable European defence capacity'. The language in the April Bucharest summit statement contained NATO's first statement of support for European defence and indeed,

just last month, the USA announced that we would participate for the first time in an ESDP mission with our involvement in EULEX in Kosovo.

So that is the good news — there is no transatlantic disagreement on the importance of a strong and effective ESDP. The bad news, however, is that there is still a great deal of work to do before the capabilities of ESDP can match our shared aspirations for it.

Of the over 20 ESDP crisis management missions, only five have involved more than 1 000 personnel. Nine have involved fewer than 100 people. The mandates under which ESDP missions deploy are, likewise, modest in aim. As an example, the EUPOL mission in Afghanistan — which was a welcome and necessary contribution to reform of Afghan security — has only 200 personnel on the ground, most of whom are unable to work outside of Kabul where the key work needs to be done.

We see a few fundamental challenges: one, of course, is inadequacies in defence contributions by EU Member States. Only a handful of European allies meet NATO's standard of spending 2 % of GDP on defence. This has led to critical shortages of helicopters, transport aircraft, communications equipment and other assets of modern militaries. Moreover, even those assets that exist may not be available for critical missions. In recent years, 10 EU countries had less than three per cent of their military personnel deployed abroad.

This is not just a question of differing transatlantic views on use of force or on Europe's preferences for soft power over hard power. Most ESDP missions are civilian and have, as a principal aim, support for humanitarian efforts and peace-building. These missions, nevertheless, require helicopters and modern communication equipment. We all know that in places like Chad, where the EU is performing a vital humanitarian mission, you need these assets. And all the work the EU does around the world to promote development and end poverty will be unsuccessful if we cannot provide basic security.

We are aware, of course, of the difficulty of persuading public opinion in Europe of the case for stronger contributions. But this is, among other things, a question of leadership. Can Europe's leaders make the argument to Europe's public, first, that greater contributions to global peace and security are necessary as part of Europe's humanitarian cause, and also that the instability in parts of the world which gives rise to terrorism, refugee flows, organised crime, and human trafficking, may visit Europe's shores first — that it is in Europe's self-interest to have the capabilities necessary to stop these threats where they start?

The EU, the world's largest economy, has the resources to make these contributions. And this brings me to point number three. With the internal successes of the single market, we have also built a strong transatlantic market. No less than 40 % of global trade takes place between the USA and the EU. Our economies rely heavily on this relationship, especially in a time of economic stress. However, as our economic ties strengthen, this highlights some of our differences in regulatory approaches. Today, the remaining barriers to stronger transatlantic trade aren't traditional trade barriers, but are more often so-called 'behind the border' issues — informal trade barriers resulting from regulatory divergences. This of course is true, not only for the USA, but for all of the EU's major trading partners.

The reasons behind such regulatory differences are sometimes hard to understand. The USA and the EU have the same goals for regulation — to draft regulations in which the marginal cost of a regulation equals its benefit to society — and we both have capable scientists and regulators committed to protecting consumers and the public health and safety.

But, there are differences. For one, the pressure of the EU internal market can create a systemic need to regulate. A regulation in one Member State can disrupt economic integration, leading to an effort to 'harmonise' which, more often than not, is accomplished by adopting some form of that regulation at the community level. The only way to avoid disruptive divergences is to base regulation on the best available scientific evidence and the best possible actual assessment of costs and benefits.

## **CONCLUSION**

Whatever the challenge, we know that we have a better chance of success when the USA and the EU work together. Common values and interests link us together, and so the USA will continue to look to the EU as its essential partner.

## Dai Bingran

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# The European Union from China's perspective

It is a little more than 30 years ago in August 1978 that I began my career in European studies, when I was transferred to Fudan University. Since then, I have been following closely the happenings in Europe, and have also witnessed the changes of Chinese perceptions of European integration. I still remember that during my college days in the early 1960s, we were taught that the EEC was 'the economic arm of US imperialism in Europe' (NATO being 'the military arm'). Then, in the early 1970s, according to the concept of the 'three worlds', Western Europe was regarded as part of the 'second world', and therefore a force to be won over and united in the fight against the international hegemony of the two super powers. The Chinese perception of European integration changed again when it started the process of reform and opening up by the end of the 1970s. Today, the Chinese people may have very different views of EU, but there is a general consensus in regarding it as an important international force and one of China's most important partners.

Then, what are foremost the perceptions of the EU in the Chinese people's minds, and what is the relevance of European integration to China?

## 1. A PROMOTER FOR INTERNATIONAL PEACE AND SECURITY

To the Chinese people, the EU is, in the first place, an important international actor for world peace and security. The Chinese people cherish peace more than anything else.

It has suffered deeply from foreign invasions and civil wars during the past 200 years, which reduced it from the most developed economy to one of the least developed in the world. It now needs a peaceful time and environment, so as to concentrate all its efforts and resources to catch up with the others, and to redeem a world status worthy of its history.

Europe had been an arena of wars, too, and in the first half of the 20th century, it saw two world wars, which cost some 30 million lives. But thanks to the great wisdom of Jean Monnet and the far sights of a number of statesmen like Schuman, Adenauer, de Gasperi, Spaak, and others, European integration was initiated soon after the end of the World War II, which, through national reconciliation, cooperation and solidarity, not only secured 60 years of peace in Western Europe, but has actually made war impossible within it. This is indeed the greatest achievement and contribution of European integration to the world. And more and more Chinese people have come to wish that the same course could take place in eastern Asia.

The end of the Cold War reduced the danger of large-scale nuclear war, but the world has not become safer. With the advancement of science and technology, the monopoly of nuclear secrets by a few big powers has actually been broken, and there might be several dozen countries in the world which could acquire a sort of nuclear capability, should they so wish. And we could neither rule out the possibility that certain international terrorist organisations like al-Qaeda might some day get hold of some weapons of mass destruction. And local wars and conflicts still persist in so many places around the world.

What is more, in the age of globalisation, issues like financial stability, food and energy supply, transportation and communication safety, migration movements, climate change, environment protection, etc., which were mostly domestic affairs before, have now assumed strong international dimensions, and their impacts on world peace and security could in many ways be as big as the traditional security issues.

These new characteristics and many recent incidents demonstrate how fragile and vulnerable our world is, and we need new approaches and new institutions for shared stakes and responsibilities. There are talks about the EU being a soft power. In today's world soft power might count more than hard power, and to the Chinese people, as the world's largest economic entity and trading bloc with a population of 350 million, the EU is more than a soft power, and they look very much forward to it assuming greater responsibility and playing a more positive role in world peace and security, especially in the Middle East and in Africa.

## 2. A MODEL FOR DEVELOPMENT AND GOVERNANCE

Secondly, Chinese people's perceptions of the EU are, of course, closely linked with the regional integration process it started in the early 1950s. The process was initiated with clear political motivations, but the institutions and instruments it created have proved to be of even greater impact. It is not accidental that European integration, begun with a modest sectoral common market, should have developed to a fully fledged economic and monetary union; begun with six nations, should come to embrace 27 Member States, with a true European scale. It is neither accidental that there are today more than a hundred regional arrangements the world over, that all, in some way or other, are modelled on European integration. The vitality of the European process lies in the fact that the ideas and practices of big market and free movements of the factors go with the logics of development.

But to the Chinese people, the EU's implications are not limited to just that. During the dark age of the 19th century, the forerunners of Chinese intelligentsia came to Europe looking for inspirations. They brought back to China two key words — 'science' and 'democracy' — and tried to start a sort of renaissance, called a 'new cultural movement'. When China started the process of reform and opening-up 30 years ago, it again looked around the world for enlightenment, experiences and lessons, and Europe was very much under its attention. To us, the European concept of better balance between economic development and social justice and the governance and policies developed around it, go much closer to our ideal, in spite of its difficulties and failures. For instance, during my first visit to Europe in 1983, the research I took with me was a study on the CAP; I was then intrigued by the fact that economists were so critical about it, whereas China would be most happy if it could turn the country from agricultural scarcity to surplus. And, the first national research project undertaken by the Centre for European Studies at Fudan University was: how could the EC coordinate among the nine Member States to run a common market, while China should have difficulties to keep its market from being disintegrated? Today, nearly all the aspects of European policies have become the subjects of close Chinese studies.

## 3. AN UPHOLDER OF FUNDAMENTAL VALUES

Last but not least, the Chinese people regard Europe as the setter of standards and norms. Nearly all the basic values like human rights and freedoms, democracy, rule of law, social justice and civil society, the market economy, sustainable development, etc., originated and are best observed in Europe. To the Chinese people, this is a contribution of even greater implications. Many of these values were not in the traditional Chinese

culture, but have come to be accepted by them as universal, and growing up together with New China, I witnessed the great changes and progress it has made in this respect during the past 30 years.

These values are so well established in Europe that people here are used to taking them for granted. But the fact is: these values are won and acquired through long years of hard fights with bloodshed and lives lost. We learn from Engels what the working class conditions were in England in 1848, and read in the novels of Victor Hugo, Charles Dickens and many others what the human rights situation in 19th-century Europe was. We learn from history that up to the early 1960s black people were still not allowed to sit in the same carriage with white people in the southern states of the USA. These values do have a development factor: they have to grow, first of all, in people's minds, along with economic, political and social developments. When people still do not have enough to eat and wear, what does the right to elect and to be elected mean to them? And when people are struggling under sheer poverty, there can hardly be room in their minds for things like ecological balance.

We are fully aware that human rights situation and all these things in China, like in other developing countries, are far from being as good as they should be, and we still have a long, long way to go, but I would like our European friends to be a little more patient and tolerant in this respect. As the most developed, Europe can criticise, but please with sympathy, understanding and practical help. I am quite confident that China will not need 200 years to catch up in this respect.

To sum up, I would say that the Chinese people have had very special feelings towards and interests in Europe, and in its present transformation, they expect to find in EU a friend and partner for cooperation and a source of inspiration and support.

Before concluding this presentation, please allow me to say a few extra words. This morning I was presented with the Jean Monnet Prize 2008 before the distinguished audience of the Conference. It is indeed a great honour to me, but I would regard it more as recognition of the great efforts of my fellow colleagues, both before me and with me now, in developing EU studies in China. For that, I think we are very much indebted to the generous support rendered to us by our colleagues the world over, especially within the ECSA-World and EUSA-Asia-Pacific networks. We are also very thankful to the support provided by the European Commission, especially through the Jean Monnet Action led by Belén Bernaldo de Quiros. And I would like to thank Jacqueline Lastenouse — she is with us this morning — in particular. It is due to her great support, going back 30 years, that EU studies in China was able to develop from a primitive stage to what it is now.

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# The emerging role of the EU in international affairs: external images and perceptions

By 2025, the EU has been predicted to become a ‘hobbled giant’, unable to turn its economic power into diplomatic or military muscle, according to the US National Intelligence Council (NIC) report ‘Global trends 2025’ <sup>(1)</sup>. This metaphor added a new image to the colourful (and already ubiquitous) descriptions of the EU as an ‘economic giant’, but ‘political dwarf’ and ‘military pigmy’ <sup>(2)</sup>, and even ‘political Frankenstein’ (Bell, 2004) <sup>(3)</sup>. Not surprisingly, these gloomy predictions and sardonic descriptions do not match the official position and rhetoric of the EU. According to the European Commissioner for External Relations, Benita Ferrero-Waldner ‘those who believe the EU is still principally a soft power are behind the times’ <sup>(4)</sup>. Recent developments in the EU’s ‘hard’ power profile have included a number of peacekeeping operations to the Balkans, Africa and south-east Asia, the launch of its own anti-terrorism strategy and an anti-piracy task mission, successful

<sup>(1)</sup> *US global dominance ‘set to wane’* (<http://news.bbc.co.uk/1/hi/world/americas/7741049.stm>).

<sup>(2)</sup> Walker, M. (2000), ‘Europe: superstate or superpower?’, *World Policy Journal*, 17(4), (<http://worldpolicy.org/journal/sum00-4.html#2>) consulted August 2006.

<sup>(3)</sup> <sup>(0)</sup> Bell, L. (2004), ‘Push more pens — Europe — A Worldwide Special Report — The Bureaucracy’, *The Australian*, 3 May.

<sup>(4)</sup> Ferrero-Waldner, B. (2007), ‘The European Union and the world: a hard look at soft power’, speech/07/576, 24 September 2007, New York, Columbia University.

negotiations outcomes in global ‘hot’ spots, and substantive military developments under the European security and defence policy. Although relatively new and modest, these ‘high politics’ initiatives, in combination with the EU’s commitment to peaceful regional integration, promotion of democracy, international human rights, environmental protection, and administration of developmental aid account for the EU’s growing global presence in terms of both ‘hard’ and ‘soft’ power. In the words of van Ham, the EU ‘faces a serious branding challenge since its foreign policy and its subsequent identity are in flux; the EU is morphing from a regional *Zivilmacht* into a more fully fledged global superpower’ (1).

With the Union ‘making an effort to shift its identity from soft power to hard power’ (2), EU scholars continue to debate the global presence of the EU (3). One contribution to this debate is to assess *if* and *how* the Union’s role as an international political actor is recognised outside the EU’s borders. Systematic insights into external perceptions and images of the EU may help the Union ‘find a new postmodern *raison d’être* that inspires its own populace and appeals to the wider world as well’ (p>).

Encouragingly, there is evidence demonstrating that EU citizens do express a desire to see the EU be more active in global politics (4). Moreover, several global surveys have indicated that international public opinion has a predominantly positive view of Europe (5) and perceived a growing importance of the EU in international affairs (6). Less positively, if realistically, however, EU scholars have also identified certain limitations on the EU’s external role because ‘people outside Europe are not certain what the Union stands for

(1) Van Ham, P. (2008), ‘Place branding: the state of the art’, *The Annals*, Vol. 616, March, pp.126–149.

(2) Ibid.

(3) Smith, H. (2002), *European Union foreign policy: what it is and what it does*, Pluto Press, London & Sterling, Va.; Bretherton, C. and Vogler, J. (1999), *The European Union as a global actor*, Routledge, London; Cederman, L.-E. (ed.) (2001), *Constructing Europe’s identity: the external dimension*, Lynne Rienner Publishers, Boulder, Co.; Lucarelli, S. (2006), ‘Interpreted values: a normative reading of EU role conceptions and performance’, in: O. Elgström and M. Smith (eds), *The European Union’s roles in international politics: concepts and analysis*, Routledge, London; Lucarelli, S. and Manners, I. (eds) (2006), *Values and principles in European Union foreign policy*, Routledge, London; Sjursen, H. (ed.) (2006), ‘What kind of power? European foreign policy in perspective’, *Journal of European Public Policy*, 13, pp. 169–181; Ortega, M. (ed) (2004), ‘Global views on the European Union’, *Chaillot Paper*, 72, EU Institute for Security Studies, Paris ([www.iss-eu.org/chaillot/jchai72.pdf](http://www.iss-eu.org/chaillot/jchai72.pdf)); Elgström, O. and Smith, M. (eds) (2006), *The European Union’s roles in international politics: concepts and analysis*, Routledge, London.

(4) US German Marshal Fund survey, September 2007. Reported in Euobserver (<http://euobserver.com/9/24717/?print=1>).

(5) A BBC World Service survey of nearly 40 000 people conducted in 33 countries, reported in: D. Korski, *Making Europe’s voice louder* (2008) European Council on Foreign Relations ([www.ecfr.eu/content/entry/commentary\\_making\\_europes\\_voice\\_louder](http://www.ecfr.eu/content/entry/commentary_making_europes_voice_louder)).

(6) Vucheva, Elitsa (2007), ‘EU global image improving, US fading’, *EU Observer*, 13 December.

or whether it matters' (1). Intrigued by this uncertainty in the views by scholars and the international public, this analysis aims to identify and measure the images and perceptions of the EU as an international actor in one particular geopolitical region — the Asia-Pacific. External perspectives on three EU 'performances' on international stage are explored: firstly, EU interactions with third countries in the realm of 'high politics'; secondly, EU action as an advocate and promoter of environmentalism worldwide; and finally, the EU as a development 'superpower'.

The empirical basis of this study is derived from the analysis of the daily coverage of EU news found in 'popular' sources of current affairs information (national 'prestigious' newspapers with the highest circulation and the most viewed national television prime-time newscasts). The most visible representations and framings of the EU found in the media and then compared with the typical perceptions of the Union found in public opinion across the region. The conceptual assumption is that public opinion on a nation's foreign counterparts tends to be heavily influenced by the news media given the limited personal experiences ordinary members of the public are likely to have with an overseas location. Evidence-based policy insights constitute one of the key objectives of this research. The findings are argued to be of use to both scholars and practitioners of the EU's international identity and external relations, and contribute to developing the EU's public diplomacy. If the EU wants to adequately communicate its evolving identity and express its values and norms globally, it 'must speak to the world clearly, and it must start listening to what the world thinks about it' (2).

The data used in this analysis comes from a series of related ongoing transnational comparative projects: 'The EU through the eyes of Asia-Pacific'. This study was first begun in 2002 by the National Centre for Research on Europe (NCRE), University of Canterbury, New Zealand. Since 2002, it has expanded from a single-country analysis of New Zealand to 18 locations drawn from Asia, the Pacific and, latterly, Africa. This research has been made possible only because of the generous support from different agencies. From 2002 to 2004, a EUR 50 000 grant from Commission Directorate-General for Education and Culture supported the initial study conducted in New Zealand (3). In 2004 and 2005, a further EUR 142 000 grant awarded under the Jean Monnet initiative 'Dialogue

(1) Lynch, D. (2005), 'Communicating Europe to the world: what public diplomacy for the EU?', *European Policy Centre Working Paper*, No 21, p.11, ([epc.eu/TEWN/pdf/251965810\\_EPC%2021.pdf](http://epc.eu/TEWN/pdf/251965810_EPC%2021.pdf)).

(2) Ibid.

(3) European Commission, Directorate-General for Education and Culture, Jean Monnet programme, budget line A-3022, 2003.

between peoples and cultures' <sup>(1)</sup>, initiated the related project — 'Public, elite and media perceptions of the EU in the Asia-Pacific region: a comparative study' — that expanded the research to cover Australia, South Korea and Thailand as well as New Zealand. In 2006, 'The visibility of the European Union as a development actor in south and east Africa, south-east Asia and the Pacific' was launched. It saw the research focus on two African locations and five Pacific islands. Moreover, Thailand was also involved in this phase, again sponsored by the Directorate-General for Education and Culture Jean Monnet initiative <sup>(2)</sup>. In parallel, since 2005 the Asia-Europe Foundation in Singapore has co-funded research into the perceptions of the EU held in the Asian member countries of the ASEM process; it is anticipated that by 2011 all 16 ASEM Asian partners will eventually be studied.

## METHODOLOGICAL CONSIDERATIONS

The data used in this analysis comes from an ongoing transnational comparative project 'The EU through the eyes of Asia-Pacific', first begun in 2002 by the National Centre for Research on Europe (NCRE), University of Canterbury, New Zealand. Cumulatively, this study has involved 16 locations in Asia and the Pacific and two in Africa <sup>(3)</sup>. The primary goals of the research are to identify and measure how the EU is interpreted and understood in non-European countries and to address those missing elements in the studies of the EU's international identity through collecting a pioneering and unique systematic empirical dataset on EU external perceptions. The specific focus of this chapter is based on the findings from the two most recent studies conducted within this larger project — 'The EU in the eyes of Asia' <sup>(4)</sup> and 'The visibility of the EU in south-east Asia, south and east Africa and the Pacific' — which were completed in 2006–08 <sup>(5)</sup>.

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<sup>(1)</sup> Jean Monnet initiative 'Dialogue between peoples and cultures', Directorate-General for Education and Culture, Grant Agreement No 2003-2292/001-001.

<sup>(2)</sup> A EUR 105 000 grant under the Jean Monnet initiative 'Dialogue between peoples and cultures', Directorate-General for Education and Culture, Grant Agreement No 2006-2746/001-001.

<sup>(3)</sup> As of 2008, the list of locations studied in the project include New Zealand, Australia, South Korea, Thailand, Mainland China, Hong Kong SAR, Japan, Singapore, Cook Islands, Fiji, Papua New Guinea, Samoa, Solomon Islands, Indonesia, the Philippines, Vietnam, South Africa and Kenya. The number of countries involved in the project will grow in the future. For more information please see: <http://www.euperceptions.canterbury.ac.nz/>

<sup>(4)</sup> 2006-ongoing, supported by ASEF, inaugural project of the initiative 'European studies in Asia'; for more information please see: <http://esia.asef.org/>

<sup>(5)</sup> 2006–08, sponsored by a EUR 149 000 grant under the Jean Monnet initiative 'Dialogue between peoples and cultures', Directorate-General for Education and Culture (Grant Agreement No 2006-2746/001-001);

A common methodology was applied in each of the 18 countries so far examined. In every location, the project investigated media imagery of the EU, as well as the perceptions of the Union among the general public and the national stakeholders. Since 2002, over 14 000 pieces of news have been analysed, 5 600 members of the general public interviewed in the national-scale surveys, and 400 Asia-Pacific national decision-makers and policymakers have been interviewed in an in-depth face-to-face format. Crucially, in every location, young and experienced local researchers were responsible for conducting the data collection in the appropriate local language(s) and according to cross-culturally sensitive protocols. This highly systematic methodology was rigorously applied and implemented across all locations and over time, and involved numerous research training workshops held throughout the region to ensure reliability and consistency in data collection and collation.

Just two elements of the wider project's architecture are utilised here — media and public opinion. For the print media, EU reporting and imagery in the selected most popular prestigious newspapers in 12 locations are investigated (Japan, South Korea, mainland China, SAR Hong Kong, Singapore, Thailand, Indonesia, Fiji, Papua New Guinea (PNG), Samoa, the Solomon Islands and the Cook Islands). For the visual media, six prime-time television news bulletins on national state-owned channels were monitored (in South Korea, mainland China, SAR Hong Kong, Singapore, Thailand and Indonesia; see Table 1). For public opinion, the study analyses perceptions of the EU held by the general publics of Japan, South Korea, mainland China, SAR Hong Kong, Singapore, Thailand and Fiji (representing 400 respondents in each case, with identical questionnaires translated into appropriate local languages; see Table 2).

'Prestigious' newspapers are argued to be players in national policy debate <sup>(1)</sup> and believed often to voice the nation's elite view — a semi-official perspective which approximates the government position on different questions. 'Prestigious' papers are read by public leaders, policymakers, and opinion-formers who take into account the newspaper's views while realising and presenting the political activity in the country <sup>(2)</sup>. Finally, 'prestigious' papers are usually more inclined to cover international affairs and constitute a more reliable source of foreign news for the general public, as well as for other domestic and international media outlets.

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(1) Bennet, W. L. (1990), 'Towards a theory of press-State relations in the United States', *Journal of Communication*, 40(2), pp. 103–125.

(2) de Sola Pool, I. (1952), The 'Prestigious Papers', *Hoover Institute Studies*, Series C: Symbols, Stanford University Press, 2, pp. 1–8.

	Location	'Popular' newspaper	Circulation	TV prime-time newscast	Viewership	Monitoring period
2006	Mainland China	<i>People's Daily</i>	3 000 000 <sup>(1)</sup>	CCTV	34 % <sup>(2)</sup>	Jan–Dec 06
	Hong Kong SAR	<i>Oriental Daily</i>	530 000 <sup>(3)</sup>	TVB Jade	86 % <sup>(4)</sup>	Jan–Dec 06
	Japan	<i>Yomiuri</i>	10 032 441 <sup>(5)</sup>			Jul–Dec 06
	South Korea	<i>Chosun Daily</i>	2 300 000 <sup>(6)</sup>	KBS	35 000 000 <sup>(7)</sup>	Jan–Dec 06
	Singapore	<i>Lianhe Zaobao</i>	200 000 <sup>(8)</sup>	Channel 8	n/a	Jan–Dec 06
	Thailand	<i>Thai Rath</i>	1 000 000 <sup>(9)</sup>	ITV	n/a	Jan–Dec 06
→ 2007	Cook Islands	<i>Cook Island News</i>	2 000 readers <sup>(10)</sup>			Jun 06–Jul 07
	Fiji	<i>The Fiji Times</i>	45 000 <sup>(11)</sup>			Jun 06–Jul 07
	Papua New Guinea	<i>Post Courier</i>	26 262 <sup>(12)</sup>			Jun 06–Jul 07
	Samoa	<i>Samoa Observer</i>	50 000 readers <sup>(13)</sup>			Jun 06–Jul 07
→ 2008	Solomon Islands	<i>Solomon Star</i>	4-6 000 <sup>(14)</sup>			Jun 06–Jul 07
	Indonesia	<i>Kompas</i>	500 000 <sup>(15)</sup>	TVRI	n/a	Jan–Jun 08

**Table 1: 'Popular' prestigious newspapers and TV prime-time news bulletins monitored <sup>(16)</sup>**

- (1) Source: *People's Daily* online: <http://202.99.23.198/about/aboutus.html> (11 December 2008).
- (2) CCTV occupies a market share of 34 % nationally according to 2005 statistics from its official website: <http://www.cctv.com/profile/intro/index.shtml> (12 December 2008).
- (3) Source: *Oriental Daily* official website: [http://opg.com.hk/tc/product\\_newspapers.html](http://opg.com.hk/tc/product_newspapers.html) (11 December 2008).
- (4) TVB Jade occupies 86 % of TV audiences in Hong Kong. Source: [http://i1.web.vip.hk1.tvb.com/www.tvb.com/affairs/faq/interim/2008/pdf/co511\\_080827\\_ir.pdf](http://i1.web.vip.hk1.tvb.com/www.tvb.com/affairs/faq/interim/2008/pdf/co511_080827_ir.pdf) (12 December 2008).
- (5) Source: Japan Audit Bureau of Circulations (ABC) 'Newspaper Publisher Report' [http://adv.yomiuri.co.jp/m-data/english/2008\\_2010/newspaper1.html](http://adv.yomiuri.co.jp/m-data/english/2008_2010/newspaper1.html) (11 December 2008).
- (6) Source: <http://www.mondonepapers.com/circulation/worldtop100.html> (11 December 2008).
- (7) In 2007 KBS had a worldwide viewership of 35 million according to its 2007/08 annual report: [http://english.kbs.co.kr/about/annual/KBS\\_Annual\\_Report\\_2008.pdf](http://english.kbs.co.kr/about/annual/KBS_Annual_Report_2008.pdf) (12 December 2008).
- (8) Source: *Lianhe Zaobao* official website: <http://www.zaobao.com.sg/pages/lianhe.html> (11 December 2008).
- (9) Source: *Thai Rath* official website: [http://www.thairath.co.th/about/data\\_thairath/data.htm](http://www.thairath.co.th/about/data_thairath/data.htm) (11 December 2008).
- (10) The expected daily readership of Cook Islands News according to World Education Forum information: [http://www.unesco.org/education/wef/countryreports/cook\\_islands/rapport\\_2\\_2\\_0.html](http://www.unesco.org/education/wef/countryreports/cook_islands/rapport_2_2_0.html) (11 December 2008).
- (11) Source: <http://www.fijipeoplescharter.com.fj/pr23.htm>
- (12) Source: *Post Courier* online: <http://www.postcourier.com.pg/misc/postblurb.htm> (11 December 2008).
- (13) Weekly readership of *Samoa Observer* is 350 000 according to its official website: [http://www.samoabserver.ws/index.php?option=com\\_content&view=category&layout=blog&id=46&Itemid=77](http://www.samoabserver.ws/index.php?option=com_content&view=category&layout=blog&id=46&Itemid=77) (11 December 2008).
- (14) Source: <http://www.presscouncil.org.au/pcsite/activities/meetings/asiapac/solomons.html> (11 December 2008).
- (15) Source: '*Kompas* daily replaces its editor-in-chief', *Jakarta Post*, 12 December 2008: <http://www.thejakartapost.com/news/2008/02/12/039kompas039-daily-replaces-its-editor-chief.html>
- (16) Press data from Vietnam and the Philippines is currently under analysis as is the television data from Japan, Vietnam and the Philippines. In the Pacific, television data was not collected as there are no comparable indigenous prime-time news programmes.

**Table 2: Public opinion surveys <sup>(1)</sup>**

Location	Date	Sample size	Method
<b>Hong Kong SAR</b>	November 2006	400	Internet
<b>Japan</b>	November 2006	400	Internet
<b>South Korea</b>	November 2006	400	Internet
<b>Singapore</b>	November 2006	400	Internet
<b>Thailand</b>	November 2006	400	Internet
<b>Mainland China</b>	December 2006	400	Internet
<b>Fiji</b>	July 2008	400	Face-to-face

Using the methodology of content analysis, this paper considered qualitative and quantitative interpretive insights into the media texts and open-ended responses to the public survey questionnaire. The underlying conceptual approach is consistent with that suggested by Manners and Whitman — ‘a position from which to commence conceptualising the global role of the European Union as being greater than the sum of its parts’ <sup>(2)</sup>. Respectively, the key terms under observation and used to delimit the dataset were ‘the European Union/EU’, as well as ‘Council of Europe’, ‘European Central Bank/ECB’, ‘European Commission/EC’, ‘European Parliament/EP’ and ‘European Court of Justice/ECJ’ and their officials. Consistent with the focus of this analysis (and of the wider project) — the Union as a communal actor in the national arena — Member States appear in the media text datasets *only* when connected to an EU news story and not when the Member State was reported in its own right without any EU connection <sup>(3)</sup>. The media analysis explores the visibility and framing of the EU in news reporting in the three areas noted above: the EU’s actions in ‘high politics’; in environmentalism; and in development. The sample size used in the following analysis totals 3 824 news items from ‘popular’ prestigious newspapers and 254 news items from prime-time television bulletins. For public opinion, this study analyses respondents’ answers to just one particular question (from a total of 24 questions asked): ‘What three thoughts come to you mind when you hear the words “the European Union”?’ This question is argued to reveal (stereo-) typical visions of the Union. Special attention has been paid to the spontaneous associations which related

<sup>(1)</sup> Data from Vietnam, the Philippines and Indonesia is currently being collected.

<sup>(2)</sup> Manners, I. and Whitman, R. (1998), ‘Towards identifying the International Identity of the European Union: a framework for analysis of the EU’s network of relationships’, *European Integration*, Vol. 21/2, pp. 231–249, (p. 246).

<sup>(3)</sup> The methodology of the study allowed to assess whether the EU and its institutions and officials were reported as a major actor with a Member State(s) framed as a secondary or minor actor; or if the Member States was a central focus of the report, and the EU and its communal actors was a minor reference.

to the images of the EU's emerging role in international affairs. In addition, in the series of opinion surveys conducted in the Asia-Pacific region, television prime-time news bulletins were typically selected as the 'No 1' source of information about the EU by the general public.

## SOME FINDINGS

### 1. The overall visibility of the EU in reputable 'popular' news media

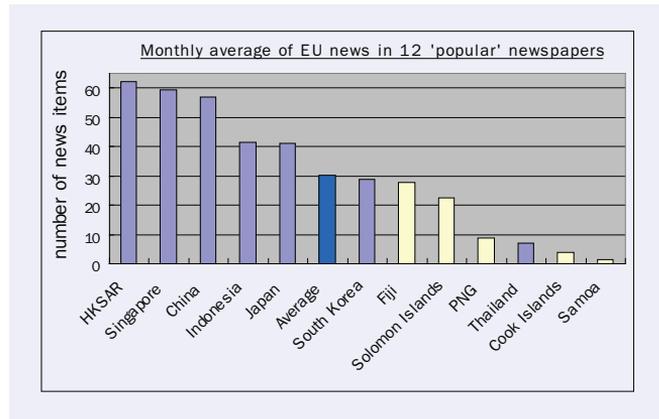
'Popular' prestigious newspapers and television prime-time newscasts that are analysed in this chapter were not the sole focus of the media analysis in the wider project 'The EU through the eyes of Asia-Pacific'. The individual country media samples also included business dailies (targeting the business community in each location) and English-language dailies (which appeal to local educated elites, students, expatriates and foreigners outside the locations). While these additional types of newspaper are not considered here, to paint the broader picture of the project's complete media dataset, 32 news outlets were monitored between January 2006 and June 2008 producing a total of 10 632 news items that referenced the EU, its main institutions and its officials. While this final total may seem impressively high at first sight, the regional weekly average of EU news items appearing was in fact extremely modest at just six news items per media outlet. If we compare the weekly average between the three sub-regions in this study — north-east Asia, south-east Asia and the Pacific, the highest indicator was found in north-east Asia (with a weekly average of 8.7 news items mentioning the EU). This was followed closely by south-east Asia where the weekly average was 7.4 EU news items. The lowest was found in the Pacific, with an average of a mere three news reports mentioning the EU per week per newspaper.

Turning to specifically the 'popular' prestigious newspaper, here the weekly average was 6.9 news items per week. In contrast, a weekly average for a 'business' dailies was 11 items and for 'English-language' paper 9.6 EU news reports per week. Remarkably, prime-time television newscasts were almost non-existent averaging just a single EU news item per week. With television news bulletins acknowledged to be the leading source of information on the EU in the region (1), it was revealing, if disquieting, to demonstrate that prime-time television produced the least volume of news referencing the EU when compared with the regional press. More positively, at least the 'business' dailies were more prolific in covering the EU, although naturally here the emphasis was somewhat limited to reporting on the EU in economic terms rather than as a more complex and comprehensive international actor.

(1) Reference to Holland et al. (2007) 'The EU through the eyes of Asia'.

Predictably, the actual distribution of the news items featuring the EU in the ‘popular’ prestigious papers in the Asia-Pacific ranged widely, from a low of just 1.5 in Samoa to a high of 62.2 in SAR Hong Kong, a figure more than twice the average reporting level across the selected Asia-Pacific countries (Figure 1).

**Figure 1: Monthly average of EU news in 12 Asia-Pacific ‘popular’ newspapers**



The coverage of the EU in SAR Hong Kong, mainland China and Singapore was by far the most voluminous. In Hong Kong and Singapore, this high coverage can be explained by the continuing attention given by local newsmakers to Europe’s financial and economic situation in 2006 and the situation of the common currency, the euro. In mainland China, the EU’s political actions in relation to the Iranian nuclear issue and the EU’s trade with China shed a constant light on the EU in the popular press. In contrast, all five Pacific newspapers in this study ranked below the monthly average, significantly so in PNG, the Cook Islands and in Samoa. These small, impoverished and remote micro-island states which are isolated by thousands of miles of ocean from each other typically exhibit small-scale media production capacities (in comparison with their Asian counterparts) and do not have the financial resources to post their journalists to Brussels. This notwithstanding, such a low level of coverage of the EU, which is the second largest aid donor in the Pacific region after Australia, could be indicative of a more general lack of awareness of, and interest in, the EU among Pacific Island nations. Among the seven Asian newspapers, *Thai Rath’s* reportage of the EU stood out as being especially low — indeed lower than that found in Fiji, the Solomon Islands and PNG. One key explanation relates to the coup which took place in Thailand in the second half of 2006. As the major domestic event, it drew local newsmakers’ attention away from foreign news. Yet another explanation can be found in the nature and status of the paper — although it is the highest popular daily in circulation in Thailand it is perhaps closer to a tabloid than quality press in design and typically mixes serious ‘hard’ news with numerous ‘soft’ news items (entertainment,

celebrity gossip, etc.). Given this somewhat ambiguous nature blending a ‘half tabloid’ and ‘half prestigious’ paper focus, the ‘tabloid’ qualities of the paper may inhibit its editorial gatekeepers from publishing a greater number of serious international news in general, as well as EU news specifically.

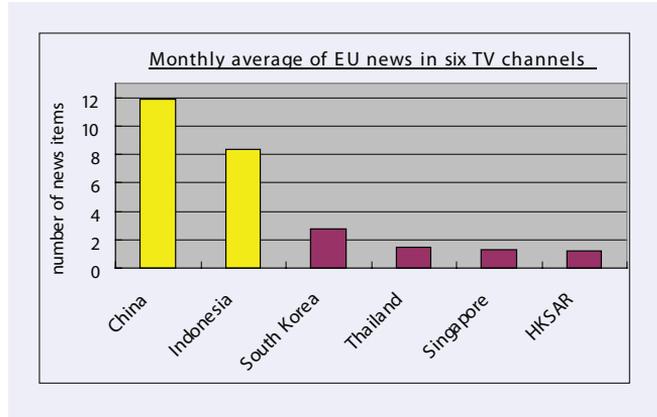
An analysis of the frequency of the EU appearing on television news revealed that mainland China’s CCTV prime-time news bulletins featured the largest number of EU news per month in comparison with the five other locations studied — almost 12 news items per week (Figure 2). Around one third of these news items (35 %) were broadcast under the programme’s ‘Brief on international news’ section. Chinese CCTV viewers were exposed to a wide range of topics involving the EU: for example, the EU’s role in the IAEA discussion on Iran’s nuclear issue, EU reactions to Asian bird flu, the EU’s stance in the WTO Doha Round or more parochially, EU anti-dumping duties against Chinese and Vietnamese leather shoes. Remarkably, the EU’s actions in the realm of ‘high politics’ was given the most attention with almost two thirds (65 %) of CCTV prime-time news referencing and reporting on the EU as an international political actor. The dominant theme in the 2006 sample again featured the EU in its interaction with Iran to curb nuclear proliferation. In these television reports the EU was seen as acting both as a common actor (with the CFSP High Representative Javier Solana being the ‘face’ of Europe), as well as a collection of individual Member States (with the EU-3 — the United Kingdom, Germany and France — being the most vocal). The EU was represented as an equal and valid interlocutor for other international players, such as the US and UN. For example, one CCTV news item stated:

国际原子能机构理事会今天举行紧急会议，讨论并表决法德英三国散发的决议草案。代表欧盟的法国、德国、英国三国2月1号下午正式向国际原子能机构理事会成员散发关于伊朗核问题的决议草案，提议将伊朗核问题向联合国安理会报告

*Today, the IAEA committee holds an urgent meeting to discuss and vote on the proposal distributed by France, Germany and United Kingdom. In the afternoon of 1 February, three representatives of the EU, France, Germany and the United Kingdom officially distributed their proposal of resolution on Iran nuclear issue to members of IAEA committee, which suggests reporting Iran’s nuclear issue to UN Security Council ...<sup>(1)</sup>*

(1) CCTV, 2 February 2006, ‘国际原子能机构理事会就伊朗核问题举行紧急会议’.

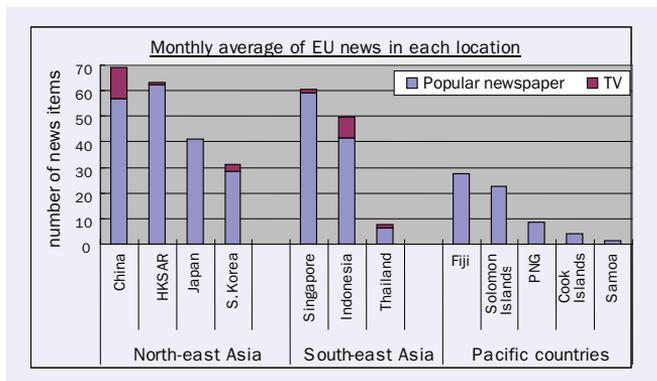
Figure 2: Monthly average of EU news items in six television channels



Second highest among the six monitored television channels was Indonesia’s TVRI’s reportage of the EU, where the EU’s international action reports occupied close to three quarters (73 %) of all EU television news. Most of these reports on Indonesian television dealt with EU political actions in relation to Kosovo, Chad and mainland China. Possibly drawing some parallels to the then situation in Aceh, the Indonesian media were particularly interested in covering the EU response to Kosovo’s declaration of independence in the context of Serbia’s and Kosovo’s possible accession to the EU (1).

Comparing the frequency of the EU’s monthly profiling by the ‘popular’ media (high circulation newspapers and television prime-time newscasts) across the identified sub-regions, clear ‘leaders’ in EU news production can be identified — mainland China in north-east Asia, Singapore in south-east Asia and Fiji in the Pacific (Figure 3). These findings can help

Figure 3: Monthly average of EU news per location



(1) TVRI, 20 February 2008, ‘Kosovo Perbatasan ditutup’; TVRI, 12 March 2008, ‘Serbia Tolak pengalihan penjagaan keamanan di Kosovo’.

to inform and develop the EU’s communication strategies with the Asia-Pacific — while still modest in scope and intensity, it seems that the media gatekeepers in these three specific locations and media outlets are somewhat more inclined to cover news reports involving the EU despite it being a complex and often distant international counterpart.

## 2. VISIBILITY OF THE EU AS AN INTERNATIONAL POLITICAL ACTOR

Overall, this study was able to differentiate between how these reputable ‘popular’ news outlets presented the EU’s actions by employing five distinct thematic frames — the EU as an *economic* actor, as a *social* actor, a *political* actor, as an *environmental* actor and as a *developmental* actor. The last three frames are of special interest to this investigation. As described in Figure 4, three broad groupings of countries can be identified: first those where the EU as a political actor represented at least 50 % of the news stories; secondly where this focus while still significant accounted for around 30–50 % of reports; and third, a smaller group of countries where reports of the EU as a political actor were comparatively minor. Five locations (out of 12 studied in this analysis) fell into this first grouping and dedicated half or more of their EU news space to reporting the EU’s political actions (both internal and external ‘high politics’. The highest share for this frame was found in the *Cook Island News* (63 % of the paper’s sample). No discernible geographic pattern was evident with countries in this grouping coming from the Pacific, north-east Asia as well as south-east Asia. In contrast to the ‘popular’ news media in the Cook Islands, Japan, mainland China, Indonesia and Fiji, on the opposite side of the spectrum of visibility, were the ‘popular’ news outlets from Hong Kong, Samoa and PNG where reporting of the EU as a ‘high politics’ actor was the least pronounced. Rather, the ‘popular’ news media of Hong Kong prioritised framing the EU in a traditional manner as principally an *economic* actor. The *Samoa Observer*, on the other hand,

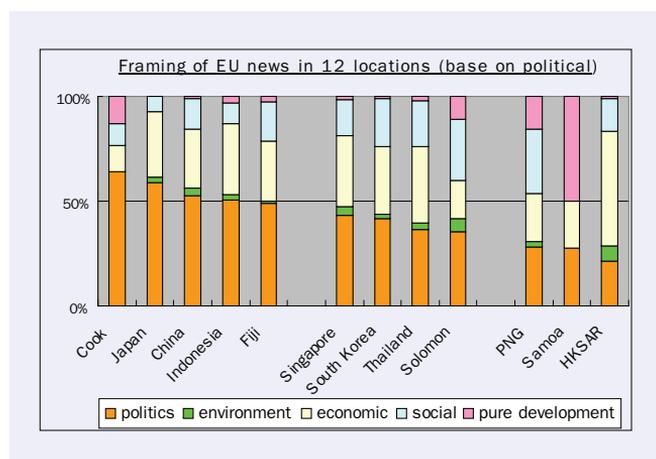


Figure 4: Framing of EU news in 12 locations

was unique in that it was the only newspaper studied where the EU's development actions were highlighted: 50 % of its EU news centred on this theme. Elsewhere this frame was virtually absent. Intriguingly, PNG's *Post Courier* presented the most 'balanced' distribution of themes when reporting the EU, profiling the EU as a social actor in 31 % of all EU news, as a political one in 28 % and as an economic actor in 23 %. As was typical for all newspapers, the EU's environmental actions went widely unreported in the Asia-Pacific region.

Focusing in greater detail on the EU's external political actions reveals a number of interesting trends. Firstly, the cartography of the EU's political external actions as drawn by the Asia-Pacific newsmakers has a distinctive regional perspective. In the eyes of the regional media, the EU was seen to be the most active in the Middle East, with a focus on the EU's 'high politics' interaction with Asia coming a somewhat distant second. EU political actions in the Pacific theatre occupied third place ranking marginally higher than the EU's own neighbourhood (a measurement of comparative importance that one could safely presume would not hold true for the EU's own domestic press priorities!). Similarly, the political involvement of the EU with such regions as Africa and North America were rarely profiled in the Asia-Pacific 'popular' news media, while the EU's political interaction with South America and the countries of the Caribbean were almost invisible in the monitored news outlets (Figure 5). Clearly, when, what and where the EU is seen as playing an important role is to some degree shaped by the geographical perspective of editors.

**Figure 5: 'Map' of EU external political actions**

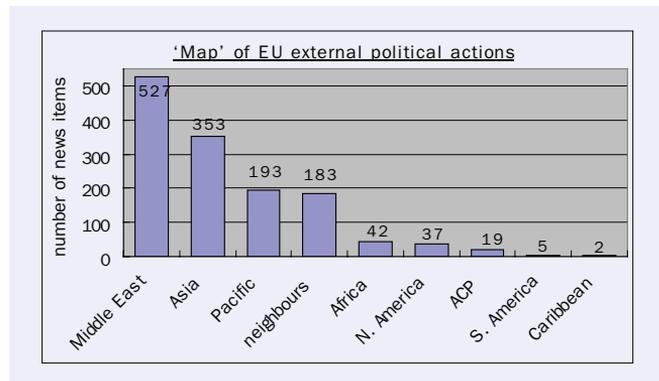
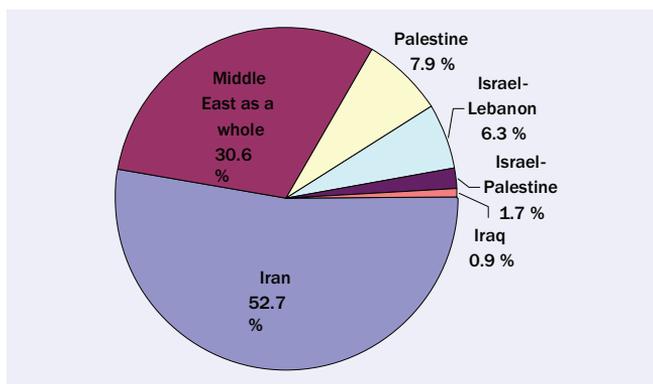


Figure 6 provides an overview of the 527 news reports of the EU's political involvement in the Middle East (the most visible theme in the coverage the EU's external political in the region from 2006 to 2008). Quite significantly, it was the EU's continuous efforts to address Iranian nuclear proliferation as well as the Union's involvement in the Middle East peace process that attracted Asia-Pacific newsmakers' attention and accounted for four out of every five EU news reports under this frame. Typically, the EU was presented as a proactive

force in the peace process. In the Iranian frame, these ‘popular’ Asia-Pacific news outlets closely followed the ‘saga’ of the EU’s ongoing reactions to Iranian nuclear developments. These ranged from launching negotiation to halting the negotiations, resuming the negotiations again <sup>(1)</sup>, from optimism to pessimism and uncertainty <sup>(2)</sup>. The EU was not presented as a lonely single actor in the unfolding drama, with the USA and Russia characterised as supporting EU action towards Iran. Intriguingly, Asia’s ‘popular’ media kept highlighting the differences between the EU and US approach towards the situation in Iran. The USA was clearly seen and reported as exercising so-called ‘hard’ power involving sanctions and threats. Conversely, in most of the 2006 coverage, the EU was characterised as the epitome of ‘soft’ power preferring diplomatic means of conflict resolution and insisting on the importance of continuing negotiations <sup>(3)</sup>. But in 2008, the EU was reported to be slowly ‘morphing’ into a ‘hard’ power through the imposition of sanctions against Iran <sup>(4)</sup>.



**Figure 6: Distribution of news reporting EU political action towards Middle East**

Turning to those 353 EU news reports that concerned the EU’s political actions towards Asia, virtually half focused on the EU’s interactions with China alone (Figure 7). Predictably, the EU’s political involvement with China was profiled the most in the ‘popular’ news outlets in mainland China (60 % of all ‘EU-China’ news in the region) and in SAR Hong Kong (12 %). Singapore, with a majority of its population being Chinese, saw 19 % of its ‘popular’ news media focus on the EU-Sino political relations. In 2006, the dominant focus

(1) Examples: ‘歐盟: 愿与伊朗恢复正常关系 俄法: 伊朗应完全中止铀浓缩’, *People’s Daily*, 16 February 2006; ‘世界强国限伊朗 10月初停止铀浓缩活动’, *Lianhe Zaobao*, 22 September 2006; ‘EU,이란 핵협상 결렬... UN제재로 갈듯’, *Chosun Daily*, 4 March 2006.

(2) Examples: ‘EU首脳会議イラン制裁支持の宣言採択異例の強硬姿勢’, *Yomiuri*, 16 December 2006; ‘歐盟施压 不忘留余地’, *People’s Daily*, 11 February 2006; ‘이란 원심분리기 또 시험 가동’, *Chosun Daily*, 25 October 2006.

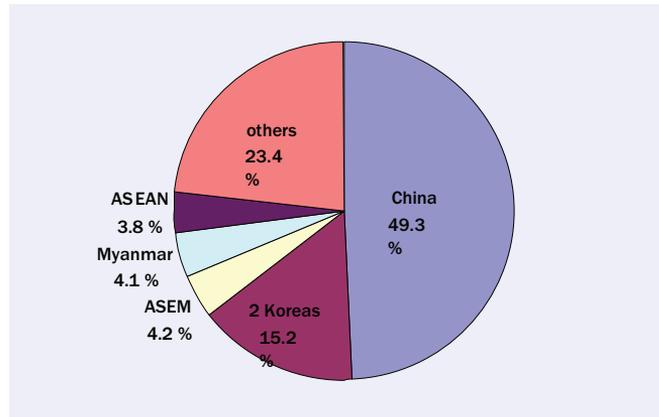
(3) Examples: ‘The door of negotiation is not closed’, *People’s Daily*, 19 January 2006; ‘歐盟进退两难’, *People’s Daily*, 1 September 2006.

(4) Examples: ‘Uni Eropa Memberi Sanksi Baru’, *Kompas*, 24 June 2008; ‘Iran Kecam Sanksi Tambahan Uni Eropa’, *Kompas*, 25 June 2008.

of this news was on China's bilateral relationship with the EU or with individual EU Member States (and occasionally, the EU was referenced in articles which primarily focused on the Sino-US relations). Notably, the EU's 1089 arms embargo on China was a leading topic. Other visible topics were joint efforts by the EU and China to upgrade Sino-EU relations to the level of a strategic partnership <sup>(1)</sup>; China's relations with individual EU Member States (seen as a bridge reinforcing Sino-EU relations); and China–EU cooperation in response to the Iranian nuclear crisis <sup>(2)</sup>. However, by 2008, the coverage of the EU's political actions towards China reflected a somewhat different picture. For example, the Indonesian paper *Kompas* reported the EU's political reaction to sensitive issues such as protests against the Chinese government before the Beijing Olympics and human rights issue in Tibet <sup>(3)</sup>.

Concerning news on the EU's political involvement with the two Koreas, the second most visible topic in the reportage of the EU's external actions in Asia, unsurprisingly 62 % of such news items came from *Chosun Daily*, South Korea's 'popular' newspaper. It is worth noting, however, that the *Chosun Daily* did not present the EU's response to North Korea's human rights abuses or nuclear weapons development <sup>(4)</sup>. Outside of South Korea, other Asian 'popular' news outlets seemed to only be interested in the EU's actions concerning North Korea's nuclear development <sup>(5)</sup>.

**Figure 7: Distribution of news reporting EU political action towards Asia**



(1) Examples: '欧盟 新战略适应中国发展', *People's Daily*, 26 October 2006; '欧盟宣布与中国关系已属于战略伙伴', *Lianhe Zaobao*, 13 December 2006.

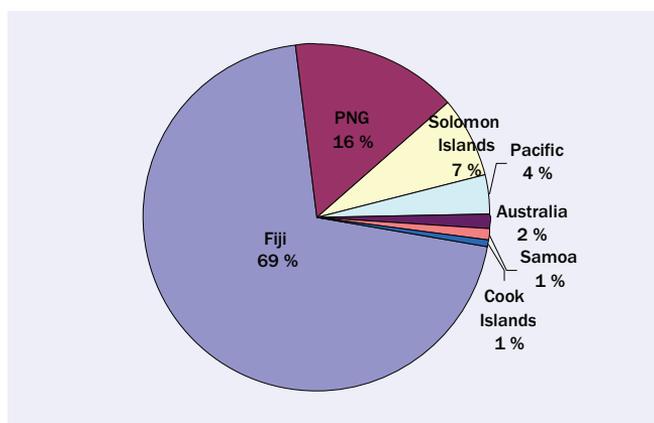
(2) Examples: 葡总统议长分别会见王兆国, *People's Daily*, 7 2006; 胡锦涛会见希拉克签14项协议中国购法150架空中客车, *Lianhe Zaobao*, 27 October 2006.

(3) Example: 'China Takut Aksi Bunuh Diri', *Kompas*, 2 April 2008.

(4) Examples: '핵 농축 개시' 무기 넘은 이란, *Chosun Daily*, 14 February 2006; 'EU의회, 북 인권안 긴급상정', *Chosun Daily*, 14 June 2006.

(5) Examples: '国际社会纷纷谴责朝鲜', *Lianhe Zaobao*, 6 July 2006; '北朝鮮制裁 EU外相理事会、厳格履行方針を確認', *Yomiuri*, 18 October 2006.

The third most visible topic in the frame 'EU external political actions' was the EU's political action towards the Pacific. While this topic largely failed to attract any attention from the Asian 'popular' news media, it was understandably highly visible in the five Pacific newspapers analysed. Fiji's political instability received the highest profile and media attention (Figure 8). The EU was generally reported either condemning the anti-democratic coup by Fiji's military, or meeting Fijian officials to explore solutions to the political instability<sup>(1)</sup>.



**Figure 8: Distribution of news on EU external political action towards the Pacific**

### 3. EU AS A DEVELOPMENTAL ACTOR IN ASIA-PACIFIC 'POPULAR' NEWS MEDIA

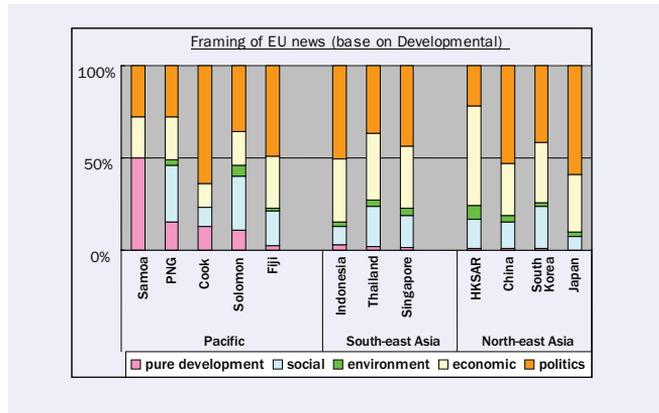
Assessing the very modest media coverage of the EU as an external political actor specifically in the developmental field, the evidence shows that it was only the 'popular' news media in the Pacific that paid any real attention to this role: the vast majority of such news items were located in the reports from the five Pacific Island nations (Figure 9). The 'popular' media in two lesser developed south-east Asian countries (Indonesia and Thailand) occasionally profiled this EU activity, while the EU's developmental actions were barely visible in north-east Asian reportage.

In the pages of the Pacific's reputable 'popular' newspapers, the EU's developmental role was typically equated with the delivery of aid assistance to the individual states and the Pacific in general. Given that the EU is the second largest donor in the region (after Australia), this media perspective was not unexpected, even if the moniker of 'global

(1) Examples: 'Takeover unlawful', *Fiji Times*, 12 December 2006; 'EU invites Fiji for talks', *Fiji Times*, 7 March 2007; 'Europe welcomes outcome of Pacific meeting on Fiji', *Solomon Star*, 21 March 2007; 'Bainimarama asks NZ not to expand sanctions', *Solomon Star*, 25 July 2007.

payer rather than global player’ may be considered rather derogatory! The EU was seen as contributing to the development across a wide range of programmes — safe water supply, sustainable agriculture, building school campuses, supplying computers to students, training workshop for nurses, workshop to promote tourism, etc. The second significant topic discussed in the context of the EU’s contribution to development was the EU negotiations with the Pacific ACP states concerning economic partnership agreements (EPA), a debate largely framed in apprehensive terms.

**Figure 9: Framing of EU news in 12 locations, pure developmental frame**



#### 4. EU AS AN ENVIRONMENTAL ACTOR IN ASIA-PACIFIC ‘POPULAR’ NEWS MEDIA

Arguably, a Brussels world view of the importance of the Union in international affairs would place the EU’s environmental leadership and activism as the jewel in the crown, an area where Europe’s softer power and regulatory influence carries both weight and effectiveness. Such a self-perception is not reflected in the mirror of the Asia-Pacific media. On the positive side, when compared with the perception of EU’s role in political and developmental fields, the EU role in environmental field is remarkably uniform across all 12 different locations. However, here uniformity was tantamount to unanimous disinterest! All surveyed Asia-Pacific ‘popular’ news media outlets paid little attention to the EU’s environmental role. Even in Hong Kong, where EU environmental actions were reported the most, such news reports only accounted for 7 % of the total reportage.

More disturbing was that the content of EU environmental stories tended to only reference the EU in a minor technical way rather than provide substantive debate on environmental issues. For example, in Hong Kong and Singapore typically EU environmental news

rarely explained EU policy or actions, but were limited to perfunctory phrases such as ‘EU III/IV car engine standard’. Generally, these EU news stories were located in the section of the press dedicated to articles about new car models or reports on local government policy on air quality control in these two international financial cities. For instance, one *Oriental Daily* news piece said,

施政報告中最具體的環保措施，只是撥款三十二億元資助更換舊式柴油車，但運輸界人士認為，政府提供的資助金額只足以支付符合歐盟四期標準的新車的兩成車價，顯示這項措施的吸引力不大，可以預料最終肯為了這筆津貼而換車的車主不會很多

*The new policy addresses most concrete measure for environmental protection is solely a HKD 32 billion subsidy for renewal of old model diesel cars. Yet, transport professionals think that the government subsidy is only enough to pay for 20 % of a new car with EU IV standard, which is not attractive and hence not many car owners will change their cars because of such subsidy ... (1)*

And one news articles from Singapore *Lianhe Zaobao* stated,

国家环境局的文告说，这项新规定是该局继推行欧盟四排气标准以及超低硫柴油之后，而采取的另一项进一步控制柴油车排放废气措施，也是该局致力于改善空气素质和公共卫生所进行的努力之一

*The National Environmental Department says that this new legislation is its new measure to further control emission of diesel cars, after adopting EURO IV emission standard and super low-sulphur diesel, it's also the department effort on improving air quality and public hygiene (2).*

On the other hand, EU environmental actions that surfaced in the Pacific media were totally different in focus. They contained perspectives on EU action in fields like fishery, farming or forest and ocean protection (3). Especially in the Solomon Islands, the EU's efforts in the development of renewable energy were mentioned periodically (4). However,

(1) *Oriental Daily*, 15 October 2006, title: ‘得個講字’.

(2) *Lianhe Zaobao*, 27 October 2006, ‘柴油車須接受‘黑烟測量法’ 例常检测費用將增加’.

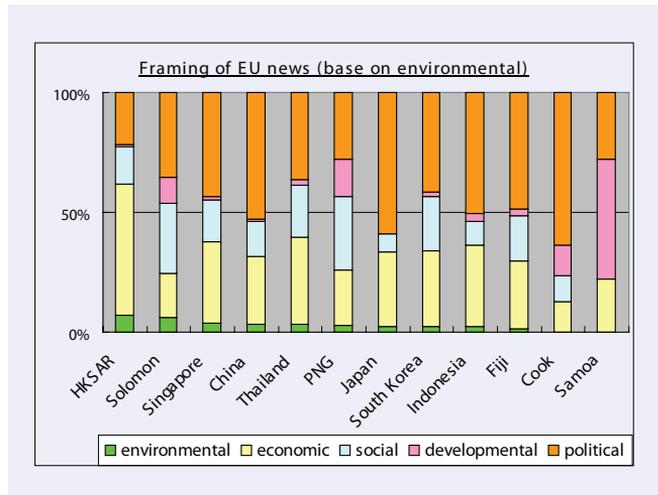
(3) Examples: *Post Courier*, ‘Conservation brings progress’, 31 August 2006; *Fiji Times*, ‘Weaver pleads for the seas’, 5 October 2006; *Solomon Star*, ‘European giants block plans to protect “fragile” Pacific fishery’, 15 November 2006.

(4) Examples: *Solomon Star*, ‘High cost of fuel is a wake-up call for region’, 26 September 2006; *Solomon Star*, ‘Coconut oil, a serious commodity option’, 8 December 2006; *Solomon Star*, ‘Environmental warning on biofuels’, 15 May 2007.

remarkably perhaps, in the *Cook Islands News* and *Samoa Observer*, the EU’s action in the environmental field was totally absent.

To summarise, and without forgetting the important rider that coverage of the EU in the Asia-Pacific media per se is extremely modest, within this context the EU’s political ‘face’ seems to have achieved a visible profile in Asia-Pacific reputable ‘popular’ news media. Interestingly, the EU’s economic ‘persona’ comes second, hopefully symbolising the belated death of the notion of ‘fortress Europe’ that traditionally was used to characterise the EU’s international identity. Although only in third place in terms of EU coverage, the Pacific press appeared to be more drawn to the EU’s developmental actions (this perspective in EU framing was largely overlooked by the Asian news producers). Finally, the EU’s actions in environmental protection and sustainable development received sparse attention in the Asia-Pacific ‘popular’ news media, and EU visibility remained low. Undeniably, the empirical data concludes that when reported the EU is more likely to be treated as a political actor than a normative power in developmental or environmental realms.

**Figure 10: Framing of EU news in 12 locations, environmental news**



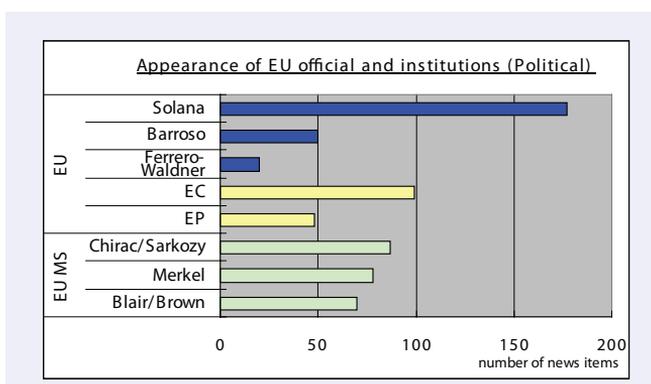
## 5. THE ‘FACE’ OF THE EU IN THE ASIA-PACIFIC MEDIA

A common belief — held since the at least the 1975 Tindemans Report — is that a key problem facing the EU is the lack of a single international identity, more often colloquially described as ‘Mr Europe’. As Henry Kissinger first pointed out, too often outsiders do not know who to call when they want to talk to the EU. Thus, this research has also sought to find out whether there is such a commonly recognised ‘Mr Europe’ in Asia-Pacific. The findings indicate that the EU is represented by mixed personalities rather than a single

image — and that these faces vary according to different policy fields. As a heuristic device to help comprehend these multiple personae, the media's 'faces of EU' can be classified into three main categories: officials of EU, institutions of EU and leaders of individual EU Member States.

In EU news reports that frame the EU in political terms, Javier Solana stands out as the most 'outspoken' EU official (Figure 11). Also, the European Commission, as an EU institution, often appears to speak for Europe, much more so than any specific Commissioner (including President Barroso and the Commissioner for External Relations, Benita Ferrero-Waldner). On the other hand, the presence of individual Member States' head is undoubtedly strong, the so-called EU-3 countries of France, Germany and United Kingdom in particular. Yet, the voice of Javier Solana is much 'louder' in political EU news reports, indicating that the creation of the position of CFSP High Representative (even if often erroneously described as the EU foreign policy chief) has had a helpful impact in terms of EU visibility.

If we turn to EU economics-framed news, the reflected personality of the EU as reported by the media changed. The presence of individuals, either from the EU or any Member State were comparatively rare when contrasted with the emphasis given to institutional bodies. Notably, the European Central Bank (ECB) was the most visible actor in economic EU news reports. However, there are regional differences that skew this perception somewhat. A significant proportion of the ECB's total references (as well as those for its President Jean-Claude Trichet) were concentrated in Hong Kong (73 %) and Singapore (11 %) (Figure 12A). Moreover, 84 % of EU economic news items that mentioned Trichet were from the Hong Kong media. If these two international financial centres are excluded from the analysis, it is the EU's common institution — the European Commission — that was the most visible spokesperson for the EU in economic affairs (Figure 12B). Clearly, in this aspect, common institutional actors appeared to be more active than any individual Member State actors.



**Figure 11: Appearance of EU officials and institutions in political EU news**

For EU news reports dealing with social issues, there was a greater variety of faces that were seen as representing the EU, but none of these were especially dominant: instead, the European Commission emerged as the most typical representative of the EU in social affairs, although again it must be acknowledged that this frame only appeared infrequently in the Asia-Pacific news media reporting of the EU (with a total of just 57 Commission references out of a total of 697 social-framed news items).

Turning to environmental field, where the EU considers itself to be a norm setter, it is even harder to identify ‘Mr EU’. Among the mere 158 items of environmental-framed EU news, rarely were EU actors actually identified as acting for the EU. Consequently, the general image conveyed was of an undifferentiated EU acting as a largely faceless and anonymous supranational entity. By way of example, on 15 May 2007 the *Solomon Star* commented, ‘The government and EU have said by the year 2020 they want 10 % of all fuel in cars to come from biofuels’ <sup>(1)</sup>. Similarly, the *Oriental Daily* on 16 July 2006 noted ‘... using EU-invented new material to pave roads can help dissolving pollutants in the air’ <sup>(2)</sup>.

Figure 12A: Appearance of EU official and institutions in economic EU news (Hong Kong and Singapore figures included)

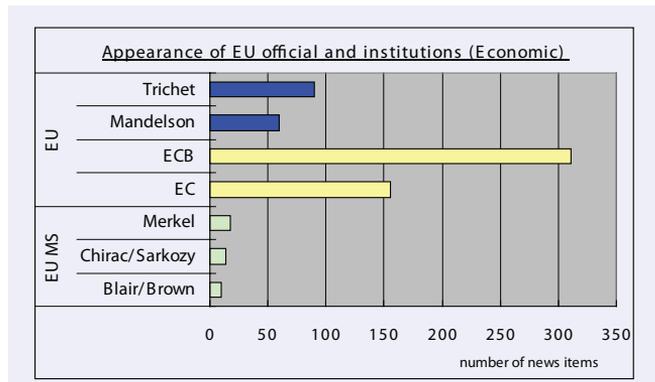
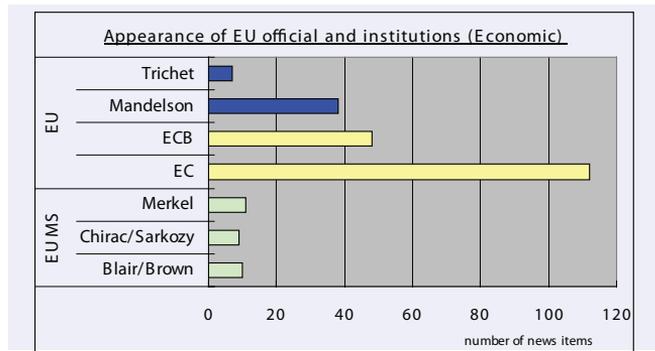


Figure 12B: Appearance of EU official and institutions in economic EU news (Hong Kong and Singapore figures excluded)



<sup>(1)</sup> *Solomon Star*, ‘Environmental warning on biofuels’, 15 May 2007.

<sup>(2)</sup> *Oriental Daily*, ‘堅拿道橋底空氣差劣’, 16 July 2006.

Thus in sum, these empirical findings reveal that it still remains difficult to identify who speaks for the EU in the Asia-Pacific media. Remedying this situation through the ratification of the Lisbon Treaty's provisions for permanent EU foreign policy and presidency roles, is an important part of finding a solution to this public diplomacy challenge.

## **6. REPRESENTATIONS OF THE EU IN THE EYES OF ASIA-PACIFIC GENERAL PUBLIC**

As suggested previously, an underlying assumption of this research was that general public opinion towards a nation's foreign counterparts tends to be heavily influenced by the news media, due to the limited personal experience an ordinary member of the public is likely to have with an overseas country. The public survey results of this research broadly confirm this assumption.

When asked the question 'What three thoughts come to your mind after hearing the term European Union?', interestingly, in all Asian locations, the euro single currency was always found to be among the most commonly recognised images representing the idea of the EU (even though the euro is not as yet used in all Member States (Table 3). In mainland China, Hong Kong and Japan, the euro was the most frequently mentioned EU representative symbol. Related economic perceptions such as 'trade' and 'economic power' were also mentioned as mental maps for interpreting the meaning of the EU for Asia-Pacific public. This recognition of the EU as an economic power broadly corresponded to the media's presentation of EU. Furthermore, in Hong Kong, where more than a half of EU news was in the economic realm, economic symbols of the EU occupy first and second place. Somewhat paradoxically perhaps, in Thailand, where the EU is reported as both an economic political actor in equal proportions, three of the top four images of the EU in the country's public opinion were economic in focus. And the Thai public was unique in identifying national diversity and disunity as their number one perception of the EU.

Following on with this theme, the idea of 'union' or 'integration' appeared elsewhere to be a relatively common impression of EU for Asia-Pacific publics. However, the presumed polar opposite idea, namely the recognition of individual states as a primary reference point, was widely cited as well (in all countries other than mainland China). Among the various EU Member States, France, Germany and United Kingdom were most often mentioned as individual countries that represented or substituted for the public's understanding of the EU. Whether this is an accurate reflection of the EU's unofficial motto of 'Diversity in Unity', or a reflection of misunderstanding and misperceptions of the complexity of the EU is of course open to debate.

	1st	2nd	3rd	4th
<b>China</b>	€	Enlargement	Union/integration	Trade
<b>HK SAR</b>	€	Trade	Union/integration	Individual countries
<b>Japan</b>	€	Union/integration	Individual countries	Disparities/ unfairness
<b>Singapore</b>	Union/integration	€	Economic power	Individual countries
<b>South Korea</b>	Union/integration	€	Individual countries	Exceptionalism/ problems
<b>Thailand</b>	Individual countries	Economic power	Trade	€
<b>Fiji</b>	Donor of development aid	Grouping of European nations	Trade	Economic power

**Table 3: Spontaneous image of EU for the Asia-Pacific general public**

The notable exception in these public perceptions was the absence of any images of the EU as an environmental leader or as a democracy or human rights promotion advocate. Similarly, the view of the EU as a principal ‘donor of developmental aid’ was only found among the Fijian public, a theme that corresponded to the media findings. Seemingly, for the perceptions of the Asia-Pacific public, the EU remained predominantly a common economic entity comprised of individual states in Europe.

## CONCLUSIONS

The visibility of the EU in Asia’s and the Pacific’s popular media is marginal, and close to invisible on television prime-time news. Yet, when reported, the EU is recognised as an emerging political actor moving beyond ‘soft power’ in the eyes of Asian news media, even if the EU is typically reported as acting politically ‘somewhere else’, such as Iran and Middle East, and appears to be a somewhat distant entity for the Asia-Pacific. While the political and economic activities of the EU do receive attention, the Union suffers from an extremely low recognition of its efforts in environmental and developmental affairs.

This should give significant food for thought for the EU's public diplomacy pioneers as these are the two fields where the EU presumes it has leverage as a soft power global leader. If that is the case, this EU role goes unreported in the Asia-Pacific.

Naturally, regional differences exist. Comparatively, the EU tends to receive greater attention in Asia, with the Pacific media much less interested or perhaps capable of reporting on EU activities. The only exception to this is that the Pacific was more aware of the EU developmental role, something that almost invisible in Asia's news media.

In general, public opinion prefers to perceive the EU as still a predominantly economic entity based around individual states in Europe: as such these perceptions seem historically tainted and trapped to a degree in the 20th century. Its developmental role was again only recognised in Fiji.

Finally, the research has provided unique empirical evidence of the continuing 'Who speaks for Europe' problem from the perspective of third countries. Such 'reflections' for EU policymakers are rarely available but invaluable. To resolve this 'faceless' crisis, the necessity to ratify and implement the Lisbon Treaty appears paramount.

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# A clash of interests? Europe's quest for an integrated approach to east Asia

*Coherence of the Union's external policies is vital to strengthening the EU's global role ... Recognising the need for an integrated, coherent approach to domestic and to global challenges has been a hallmark of this Commission. But there is more to do to reflect this in the ways we think and work (EC, 2006a, 2-3).*

## INTRODUCTION

Tensions between the European Union (EU) and its Member States have been evident since the Treaty of Rome was first signed in 1957. The oft-cited cleavage between EU-level supranationalism and the more state-oriented intergovernmentalism has been a key feature of the EU. The European Union is equally characterised by the development of supranational institutions, of a legal system and patrimony above the state and of changed competences and authority of states within the EU. The EU's Member States have been transformed as the EU has expanded its policy domains and scope. As the EU developed its policy domains, it also attempted to become a more active participant in the international system and in confronting globalisation (Wallace, 2001). The leadership of the

European Commission and European Council in particular has sought to advance the EU as an international actor, with the agreement of the constituent states. This was particularly evident in the 2001 Laeken European Council conclusions (European Council, 2001) and in the 2003 European Security Strategy (European Council, 2003). Transnational challenges such as terrorism and globalisation have acted as impetus to the desire to advance the EU's international role — in multilateralism and the promotion of stability and good governance. The Laeken presidency conclusions, for example, state that 'Europe needs to shoulder its responsibilities in the governance of globalisation. The role it has to play is that of a power ... seeking to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development' (European Council, 2001). These themes of governance and of moral norms are evident in the EU's approach to the east Asian region.

The EU seeks to be a distinctive international actor in precisely those areas where the Member States do not — and arguably cannot — act alone. The EU therefore seeks to promote its experience of regional integration and its own norms of governance. Yet the EU strategy towards east Asia consists of far more than this normative dimension. It consists of a broad schema of policies that are spread across a wide geographical region and that include issues that range from trade to development to conflict management. The questions must be raised — to what extent do these issues constitute a coherent set of objectives and does the EU act coherently in determining and managing its objectives and interests. These questions are pertinent at a time when there is evidence of considerable divergence of perceptions between the EU, on the one hand, and east Asia, defined here as the Association of South-East Asian Nations (ASEAN) Plus Three (China, Japan and South Korea) on the other regarding their engagement and regarding how each perceives the other as international actors. Who are the drivers of the EU's approach to east Asia — the Commission or the Member States? Or both? Tensions persist in the attempts to develop a European foreign policy, due to the pivotal role that is played by national policies. As will be seen below, a rich and valuable source of scholarly literature has examined this tension from various perspectives. Some have concluded that the EU constitutes an entity that, although not a state, possesses the attributes of a new type of global actor. Others have argued that, in foreign policy, the EU cannot constitute more than the sum of its states.

Lucarelli suggests that Member States' foreign policies continue to play a significant role in the definition of a European foreign policy stance. She defines European foreign policy as the political actions regarded as specifically EU action and that are the output of the EU multilevel system of governance in foreign policy (Lucarelli, 2006, p. 9). This multilevel aspect of European foreign policy is what makes the EU a challenging interlocutor for its

negotiating partners, as they attempt to assess whether the EU or a Member State is the major voice being projected and heard.

The EU policymaking is consensual regarding common internal policies and especially regarding economic policies. The Member States have agreed that the European Commission, as the major administrative agency of the EU, has legal competence to negotiate on behalf of the 27 Member States on most aspects of external trade policy and that it should take on board many aspects of coordination and agency (Majone, 1996) on their behalf. Majone points to the example of the Commission as a new type of international actor in the context of the changing nature of policymaking, with the increase in the role of independent expert bodies. Thus, increasingly, legislators or political executives delegate key policymaking powers to independent administrative bodies, and, in the case of the EU, to the European Central Bank or the Commission. There is a willingness among Member States to allow the Commission to regulate on most trade policy and multilateral trade negotiations (Young and Peterson, 2006). Yet, there was no such consensus on foreign policy, especially regarding how the EU might develop its role in international relations.

Analyses of the EU's role in international relations have ranged from traditional, critical realist approaches, founded on statehood and legal personality, to the application of behavioural criteria and structural interpretations and normative perspectives (for example, Bretherton and Vogler, 2006; Checkel, 1998; Knodt and Princen (eds), 2003; Marsh and Mackenstein, 2005; Youngs, 2004). Concepts of EU 'power' have also been scrutinised and evolved to include a burgeoning literature on soft, civilian, normative and smart power — all of which are subject to definitional debates (Falkner, 2007; Lucarelli, 2006; Manners, 2002, 2006; Nye, 2004; Sjursen, 2006). It remains, however, unclear what type of actor or power the EU is, with Bretherton and Vogler (2006) simply conceptualising the EU as an actor 'under construction', with clear teleological assumptions. This lack of clarity is not simply a scholarly challenge. There is equally a lack of clarity regarding how the EU seeks to advance its role and its objectives as a foreign policy actor. Indeed, despite some expectations that the EU will develop traditionally recognisable traits as an international actor, it is a widely held view that the current absence of a consistent and clearly defined foreign policy means that the EU is not (yet) effective internationally (Hill, 1998).

### **RECASTING EU AND NATIONAL 'ACTORNESS'**

Scholars are challenged by the need for some new conceptualisations of coherence and consistency in the EU's projection of its international role. We need to question whether — and to what extent — the EU is coherent, both in terms of policymaking and

conceptually. This chapter suggests that there are problems of both intra-institutional and inter-institutional coherence in the EU in foreign policy. This is evident in the engagement with east Asia. It is argued in this chapter that an examination of the objectives of the EU's east Asia strategies and policy guidelines is required, that also clarifies the role of the actors and the outcomes achieved. This requires increased research and a sustained dialogue among scholars on these issues. The lack of clarity in EU policy towards east Asia is evident across policy domains and across institutions. It is evident in the relationship between domestic and EU foreign policy agendas. According to a recent study of EU–Asia relations, although the Commission and the EU troika act for the whole EU in many aspects of international affairs, in particular in the economic one, 'the Member States continue to resist giving up their sovereignty in other aspects of external relations, particularly in the political and security fields' (Balme and Bridges, 2008, 8).

The question of external coherence is inextricably linked to issues of internal development and coordination, both within and between EU institutions and Member States. This is evident in trade and non-trade issues as well as the use of trade to advance other agendas (Meunier and Nicolaïdis, 2006). The need to address the EU's external coherence was a key concern of recent documents of two EU institutions — the Commission and the Council. The European Commission's *Europe in the world* document (EC, 2006b) makes the case that Member States and EU institutions should work together, focusing in particular on three areas. The first is how to develop and implement European external policy, anticipating future threats and opportunities. The second is how to increase the effectiveness and impact of EU policies and actions, using all available instruments — in external and internal policies — more coherently and drawing on the particular competences and strengths of Member States and institutions. The third area concerns how to strengthen democratic accountability and visibility of EU policies and actions and thus increase their public acceptance (EC, 2006b). This document further states that '[c]oherence of the Union's external policies is vital to strengthening the EU's global role' and that the 'overall effectiveness and therefore the global influence of the EU depend on optimal use of all available leverage in support of external goals' (EC, 2006b). These challenges, it is argued here, are long-standing ones related to the problems that the EU has faced in developing a common and coherent foreign policy and they are evident in the EU–east Asia relationship.

The second document is a Council text on the common foreign and security policy (CFSP) (Council of the EU, 2008). It presents the case for 'unity and coherence' in a global approach in the EU's external action, across policy fields and pillars. It foresees the need

for the EU, 'in pursuing its objectives in the external field', to combine diplomatic, trade and development policy areas along with those that come within the framework Justice and Home Affairs, such as asylum, immigration and drugs. It sees security policy 'in all its aspects' as forming part of this need. It continues:

*The global approach will be present from the early stage of policy shaping, particularly in implementing joint action, which will form the main instrument for developing the CFSP in fields in which Member States have essential interests in common. The 'single institutional framework' which unifies the preparatory process through the work of Coreper and the overall responsibility for the conduct of the Union's external policy given to the General Affairs Council are intended to ensure that the objectives set out in the Treaty with regard to unity and consistency are achieved, while respecting the different legal nature of decisions taken under the various parts of the Treaty (Council of the EU, 2008).*

This document demonstrates that the Council is cognisant of the need for consistency. The EU processes are complex and difficult for its interlocutors — and often its citizens — to understand. The processes are also cross-pillar and cross-institutional. They are multi-actor. The development of a more coherent and consistent approach to the EU's east Asia strategy requires substance, weight and resources to support the strategy. A key problem is that this multiplicity of actors involves a concomitant divergence of interests. A perception among both analysts and Commission officials who were interviewed by the author is that the Member States tend to pursue their own interests and this has significant impact on the credibility of the EU as a unified international actor (Carta, 2008; Murray, 2008a).

## TOWARDS AN INTEGRATED AND COHERENT APPROACH

The EU has had a long and difficult history of establishing a common foreign policy perspective and a common foreign and security policy (CFSP). Smith (2008, p. 47) makes the case that 'foreign policy remains an area of intergovernmentalism'. Nowhere is this more evident than in the EU's relationship with east Asia, where the European Commission is attempting to forge a political role and where the key Member States remain adamant that such a political role belongs to the nation states of the EU and where this case is most stridently made by three states in particular (Germany, the United Kingdom and France) who have engaged most with east Asia over several decades. This tension in the EU's east Asia policy remains one area that is relatively under-researched in the growing literature on the EU–east Asia relationship.

The scholarly literature regarding EU–east Asia relations examine the EU's political and economic relations with east Asia (e.g. Fort and Webber (eds), 2006; Murray (ed.), 2008). The establishment of the Asia–Europe Meeting (ASEM) in 1994 has led to analysis of its structure, objectives and outcomes (Yeo, 2008). The rise of new regionalism studies (Breslin et al. (eds), 2002), the comparative analysis of regional integration (Moon and Andreosso-O'Callaghan, (eds), 2005) and the complexities of inter-regionalism (Dent, 2004) have brought new perspectives to both comparative analysis and to our understanding of the EU's external relations, trade objectives and the projection of the EU as a putative model. The EU's integration process has been examined as a possible exemplar or comparative yardstick for ASEAN and the Asia-Pacific Economic Cooperation forum by EU officials and scholars alike (Boyer, 2003; Hurrell, 1995; Warleigh-Lack, 2008). Interest at both policy and scholarly levels in the feasibility of monetary union for ASEAN and ASEAN Plus Three, has also increased in recent years, especially in the aftermath of the Asian financial crisis of 1996–97 (e.g. Dieter, 2006). The relationship is multifaceted and multi-actor and, while not a top priority for each, is broadening in scope. The increasing importance of China for the EU also renders the relationship more pertinent to the EU.

The current challenges of achieving coherence in the EU's foreign policy approach to east Asia is due to a number of factors, but particularly to the tension between the desire for a united EU approach, as advanced by the Commission, often in normative terms, and the more hard-headed approach of the individual countries who seek to influence and engage with east Asia —defined here as China, Korea, Japan and ASEAN. These factors relate to the way that the EU has traditionally attempted to forge a foreign policy role and sought to advance objectives that are not focused on trade, but, rather are 'Trade-Plus' issues. The first factor is the fact that, within the EU foreign policy and external relations instruments are spread over the current three pillars. It is certainly difficult to develop and implement broad and consistent objectives in EU external relations, as the Council documents on CFSP attests. Secondly there is currently no 'consolidation of European chairs' (Bini-Smaghi, 2005) in terms of EU influence in various international forums — such as the International Monetary Fund and the World Trade Organisation. A third aspect is the multi-actor nature of EU foreign policymaking — there is currently a lack of institutional structure that could effectively bring the EU institutions and Member States into one single decision-making entity — a fact clearly recognised by the Council documents on the CFSP, in its recognition that EU foreign policy is currently less institutionalised than the first pillar policies of the EU and that the policy span is broad and cross-pillar.

Thus, when the EU attempts to develop and present a coherent approach to its external relations portfolio, it is confronted with challenges that entail both vertical and horizontal

coherence (Tietje, 1997). Vertical coherence is defined by Andersson (2008, 124) as ‘the extent to which the external policies and activities of the Member States are logically connected and mutually supportive with those of the European Union’s institutions, agencies and representatives.’ This need to have a consistency across levels of actors is crucial. Andersson characterises horizontal coherence as ‘the extent to which the various external policies and activities of the European Union’s institutions, agencies, and representatives are logically connected and mutually supportive.’ This is a key issue of both inter-institutional and intra-institutional coherence and considerable variation of policy range, impact and relatedness. There is evidence that the Commission shows signs of a lack of intra-institutional coherence as there are insufficient attempts at cross-Directorate-General consistency of approach to the east Asia relationship (Murray et al., 2008).

Sally (2007, 13) suggests that:

*The EU has to overcome internal divisions and zero-sum competition in its relations with China. The Big Three — Germany, the United Kingdom and France — prioritise their bilateral relations with China with competing and conflicting agendas, and often at the expense of the EU-China relationship. It is natural for EU Member States and China to nurture country-to-country relationships through contacts at the level of national capitals. But EU Member States — the Big Three in particular — must pull together and give more priority to collective EU-China trade relations. After all, trade policy is the one area of EU external policy that is highly centralised; and headline trade-policy issues concerning China can only be dealt with at the EU level.*

Cameron (2009, forthcoming) suggests that the EU ‘has not really clarified its interests in the region, how they should be prioritised and what means the EU should use to promote them’. His evaluation of the EU’s strategy towards east Asia concludes that, ‘overall there is an absence of a strategic vision for the region as a whole which means that there is no coherent EU approach’. Different historical ties and interests of the Member States further handicap a common approach and he argues that the EU devotes too much attention to China, to detriment of deeper dialogue with other Asian partners. He maintains that the EU has made little attempt to assess the effectiveness of individual policies such as democracy promotion and human rights.

It has been argued that there is dissonance, firstly, among various EU actors, and secondly, in perceptions of EU-Asia relations from European and Asian perspectives. Perceived in east Asia as having many voices, the EU has been a challenging interlocutor for east Asia

in terms of norms and interests; policy variance; national interests and coherence problems in the EU's regional approach. Further, there are both considerable challenges and opportunities in EU-east Asia relations, relating to: visibility and recognition; the exercise of smart power; and the management of mutual perceptions. Meeting these challenges and making the most of these opportunities requires the effective promotion of greater mutual understanding between the EU and east Asia at both regional and Member State level (Murray et al., 2008).

Smith and Vichitsorasatra (2007) have analysed important differences of material interest among the EU's Member States with regard to Asia. They suggest that differences of material capabilities among EU Member States will condition their willingness and capacity to engage in collective action. Differences of material reward will accompany national or 'European' activity. They conclude that, when 'this is added to the dynamism and fluctuations of the Asian arena, we can see that the potential for collective EU action is likely to be uneven'.

### **CONSISTENCY IN EU-EAST ASIA RELATIONS AND THE EU AGENDA**

The multilevel, multi-actor nature of EU decision-making undermines potential consistency and coherence in EU-east Asia relations (Murray, 2008a). EU decision-making involves a large number of actors and is increasingly involved in consultations with non-state and non-EU level participants. It is also incremental and neo-functionalist in nature, as it builds on past experiences and achievements. These interact at domestic and EU levels and among internal and external policies. This intricate system has many advantages. However, the EU currently has no transnational or inter-regional approach to east Asia that can be regarded as completely coherent. This is of course partly due to the immense diversity of east Asia itself, in terms of poverty, democratic development, norms, governance and participation in regional forums, for example (Murray, 2008b).

A broad approach by the Commission to understanding these differences is not in evidence, nor is there a clear mutual understanding of each other by the two sets of regional actors, despite the holding of many Asia-Europe meetings (ASEM) (Yeo, 2008). The east Asia region has not been a priority for the EU and neither has Europe been top of Asian concerns in the past. The rise of China, trade intensification and the desire for deeper partnerships are at the basis of the current inter-regional relationship. Yet the constraints outlined above mitigate against coherence. Karen Smith (2008, p. 62) argues that a serious attempt to 'create frameworks for the institutionalisation of EU-Asia relations' and a growing CFSP in the region is limited by external constraints and by 'the internal constraints

of the EU's intergovernmental procedures for making foreign policy' Godemont (2008, pp. 34-35) correctly points to the fact that there is also considerable involvement of individual EU states in Asia across many fronts, ranging from tsunami aid to peacekeeping to development aid. Trade and investment also feature on this list, of course. For example, since 1999, Germany has been China's largest European investor in terms of annual new investments, although it lies far behind Hong Kong, the USA and Taiwan. By the end of 2007, direct investments by German companies total some USD 15 billion in China (German government, 2008). These coexist alongside EU activities and projects.

There are the tensions between the role of the Commission, on the one hand, and the Member States on the other, within the complex EU structure. There are also distinctive differences of norms and interests in the approaches of the Commission as distinct from the Member States. The way that the Commission advances an agenda that has been normative in objectives, such as the promotion of good governance and human rights promotion, poverty reduction and the promotion of regional integration are often in contradistinction to the more 'strategic' objectives of the Member States, who primarily seek to export to east Asia, to attract Asian investment in their countries, and to both invest and establish in east Asian countries, although they also have commitments to humanitarian assistance and the rule of law <sup>(1)</sup>. The Commission's normative agenda is based on its positioning as a norms entrepreneur and norms exporter, especially of governance and regional integration.

The identity that the EU attempts to promote is not always the same as that perceived by external interlocutors, and the difficulties related to coherence are in part responsible for this. Therefore, although the analysis of coherence often tends to focus on internal EU structures and agency, there is another component that requires attention — conceptual coherence: that is, is the EU coherently promoting and pursuing its international agenda? This raises a further set of questions: how does the EU reconcile its promotion of norms with its pursuit of strategic objectives in external relations? What coherent narratives are being promoted to reinforce the EU's normative identity? To what extent does this normative identity of the EU appear to be in dissonance or alignment with the interests of the EU Member States? There is some consensus in the literature that national interests are

(1) See, for example, German federal government, German exports to Asia jump as trade with China powers ahead, 4.9.2008: [http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/D-Informationen/Nachrichten/080904-2,navCtx=73442,\\_\\_\\_page=2.html](http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/D-Informationen/Nachrichten/080904-2,navCtx=73442,___page=2.html) (accessed 12 September 2008). Italian Ministry of Foreign Affairs, Italia e Asia: un legame storico: [http://www.esteri.it/MAE/IT/Politica\\_Estera/Aree\\_Geografiche/Asia/](http://www.esteri.it/MAE/IT/Politica_Estera/Aree_Geografiche/Asia/) (accessed 22 January 2009); Belgian Foreign Ministry, Note de Politique Generale. Asie. <http://www.diplomatie.be/en/policy/policynotedetail.asp?TEXTID=2091> (accessed 18 January 2009).

regarded as more realist, or intergovernmental, than those of the EU, with some Commission officials taking what some regard as a high moral ground on the advancing of human rights norms, good governance (Carta, 2008). Some Commission officials actively promote the experience of European regional integration as a 'model' for ASEAN (Murray, 2008c). A recent European Commission document puts the case as follows:

*The European Union provides an interesting model for the rapidly developing countries of east and south-east Asia. In constructing a zone of peace, prosperity, and security in Europe, the Union has exerted a stabilising influence on its neighbours (Delegation of the EC to the USA, p. 1).*

Marsh and Mackenstein (2005, p. 258) regard the EU's pursuit of a 'heavily value-laden series of external relations policies' as problematic. They see the EU's attempts to project its values as universal as likely to receive criticism when it does not defend such values or enter into conflict with states who do not share these values. The case of China comes to mind (Wong, 2008). They profile EU foreign policies as predicated on assumptions about 'multilateral institutionalism, democracy and the transferability of the EU experience'. The factors are particularly relevant to the projection of the EU's norms in the east Asian region, with regard to conditionality and governance and human rights. The EU set of agendas does not necessarily reflect those of individual Member States nor of Asian states, yet there is evident within the Commission a desire to advance the EU's normative objectives in the region.

In interviews conducted by the author with officials of the European Commission, many regarded the EU as more a soft than as a hard power in the east Asian region, although there are security concerns that motivate the EU's actions in the region, which are based on EU interests in stability, peace and democracy-promotion. In addition, the EU seeks to project itself as a type of norms exporter on climate change and human rights.

With regard to security issues there is a perception that:

*The operations that we are doing together with the ASEANs, and which gives us a real physical stake in the security architecture of the region (and a huge amount of credibility) ... this has really raised us up ... it is no longer just rhetoric.*

An official spoke of the EU commitment to 'disaster preparedness in the wake of the tsunami and trying to figure out how can we, as countries which really have a stake in the future of Asia and in the security of Asia, how can we work together better'. Another

official was of the opinion that the EU and East Asians are ‘probably interested in the same type of security relationship ... being there, wanting to help democratisation, the same standard of human rights, governance’ and this official identified an advantage in the EU being ‘perceived as neutral, giving Asian partners the perception that the EU can be used in a neutral fashion without necessarily infringing on their own interests’. Yet the EU does not currently have a role in hard security in the region, a fact that is recognised by an official who sees security as ‘just an emerging field for the EU and we have to see our limits very clearly — we are still more ... soft power, I think that’s what we also want to be, for the moment’. Another official regarded human rights on agendas involving the EU as ‘very important. You’ll find it constantly in all the meetings; on all the agendas ... Human rights are very prominent.’ The official suggested that norms of good governance are part of the EU’s agenda, that they form part of ‘a comprehensive package’ regarding a free trade area, a free trade agreement and this leads to ‘talk about the ICC (International Criminal Court), terrorism, security, human rights — it’s a package now’.

Perhaps the most striking aspect of the problems of the EU’s east Asia strategy is the apparent dissonance between EU policies, such as those noted above, and many Member States’ interests (Andreosso O’Callaghan and Nicholas, 2007; Cameron, 2009, forthcoming; Wong, 2008). While the EU aims to present a ‘unified front’, on high profile issues, it may not speak as one actor or, in EU parlance, with one voice. This has resulted in non-EU, or third, countries viewing the EU as a body that does not have a strategic vision on international issues, and therefore is not the ideal partner. A recent study reveals that there is a perception among several south-east Asian states that ‘Europe should first of all resolve its own foreign policy commitment and leadership questions if it wants to be an effective and active partner of the ARF (ASEAN Regional Forum)’ (von Hoffman, 2007, p. 189). Both general studies of the EU and those focused on the Asia-Pacific have revealed that the EU is sometimes regarded as internally divided and dominated by national interests in multilateral trade and in foreign policy (Chaban and Holland (eds), 2008; Elgstrom, 2007; Murray, 2008d).

## THE DRIVERS OF THE EU’S ASIA STRATEGY

The EU’s policy toward Asia is based on regional and bilateral engagement. The approach came about in the early 1990s, and the first Asia strategy (CEC, 1994), released in 1994, was developed during a period of East Asian transformation and economic dynamism, yet European links with the region were relatively weak. There was also a considerable trade deficit of the EU with the region. The 1994 strategy focused on trade, political and security cooperation and the need to accord east Asia a higher priority on the EU’s agenda. The EU’s four main objectives in this document were: to strengthen the EU’s economic

presence; to contribute to stability through expanding economic and political relations; to encourage economic growth, especially in poorer countries; and, finally, to develop and consolidate democracy and respect for human rights. The European Commission's second major policy document, 'Europe and Asia: a strategic framework for enhanced partnerships' (EC, 2001), is characterised by a significantly broader understanding of both the concept of Asia (Asia-Pacific instead of east Asia) and of engagement with Asia. It sought to establish a 'sound policy framework' and to provide for institutional structures for the EU's relations with Asia over the next decade (EC, 2001, pp. 11–12). The new strategy focused on six key dimensions: strengthening EU engagement with Asia in the political and security fields; strengthening EU-Asia two-way trade and investment relations; contributing effectively to reduce poverty in the region; helping promote the spread of democracy, good governance and the rule of law across the region: in turn building global partnerships with key Asian partners (in combating global challenges as well as in international organisations), and, finally, promoting further awareness between the two regions (EC, 2001; Murray, 2008c). This strategy, like the 1994 one, has been subjected to some criticism recently, for the fact that there was:

*No attempt to define the possible benchmarks to assess the EU's progress in meeting its objectives and also no attempt to assess whether other countries shared the assumption of the growing global weight of the EU. This was taken as granted as was the expectation that the EU was destined to play a larger role in Asian and global affairs (Cameron, forthcoming, 2009).*

One official who was interviewed referred to the EU as being 'primarily reactive' in political terms in east Asia, 'I don't really think that we have a political strategy at the EU level to engage Asia.'

The 2007 east Asia guidelines were adopted by the Council on 20 December 2007, when the Council stated that:

*The guidelines are based on the assessment that east Asia is a region of especially dynamic change in which the EU has substantial interests. They analyse the opportunities and risks for EU interests resulting from these changes. These guidelines provide a broad orientation for the EU's approach to east Asia, across the full range of its activities and, as such, are a contribution to the framework of the common foreign and security policy (CFSP) and the European security and defence policy (ESDP) in the region.*

(COUNCIL OF THE EU, 2007A)

The guidelines (Council of the EU, 2007b, 3) state that the attitude of the major east Asian players is increasingly important to the EU's 'wider global agenda' It seeks closer dialogues with Asian interlocutors and it is cognisant of the fact that such dialogues 'will serve the EU's purposes in three ways — enrich the expertise of Member States, the Council Secretariat and the Commission on regional foreign and security policy matters'; and, secondly, establish improved channels for the EU to 'deliver messages when it feels its interests are at stake'. Thirdly, 'they will help develop common analysis and approaches, allowing the EU to deploy its weight more effectively in concert with others,' (Council of the EU, 2007b, 5). There is no doubt that, while some Member States are inextricably involved in the region, others have little interest or expertise, particularly many newer Member States, and so the issue of enriching member state expertise is a pertinent one. What is also required, in order to have a coherent policy towards east Asia, however, is a coordination of such expertise, both among the Member States and between the Member States, the Commission and Council bodies.

Further, interviews and research reveal that Asian countries may prefer bilateral relations with individual EU Member States rather than dealing first with the EU as a body. This relates to problems of dealing with the EU as an interlocutor as well as the fact there are some long-standing relations between some Member States and some Asian countries. There is also the fact that the EU is seen to be institutionally complex, difficult to understand and thus difficult to effectively interact with. Forging a deep relationship with the Commission may not be a priority if interlocutors are of the opinion that they can approach individual Member States instead — or privilege one Member State over another. In addition, there is a lack of understanding within Asia of Europe — and especially of the EU — and how Europeans think in international negotiations as much as in cultural terms.

The guidelines of 2007 had set out the EU's interests in a long, if not detailed, list. They are set out as, firstly a 'broad approach to security' encompassing the preservation of peace and strengthening of international security, in accordance with the principles of the UN Charter; the promotion of a rule-based international system; the promotion of regional integration; the development and consolidation of democracy, the rule of law, and respect for human rights and fundamental freedoms; the promotion of cooperative and sustainable policies to meet global challenges such as climate change, energy security, environmental protection, poverty, economic imbalances, and health issues; the promotion of non-proliferation of weapons of mass destruction (2007, 4). The policies relating to poverty reduction and integration promotion are outlined in the European Commission's multiannual indicative programme for Asia, 2007–10 (EC, 2007a), and the European Commission's regional programming for Asia strategy document, 2007–13 (2007b).

Meanwhile, the EU's economic interests in the region are based on the consideration that 'east Asia is the home of some of the world's largest and fastest growing economies', with China constituting the EU's largest trading partner and China the EU's second largest trading partner after the USA and the region having a substantial trade surplus with the EU. East Asia is regarded as providing considerable market opportunities for EU firms and the EU's high direct investment in the region and growing east Asian investment into the EU. It notes that regional economic cooperation initiatives in east Asia could also significantly impact on EU interests.

Issues related to trade imbalances, market access and intellectual property rights remain key concerns of the EU with regard to China. The guidelines document notes the economic interdependence between the two regions and regards it as 'critical for the future growth prospects of both sides', as seen in the free trade agreement (FTA) negotiations with ASEAN and the Republic of Korea. The document clearly links economic and security issues — regarding east Asian security and stability as preconditions for the region's continued economic success. A general concern is 'the potential for competitive nationalism in the region', particularly with regard to China's 'economic development and active diplomacy', so that there is a shift taking place in the region's strategic balance. This linking of two policy areas, one largely covered by EU competences and one not, may well lead to crossover of policy domains from one level to another — or to considerable confusion and cohesion problems. The guidelines paper further introduces concerns about potential tensions being generated by these geopolitical changes, alongside 'unresolved historical and territorial disputes'. This concern about territorial disputes is one that is a key concern for analysts and actors alike (Pempel, 2005, 1). The topics of increasing energy demand and energy security can, according to the guidelines, compound these tensions.

The economic agenda of the EU *qua* EU is a multilateral one, based on an open and fair trading system; further WTO-based liberalisation; bilateral and regional agreements. The political multilateralism of the EU is expressed as the EU's efforts, worldwide, to promote human rights and good governance; to prevent the proliferation of weapons of mass destruction, to engage in the global fight against terrorism and its efforts to counter radicalisation and extremism. International cooperation on migration, socially and environmentally sustainable development, and action on climate change also feature in this multilateral range of topics. The reader could be forgiven for considering that this non-exhaustive list of EU interests from the guidelines is a rather large, issue-heavy and onerous agenda. It is true that this is a broad agenda with global and not simply regional reach, yet it is also a somewhat tall order for the EU concerning a region to which, with the exception of China, it has not accorded priority in the past. Indeed, some academics

have argued that 'Asia has historically been the region most neglected by the Union' (Bretherton and Vogler, 2006).

The EU specifically projects itself, in the guidelines and in major speeches and documents, as a promoter of multilateralism, in trade and in governance. Yet European economic interests of competitiveness can mean that other approaches to international agreements are also evident — such as FTAs. The Commission's recent assessment of 'Global Europe' (EC, 2008, 27) justifies this approach as follows:

*EU underperformance in some of the most dynamic markets, particularly in Asia, gives strong justification for the trade agreements currently being negotiated with these countries with the aim of going beyond what can be achieved at the multilateral level.*

Given that the EU institutions have limited resources and that the interests outlined in the guidelines are many and disparate, this raises the question of whether the EU should impose some form of priority on these interests and concerns. The clear impression of many east Asian observers is that the EU is primarily an economic entity. It is also regarded as being driven by its national interests and EU interests, and so not a coherent political force (Dai, 2003; von Hofmann, 2007; Peruzzi et al., 2007). This leads one to question whether the EU is regarded as a credible political interlocutor for ASEAN (Association of South-East Asian Nations) and ASEAN Plus Three (China, Japan and South Korea). The question is important because there is evidence in some instances of positive responses to selected EU initiatives and participation in certain aspects of security, conflict management such as the EU participation in the Aceh Monitoring Mission of the Aceh peace accord. For example, the ASEAN Secretary General Ong states in 2007 that:

*The ASEAN Regional Forum (ARF), which is the premier political and security forum in the Asia-Pacific and driven by ASEAN, has provided a window for the EU to extend its political presence in the region. The EU's decision to accede to the Treaty of Amity and Cooperation in South-East Asia (TAC) and the recent successful outcome of the Aceh monitoring mission reflect a strong commitment of the EU to work with ASEAN to promote peace and security in the region (Ong, 2007).*

This does not imply that the EU is or may become a major security actor in the region. It does, however, signal that the EU complements policy with dialogue and this approach may well be the most appropriate over the middle to long term if the EU remains challenged by other parts of the world and other and more pressing agendas. Von Hoffman (2007, p.

189) reveals that east Asian elite perceptions of the EU's contribution to the ARF are perceived as modest and he quotes a senior Vietnamese official's opinion that the EU's major contribution to the ARF should primarily be 'to help the countries of the region to achieve their goal of maintaining long-lasting and positive stability by helping to boost economic development'. Certainly, according to the Secretary-General, the ASEAN-EU ministerial meeting and the EU's participation at the annual ASEAN post-Ministerial Conferences 'contribute immensely to greater dialogue and exchange of views on key regional and international issues of mutual interest and concern' (Ong, 2007).

## CONCLUSION — TOWARDS A RESEARCH AGENDA

Coherence and consistency of message and action remain key requirements for the EU to constitute an effective international actor, a fact grasped by the European Commission's 'Europe in the world' document, as we have seen. The EU seeks to have a comprehensive package of policies in east Asia, and it has many laudable ideals regarding the promotion of good governance and human rights, for example, although these are not necessarily welcome in all east Asian forums, nor are they necessarily features of Member States' messages or national approaches. Yet the EU is in a position, especially in the persona of the Commission, to project normative values and to promote inter-regionalism. Key challenges remain as long as there is evidence of a lack of consistency across policies and remnants of cross-pillar inconsistencies and intra-institutional cleavages. There remain serious problems of policy insistency among EU actors at national and European levels (Murray et al., 2008). A clash of interests is also evident in the number of disparate interests being both promoted and projected in the east Asian region by Member States that present themselves as trade rivals and the EU interests, all seeking representation in the region. The EU is able to present a consistent approach in external trade and in development aid and humanitarian assistance, the latter, however, often in tandem with the Member States, but not on trade or investment promotion.

The leadership of the European Commission and European Council continues to seek to advance the EU as an international actor, with the agreement of the constituent states. The EU seeks to confront transnational challenges such as terrorism and globalisation in dialogue with east Asia in the Asia-Europe Meeting (ASEM) while seeking to enhance the EU's international role in multilateralism and the promotion of stability and good governance.

These attempts by the EU to project an international political agenda remain relatively under-researched. Some scholars approvingly assess the EU's attempts to influence other

countries' management of democracy; good governance; human rights and civil society, while at the same time it is regarded as a positive international player in its commitment to the rule of law and multilateralism (Knodt and Princen, 2003; Marsh and Mackenstein, 2005; Rosamond, 2005).

However, the EU's credentials as a good international citizen are not universally accepted in east Asia (Wong, 2008). Moreover, the EU's attempts to be a normative actor are largely unrecognised in much of east Asia (Dai, 2003; Tanaka, 2008). While there is certainly a need for more research on how the EU 'seeks to advance the rules and values that are shared collectively in the European and global international society' (Diez and Whitman, 2002), there is also a need to understand how the EU projects its agendas and strategies — and just how coherent they are. The coherence of policy meshing and of the relationship of internal and external policy coherence requires further research.

There also a lack of analysis of the normative and 'entrepreneurship' aspects of the relationship of the EU with east Asia. The EU is hailed as the most advanced form of integration in the world and it is often lauded as a putative model of integration for ASEAN. There are problems with this approach. The EU appears to present itself as an integration exporter and an integration entrepreneur, while at the same time attempting to be a norms entrepreneur in the east Asian region. Yet its relative successes as an integrated body within Europe may not be exportable. The study of comparative regionalism tends to either praise the EU as the most advanced form of regional integration or consider it as a form of closed regionalism that cannot be usefully examined in comparative perspective at all. There is an Asian perception that the EU constitutes a form of 'intrusive integration' (Acharya and Johnstone, 2007) among some regional integration scholars.

The EU seeks to be both a powerful regional actor — a regional power Europe (Murray, 2008e) and to promote regionalism in its relationship with east Asia. It does so at a time when it is torn by a tension between European and national interests and so not necessarily recognised as a united and powerful actor by its east Asian interlocutors.

It is evident that the EU has shifted from a project of regional integration to an entity that seeks to be an influential force in regional and global governance, which has significant implications for the theory and practice of contemporary international relations and world politics. The former European Commissioner for Trade, Peter Mandelson had argued that the EU needs a more coherent and effective EU built around the concept of 'projectionism' not protectionism, meaning the ability to project European interests and values globally in the 21st century (Mandelson, 2008). This paper has argued that the EU

does not do so with a united voice. Nor is the EU fully cognisant of how this projectionism is received by its interlocutors (Murray et al., 2008).

The EU has, over time, developed its political agenda of enmeshed foreign policy cooperation among its states in order to advance a distinctive foreign policy, thereby constructing a (contentious) values-based normative identity. It has developed its distinctive international persona by advancing its own priorities and interests in the promotion of human rights; linking of aid with conditionality, and active promotion of its 'model' of global governance — and its experience of regionalism — through multilateral, regional and bilateral relationships. This international agenda is perceived by some interlocutors, especially in east Asia, as based on EU and national interests.

The EU conducts engagement with Asia on a number of levels — traditional bilateralism of state to state engagement; regional bilateralism (or inter-regionalism) of the EU to ASEAN and the EU to ASEAN and the other Asian members of the Asia-Europe Meeting — China, Japan, South Korea, India, Pakistan, Mongolia — and a region-to-state bilateralism of the EU to individual Asian states. Globalisation and multilateralism are often the context of these diplomatic and trade interchanges.

Marsh and Mackenstein (2005, p. 54) depict the means the EU adopts to advance its normative influence as core norms that 'flow through the historical construction of the EU', such as peace, democracy, rule of law, respect for human rights and liberty. They argue that the EU is advantaged fourfold in its normative presence — firstly it is simultaneously constitutive and a promoter of the predominant neo-liberal international order and secondly, the EU experience provides a model and example for regional integration in other parts of the world. Thirdly, its wealth and economic 'gravitas' draw other states into its normative spheres of influence and, lastly, the EU has representation in most key international fora and international organisations, with considerable influence and voting rights. This fourfold 'framework' could usefully be empirically tested by use of official documents; interviews with EU and East Asian negotiators and a case study of the impact of the EU in East Asia in terms of norms and interests.

Research questions could address how the EU is promoting its experience of regional integration in Asia and how Asian interlocutors perceive the EU as an international actor in the east Asian region and its promotion of its integration experience as a putative model for the east Asian region. A further research issue is the extent to which the EU is regarded as a coherent, effective and visible actor. The EU's internationalisation of its internal norms of stability, good governance and peace promotion are linked to its

promotion of the European experience of regional integration extra-territorially in east Asia. The EU is motivated by specifically EU interests, what Ginsberg regards as a unique European brand of diplomacy and ‘actorness’ that is moulded by an internal dynamic of cooperation among states and institutions (Ginsberg, 1999, p. 439). Yet that cooperation among states and institutions remains problematic for the EU’s east Asia strategy and tensions remain between national and EU interests. The complex mosaic of policies and interests constitutes an imprecise pattern as the EU continues its quest for an integrated approach to east Asia.

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## VII. Conclusions

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# La Europa del derecho

## LA UNIÓN EUROPEA COMO ORGANIZACIÓN BASADA EN EL DERECHO

Toda comunidad política ha de apoyarse en el respeto del derecho. Las relaciones de dominación que no se apoyan en el derecho carecen de legitimidad, y están sujetas al ejercicio efectivo de poder. San Agustín consideraba que toda comunidad política que no se apoyara en el derecho no se diferenciaría de una banda de facinerosos.

En el pasado, los intentos de unificar el espacio territorial que hoy llamamos Europa se basaron en el uso de la fuerza. Este fue el caso del Imperio carolingio o «gesta romana per barbaros» en la Edad Media, del Imperio de Carlos V, a comienzos de la Edad Moderna, de las conquistas de Napoleón entre finales del siglo XVIII y comienzos del siglo XIX y del «Nuevo Orden» que trató de imponer Adolf Hitler en el siglo XX.

Cuando, tras la Segunda Guerra Mundial, los seis países de la «pequeña Europa» iniciaron un proceso de «integración funcional» basado en la interpenetración de sus economías, se atribuyó una importancia primordial al derecho.

El Tratado de París de 18 de abril de 1951 por el que se estableció la Comunidad Europea del Carbón y del Acero afirmó en su artículo 5º la necesidad de que la Comunidad cumpliera su misión en las condiciones previstas en el Tratado (párrafo 1º) y asegurando «el cumplimiento de las normas» establecidas en el mismo (párrafo 2º, guión 4º). El TCECA

estableció un Tribunal encargado de garantizar el respeto del Derecho en la interpretación y aplicación del Tratado y de sus reglamentos de ejecución (artículo 31).

El Tribunal de la CECA se convirtió en una pieza clave de la construcción europea. Su jurisprudencia, apoyada en la tradición del Consejo de Estado francés y de otras jurisdicciones contencioso-administrativas europeas, se caracterizó por un gran rigor jurídico y dio solidez a la construcción de Europa. El Tribunal de la CECA, tras los Tratados de Roma de 25 de marzo de 1957 que establecieron la Comunidad Económica Europea y la Comunidad Europea de la Energía Atómica, fue unificado formalmente en virtud del convenio de 8 de abril de 1965 sobre determinadas instituciones comunes a las Comunidades Europeas, con los tribunales establecidos para las otras Comunidades en un solo Tribunal de Justicia, y la jurisprudencia iniciada por el Tribunal de la CECA se consolidó en la desarrollada por el Tribunal común para formar un cuerpo unitario de doctrina jurídica que complementa y da unidad a los tratados constituyentes y a las normas de derecho interno que los desarrollan.

En los textos constituyentes posteriores, el papel del Tribunal se ha ido reforzando de manera paulatina. Al Tribunal inicial se ha añadido un Tribunal de Primera Instancia, con respecto al cual el Tribunal de Justicia actúa en muchos casos como instancia de casación, y un Tribunal administrativo para los recursos del personal de la Unión. El sistema de paneles de recursos de la Oficina de Armonización del Mercado Interior, con sede en Alicante, ha acabado, además, desembocando, a través de un sistema de recursos, en el Tribunal de Justicia, que actúa como instancia de apelación superior y casación en materia de protección de marcas, modelos y diseños industriales.

## **EL DERECHO CONSTITUCIONAL DE LA UNIÓN EUROPEA**

Dentro del marco jurídico en el que se ha de desenvolver toda organización política, ocupa un lugar destacado el derecho constitucional. El término «Constitución» fue acuñado en Inglaterra sobre la base de la analogía con el término médico del siglo XVIII que indicaba las características anatómicas y fisiológicas de una persona. Aplicado a la esfera política se refería al conjunto de normas jurídicas, decisiones judiciales y prácticas de los órganos ejecutivos y parlamentarios. No existió una constitución escrita en el mundo hasta que las antiguas trece colonias inglesas de Norteamérica transformaron sus originales «Artículos de Confederación» en la «Constitución federal de los Estados Unidos», dotada de sólo siete artículos, a los que luego se añadieron las enmiendas que reconocían los derechos humanos fundamentales. El ejemplo norteamericano fue seguido por los revolucionarios franceses a partir de 1789 y, eventualmente, por los restantes países, que hoy cuentan

con constituciones escritas, salvo uno, el Reino Unido. Paradójicamente, el país en el que se originó el derecho constitucional moderno, no cuenta con un texto escrito unificado de su legislación fundamental, sino que se apoya en leyes, declaraciones y precedentes dispersos desarrollados a través de los siglos.

Por analogía con las constituciones nacionales, los documentos que establecen organizaciones internacionales, y que tienen nombres oficiales muy diversos, como los de «Carta», «Estatuto», «Pacto», «Convenio» y otros similares, suelen ser designados con el nombre de «constitución» por parte de la doctrina al objeto de señalar su carácter de norma jurídica fundamental. Así, Hans Kelsen consideraba a la Carta de las Naciones Unidas como la «constitución» de la ONU.

Con respecto a las instituciones europeas, es frecuente el recurso a la expresión «Constitución» para referirse a los tratados fundacionales, incluso después de haberse interrumpido el proceso de aprobación del Tratado por el que se establecía una «Constitución» de la Unión Europea. Es normal la utilización de la expresión «derecho constitucional» de la Unión Europea para referirse al conjunto de textos jurídicos en que se basa el funcionamiento de los órganos comunes, es decir, no sólo los tratados fundacionales, sino también otros textos como los tratados de ampliación y la jurisprudencia del Tribunal de Justicia en materias fundamentales. En este sentido, la eventual aprobación y entrada en vigor del Tratado de Lisboa sobre el funcionamiento de la Unión Europea, a pesar de haberse renunciado a la denominación de «Constitución» permitiría a la doctrina seguir utilizando este término para referirse a él, aunque la palabra sea anatema para los antieuropeístas.

Al ser el Tratado de la Unión Europea y el Tratado de la Comunidad Europea «tratados-marco», y no «tratados-leyes», su desarrollo requiere normas de derecho secundario elaboradas por las instituciones comunes <sup>(1)</sup>. El control de validez de los textos de derecho derivado a la luz del derecho primario establecido en los tratados ofrece un notable paralelismo con el control de constitucionalidad existente en los derechos nacionales. El Tribunal de Justicia adquiere así en cierto modo el carácter de tribunal constitucional de la Unión Europea al examinar la validez de las normas de derecho derivado, a la luz de las disposiciones de los Tratados.

Esta línea de control de constitucionalidad está bien establecida en la jurisprudencia del Tribunal aunque éste, con sentido de la responsabilidad y en estricto acatamiento de la

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(1) Cf. Linda Senden, *Soft law in European Community law*, Oxford y Portland Oregon, Hart Publishing, 2004, página 7.

legalidad formal, evite llamarse así mismo «tribunal constitucional» de la Unión Europea. En la sentencia *Van Gend & Loos* <sup>(1)</sup>, el Tribunal afirmó que la Comunidad Europea se configura como un ordenamiento diferenciado. El artículo 220 TCE impone al Tribunal de Justicia y al Tribunal de Primera Instancia «el respeto del derecho en la interpretación y aplicación» del Tratado, y el artículo 230 atribuye al Tribunal el control de la legalidad de los actos destinados a producir efectos jurídicos y de las normas obligatorias adoptadas por las instituciones. En la sentencia, *Los Verdes* <sup>(2)</sup>, el Tribunal atribuyó expresamente al TCEE el carácter de acta constitucional básica.

La existencia de un derecho constitucional comunitario se refuerza con la incorporación de los derechos fundamentales en el ordenamiento interno de la Unión. Este desarrollo lo inició el propio Tribunal de Justicia con la llamada «Jurisprudencia *Pescatore*», por el nombre del juez luxemburgués, y eventualmente presidente del Tribunal, que la impulsó, Pierre-Paolo *Pescatore*. En el caso *Internationale Handelsgesellschaft*, el Tribunal sostuvo que el respeto de los derechos fundamentales forma parte integrante de los principios generales del derecho que él mismo debe proteger <sup>(3)</sup>. El artículo 6 del Tratado de la Unión Europea atribuye a estos derechos el carácter de normas fundamentales:

«1. La Unión se basa en los principios de libertad, democracia, respeto de los derechos humanos y de las libertades fundamentales y el Estado de Derecho, principios que son comunes a los Estados miembros.

2. La Unión respetará los derechos fundamentales tal y como se garantizan en el Convenio Europeo para la Protección de los Derechos humanos y de las Libertades Fundamentales firmado en Roma el 4 de noviembre de 1950, y tal y como resultan de las tradiciones constitucionales comunes a los Estados miembros como principios generales del Derecho comunitario.»

Así, aunque la Carta de Derechos Fundamentales adoptada en Niza en 2002 no se haya convertido en derecho positivo de la Unión Europea, y no hayan entrado en vigor todavía el Tratado constitucional ni el Tratado de Lisboa, la doctrina de los derechos fundamentales puede considerarse parte integrante del derecho constitucional de la Unión Europea.

(1) As.26/62 (1963)

(2) As.294/83 (1986) Rec. 1339, párrafo 23.

(3) (As. 11/70, 1970, 1/125, párrafo 4. también los casos *Stauder*, 29/69, Rec 1969, 419, y *Haner*, 44/79, Rec. 1979, 3727).

## EL DERECHO ADMINISTRATIVO DE LA UNIÓN EUROPEA

Las Comunidades Europeas fueron establecidas como organismos de reglamentación y coordinación de las actividades de los Estados miembros en materia de ordenación de la economía. Su precedente más inmediato lo constituyen las agencias reguladoras de la administración federal de los Estados Unidos. Respondían a la necesidad de transferir a la esfera internacional el conjunto de competencias relacionadas con el bienestar de los ciudadanos que los Estados europeos asumieron después de terminada la Segunda Guerra Mundial en el marco del llamado «Estado benefactor» <sup>(1)</sup>.

El derecho administrativo de la Unión Europea abarca un conjunto de competencias estatales que están hoy sometidas a intervención comunitaria, desde la regulación aduanera y la fiscalidad hasta la ordenación de la libre concurrencia y la coordinación de las normas de seguridad social. En puridad, todo el Tratado de la Comunidad Europea es un gran código de derecho administrativo supranacional, aunque dentro de él quepa subdividir materias como las relativas a la política comercial, a la política fiscal, al régimen de extranjería o al derecho de establecimiento de sociedades.

El carácter regulatorio de las Comunidades Europeas fue una de las razones que llevó a la creación de una jurisdicción comunitaria basada en los principios del régimen contencioso administrativo continental que había desarrollado el Consejo de Estado francés.

La jurisdicción contencioso administrativa del Tribunal de Justicia permite controlar la legalidad de los actos adoptados conjuntamente por el Parlamento Europeo y el Consejo, de los actos del Consejo, de la Comisión y del Banco Central Europeo que no sean recomendaciones o dictámenes, y de los actos del Parlamento Europeo destinados a producir efectos jurídicos frente a terceros <sup>(2)</sup>. El Tribunal está abierto a los recursos interpuestos por los Estados miembros, el Parlamento Europeo, el Consejo o la Comisión <sup>(3)</sup>. Con respecto al Tribunal de Cuentas y al Banco Central, sólo admitirá los recursos dirigidos a salvaguardar las prerrogativas de estas dos instituciones <sup>(4)</sup>. El Tribunal acepta también los recursos de toda persona física o jurídica contra los actos que les afecten directa e individualmente <sup>(5)</sup>.

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<sup>(1)</sup> Cf. Senden, *op.cit.*, página 6.

<sup>(2)</sup> Artículo 230, párrafo 1º TCES.

<sup>(3)</sup> Artículo 230, párrafo 2º.

<sup>(4)</sup> Artículo 230, párrafo 34º.

<sup>(5)</sup> Artículo 230, párrafo 4º.

Los motivos que cabe invocar ante el Tribunal son bien conocidos en el sistema continental de derecho administrativo: incompetencia, vicios sustanciales de forma, violación del Tratado o cualquier norma jurídica relativa a su ejecución, o desviación de poder <sup>(1)</sup>. También cabe recurso contra las instituciones de la Unión en caso de omisión, previo requerimiento a la instancia correspondiente <sup>(2)</sup>, y para exigir indemnización por daños <sup>(3)</sup>. En materia de personal, el Tribunal es también competente, aunque, se ha creado una vía de recurso previa ante el Tribunal de la función pública europea <sup>(4)</sup>.

El control de los actos de las administraciones de los Estados miembros corresponde a las jurisdicciones nacionales respectivas. Si se invoca una cuestión de interpretación del derecho comunitario ante una instancia nacional, cabe el recurso prejudicial ante el Tribunal de Justicia, que actúa como Tribunal Supremo en esa función interpretativa.

El Tribunal de Justicia actúa también como instancia suprema de apelación en materia de propiedad industrial en las cuestiones de normas, modelos y diseños industriales que son de la competencia de la Oficina de Armonización del Mercado Interior de Alicante.

El Tratado prevé una eventual intervención del Tribunal en todos los supuestos en los que se discutan «Títulos comunitarios de propiedad industrial» <sup>(5)</sup>, aunque por el momento no se ha desarrollado aún esta rama del derecho comunitario y no existe todavía un derecho europeo de propiedad industrial fuera del ámbito de las marcas, modelos y diseños industriales otorgados por la Oficina de Alicante.

## EL ESPACIO EUROPEO DE LIBERTAD, SEGURIDAD Y JUSTICIA

El Tratado de la Unión aprobado en Maastricht en 1992 estableció un «tercer pilar» basado en la cooperación intergubernamental para los asuntos de justicia e interior. El Tratado de Unión aprobado en Amsterdam en 1997 dio un paso más al prever en su Preámbulo el establecimiento de «un espacio de libertad, seguridad y justicia» (apartado 11), e incluyó entre sus objetivos «mantener y desarrollar la Unión como un espacio de libertad, seguridad y justicia» (artículo 2º, guión 4º). El Consejo Europeo de Cardiff pidió al Consejo y a la Comisión que le prepararan para una reunión posterior en Viena un «Plan de acción» para

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(1) Artículo 230, párrafo 2º.

(2) Artículo 232.

(3) Artículo 236.

(4) Artículo 256.

(5) Artículo 29A.

el desarrollo de las disposiciones del Tratado de Amsterdam sobre ese espacio de libertad, seguridad y justicia. En el Consejo informal de Pörschach, Austria, en 1998, los jefes de Estado y de Gobierno confirmaron la importancia que daban a esta materia, acordando la celebración de un Consejo Europeo especial sobre el tema en Tampere, Finlandia, en octubre de 1999.

El «Plan de acción» de Viena fue aprobado por el Consejo JAI de Viena de 1998 <sup>(1)</sup>. Subrayó la importancia del acceso a la justicia para los ciudadanos europeos y la necesidad de una armonización europea en la materia.

El Consejo Europeo de Tampere, de 15-16 de octubre de 1999 previó la adopción de un itinerario que incluyera la cooperación judicial, civil y penal, así como la aprobación de las normas de armonización del derecho sustantivo. Insistió, por otro lado, en la importancia del principio del reconocimiento mutuo como método para avanzar hacia el espacio jurídico europeo.

El Consejo Europeo de 4-5 de noviembre de 2004 aprobó el programa de La Haya dirigido a la consolidación del espacio europeo de libertad, seguridad y justicia <sup>(2)</sup>.

La elevación del «reconocimiento mutuo» a categoría fundamental en materia de armonización jurídica iba dirigida a eludir la tortuosa vía normativa que establecen los Tratados para conseguir la armonización del derecho en el ámbito de la Unión Europea.

El principio del «reconocimiento mutuo» obliga a todos los Estados de la Unión a admitir la validez de las decisiones y actos jurídicos adoptados por otros Estados miembros. Tiene su precedente doctrinal en la cláusula de «full faith and credit» de la Constitución de los Estados Unidos, que permite en este país el tráfico jurídico interestatal sin tener que armonizar el derecho de los Estados miembros de la Unión. Su incorporación formal en la Unión Europea se produjo a partir de la sentencia del Tribunal de Justicia de la Unión Europea «Cassis de Dijon». Su validez se limitó en un principio al tráfico de mercancías. Posteriormente se ha pretendido ampliarlo a la libre prestación de servicios mediante la llamada cláusula del «país de origen» que impediría al Estado en que se prestan los servicios imponer a una empresa establecida en otro Estado miembro requisitos adicionales para llevar a cabo su actividad dentro de su territorio. En ella se apoya la Directiva sobre libre prestación de servicios. Pero esta Directiva ha establecido limitaciones a la libre

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<sup>(1)</sup> DO C 19 de 23 de enero de 1999, p. 1.

<sup>(2)</sup> DO C 53 de 3 marzo de 2005, pp. 1-14.

prestación de servicios transfronterizos, dirigidas, sobre todo, a impedir que los niveles de protección ambiental y social sean erosionados por la competencia de otros países con menor nivel de exigencias.

Frente al principio del reconocimiento mutuo se ha recurrido a las normas estatales llamadas de «gold-plating» («placado en oro») en virtud de las cuales si un país dicta normas más estrictas por razones ambientales o de protección social, esas exigencias superiores impiden la libre prestación de servicios, e incluso la importación de mercancías desde otros países cuando estos últimos dan un nivel de protección inferior en materia ambiental o social.

Las decisiones del Tribunal de Justicia en la llamada jurisprudencia «Laval-Viking-line» suponen un intento de reforzar el principio del reconocimiento mutuo en la aplicación de la Directiva vigente sobre desplazamiento de trabajadores. La reacción de los sindicatos, de los partidos políticos y de los gobiernos de izquierdas contra esta jurisprudencia ha sido muy fuerte y se ha propuesto una modificación de la directiva para que las condiciones laborales sean las del país de prestación de servicio y no las del país de origen cuando éstas sean de menor nivel de exigencias.

No parece, así, que el espacio europeo de libertad, seguridad y justicia se pueda construir sólo sobre la base de principios fundamentales desarrollados por la vía jurisprudencial como el del reconocimiento mutuo. Será preciso recurrir eventualmente a instrumentos legales, e incluso a normas de carácter constitucional adoptadas por la vía de la modificación de los Tratados fundamentales, como han intentado tanto el proyecto de Constitución europea como el Tratado de Lisboa.

El Tratado de Unión Europea aprobado en Niza en 2002 se refiere en su Preámbulo al espacio europeo de libertad, seguridad y justicia (párrafo 11) así como en los artículos, 12-c y 2º párrafo 1º. El TCE se refiere a este espacio en el artículo 61, párrafo 1º. Con la comunitarización del tercer pilar que pretende conseguir el Tratado de Lisboa, aunque el todavía existente Tratado de la Unión se refiere al espacio de Libertad, seguridad y justicia en el Preámbulo (párrafo 2) y en el artículo 3-2, sería el nuevo Tratado de funcionamiento de la Unión Europea el que regularía la materia. El espacio de libertad, seguridad y justicia saldría así definitivamente del ámbito de la cooperación intergubernamental para incluirse entre las materias de competencia compartida ante la Unión y los Estados miembros (artículo 4º, apartado 2, j).

La tercera parte del Tratado, dedicada a las «políticas y acciones internas de la Unión» dedica todo el título V (artículo 67-89) al espacio de libertad, seguridad y justicia.

No es mucha la distancia que separa al nuevo Tratado de Lisboa del anterior proyecto de Tratado constitucional en materia jurídica. Encontramos disposiciones muy parecidas en uno y otro texto. Referencias al «Estado de derecho» en el párrafo 1º del Proyecto de Constitución y en los párrafos 2º y 4º del proyecto del Tratado de Lisboa; inclusión del «espacio europeo de libertad, seguridad y justicia» en el capítulo IV del Título III de la parte II de la Constitución en términos muy similares a los del Tratado V de la parte III del Tratado de Lisboa.

La diferencia fundamental entre el Tratado de Lisboa y el Proyecto de Constitución se encuentra en la incorporación expresa en ésta, como parte II del Tratado de la «Carta de los derechos fundamentales» de la Unión, a la que el Tratado de Lisboa se refiere sólo en el artículo 1-6 del Tratado de la Unión, aunque atribuyéndole «el mismo valor jurídico que los Tratados», sin ampliar las competencias de la Unión tal como se definen en los Tratados vigentes.

El Tratado de Lisboa hace una mención especial a las disposiciones del Título VII de la Parte II del Tratado constitucional que condicionaba y limitaba los efectos de la Carta en el marco jurídico de la Unión (artículo 6º, apartado 1, párrafo 3º).

## **EL DERECHO PENAL DE LA UNIÓN EUROPEA**

Con el espacio europeo de libertad, seguridad y justicia se incorporan al ordenamiento comunitario de la Unión normas que tienen carácter penal, a pesar de que las competencias penales permanecen en manos de los Estados.

En el derecho actual de los países miembros de la Unión Europea, las normas penales tienen ciertas características que dificultan su incorporación al ámbito supranacional. Las normas penales deben tipificar de manera precisa la naturaleza del delito y las consecuencias penales del mismo, de conformidad con el principio de legalidad. El tipo y la sanción penal no pueden quedar en una vaga indefinición ni formularse de manera imprecisa, sino que han de encontrar plasmación en normas expresas y claras.

El derecho de la Unión Europea es formulado generalmente mediante directivas que dejan a los Estados miembros el desarrollo posterior, aunque también puede recogerse en reglamentos comunitarios de aplicación directa. Un reglamento comunitario que incluya normas penales no tiene sentido en este momento, cuando la Unión Europea no cuenta con mecanismos comunitarios para la ejecución de las penas. La ejecución penal sigue en manos de los Estados y debe seguir siendo así en el futuro. Corresponde a los Estados,

por tanto, la definición de los tipos y sanciones penales a través de normas internas precisas y detalladas. La Unión Europea sólo puede adoptar directivas, correspondiendo luego a los Estados miembros el desarrollo de las normas internas de carácter penal necesarias para su aplicación.

El desarrollo de un derecho penal comunitario, en los términos en los que hemos expuesto, está todavía en una fase embrionaria. Destacan las normas sobre sanciones penales por atentados contra los intereses financieros de la Unión Europea, contra las falsificaciones de la moneda común así como las normas sobre sanciones penales por crímenes internacionales (narcotráfico, tráfico de armas, tráfico de personas, terrorismo), y las normas sobre protección del ambiente a través del derecho penal, que imponen a los Estados la obligación de prever sanciones penales para este tipo de delitos, aunque con un amplio margen de discrecionalidad en la definición del tipo y la naturaleza de las sanciones.

### **DERECHO PROCESAL, NORMAS DE COMPETENCIA, RECONOCIMIENTO DE DECISIONES JUDICIALES Y EJECUCIÓN DE SENTENCIAS Y ACTAS AUTÉNTICAS**

La ordenación de los tribunales de justicia, el derecho procesal civil y penal, la competencia judicial y la ejecución de decisiones judiciales o de documentos públicos es parte del núcleo esencial de competencias de los Estados miembros. Las jurisdicciones nacionales no reconocen otras normas al respecto que las dictadas por su propio legislador. Así, encontramos normas de competencia universal en las leyes procesales nacionales que atribuyen a los tribunales nacionales competencias para regular estas materias sin tener en cuenta lo que establezcan las legislaciones de otros países al respecto. La legislación nacional puede atribuir a sus tribunales competencia universal para proteger a sus nacionales o para la protección de sus derechos en general, aunque los actos delictivos se hayan producido en otro país o los contratos se hayan concertado en un país extranjero entre ciudadanos extranjeros.

Se ha tratado de limitar de algún modo esta jurisdicción universal a través de convenios internacionales. En especial ha sido activa a través de la Conferencia de la Haya de derecho internacional privado. En una primera etapa, ante la falta de base jurídica en los tratados para regular la materia, las instituciones de la Unión recurrieron a la vía de los convenios para ordenar la competencia y el reconocimiento de decisiones entre las distintas jurisdicciones de los Estados miembros.

Pero esta vía resultó inadecuada para conseguir el fin armonizador que se persigue e incompatible con la construcción supranacional de Europa. Por ello se ha pasado a una nue-

va etapa en la que esta materia se rige por reglamentos comunitarios que tienen carácter vinculante en el interior de los Estados miembros, y han de ser aplicados directamente en el territorio nacional por las autoridades nacionales y los tribunales de justicia, sin necesidad de normas nacionales de transposición.

Ahora bien, la armonización por esta vía se encuentra también con importantes dificultades, debido a la autonomía legislativa de los Estados miembros. A la hora de la verdad, los reglamentos comunitarios de armonización jurídica se tienen que conformar con recurrir a las normas imprecisas del derecho internacional privado sobre reparto de competencias legislativas y en materia de derecho aplicable al fondo del asunto.

En una sociedad europea cada vez más integrada en la que han desaparecido las fronteras interiores y los ciudadanos se mueven con libertad a través de ellas, estableciendo lazos familiares y concluyendo negocios jurídicos sobre las más variadas materias, la armonización del derecho privado está todavía muy rezagada. Esto da lugar a situaciones contradictorias de un país a otro como «los matrimonios cojos», válidos en un país y no en otros, la dificultad para reconocer las últimas voluntades de ciudadanos de la Unión establecidos en países distintos del suyo originario, o con propiedades en ellos, y la invalidez de contratos concluidos de acuerdo con el derecho de otros países de la Unión. El actual sistema de falta de uniformidad legislativa produce indefensión del ciudadano ordinario y del consumidor frente a las grandes empresas supranacionales que, dotadas de medios materiales importantes, se mueven con soltura a través de las fronteras nacionales. Dichas empresas multinacionales cuentan en cada uno de los países miembros con los asesoramientos jurídicos y otros recursos que les permite aprovecharse de las disparidades normativas en provecho propio.

Nos encontramos aquí con una de las debilidades de la Unión Europea que justifica las críticas y el recelo del hombre de la calle a la construcción europea. En una gran Europa de 500 millones de habitantes, la seguridad jurídica es sacrificada en aras de la soberanía legislativa de los Estados miembros. Es cierto que el ordenamiento jurídico de cada uno de los países que integran la Unión es el resultado de una evolución secular y que el derecho nacional constituye una expresión fundamental de la identidad del Estado. Pero tanto los ciudadanos europeos como la construcción integradora necesitan un desarrollo legislativo armonizado que limite las incertidumbres a la hora de concluir negocios jurídicos que pretenden surtir efecto a través de las fronteras nacionales.

Un esfuerzo en este sentido lo constituye el proyecto de «Marco Constitucional de referencia», que es una especie de código armonizado de contratos que no requiere la aproba-

ción como texto comunitario de valor obligatorio sino que sería un texto facultativo que las partes pueden aceptar como vinculante en virtud del principio general del derecho civil de la autonomía de la voluntad. El «Marco contractual» de referencia aún no ha sido aprobado formalmente por las instituciones comunitarias y no sabemos si su aprobación se efectuará en plazo breve.

Poco a poco, en el ámbito del derecho, la Unión avanza de modo lento, pero incesable. La continuación de un derecho uniforme europeo requiere un esfuerzo de generaciones. Desde el punto de vista de la milenaria evolución del derecho en Europa, el tiempo transcurrido desde la fundación de las Comunidades Europeas, algo más de medio siglo, es demasiado breve. En todo caso, los cimientos ya han sido establecidos, y habrá que confiar que el genio europeo para el desarrollo permitirá consolidar ese desarrollo en un futuro no demasiado lejano.

**Ferdinando Riccardi**

*Editorialist of Agence Europe*



## À propos de quatre batailles journalistiques pour l'Europe

N'étant pas professeur mais un simple journaliste, je saisis cette occasion pour faire état, devant de vrais professeurs, de ma modeste expérience universitaire et surtout des enseignements que j'en ai tirés. Le Collège européen de Parme (Italie) a créé depuis plusieurs années un master pour des jeunes de toutes les nationalités qui, après avoir obtenu leur diplôme universitaire dans le pays d'origine, estiment utile d'y ajouter une année supplémentaire d'études spécialisées sur l'intégration européenne, dans le but de mieux connaître et comprendre ce qu'est l'UE et comment elle fonctionne. J'avais écarté dès le départ l'hypothèse d'un cours spécialisé, car je n'en ai ni la capacité ni les connaissances. J'ai préféré parler de «quelques batailles journalistiques pour l'Europe», conduites au cours des années dans le cadre de mon activité professionnelle au sein de l'Agence Europe (activité qui avait commencé en 1958, ce qui fait un demi-siècle de journalisme européen). Ma première constatation dans cet exercice à Parme avait été déroutante: les jeunes universitaires ignoraient largement la signification de la construction européenne. Ils en savaient plus que moi sur de nombreux détails techniques et juridiques, mais la plupart ne connaissaient pas ce qui avait été à la base de la création des trois Communautés successives, CECA, CEE et Euratom.

## L'ACIER ÉTAIT LE NERF DE LA GUERRE

La première de ces Communautés, celle du charbon et de l'acier, était vue par les générations nouvelles comme une entreprise purement économique, au service de l'industrie sidérurgique. Les étudiants n'étaient pas responsables de cette incompréhension; la génération précédente à la leur, celle qui avait fait suite à la génération mythique des pères fondateurs, avait perdu en grande partie la mémoire et jusqu'à la sensation des origines et des buts véritables de la CECA. C'est pourquoi la première des quatre «batailles» qui constituent toujours mon cours était «la revendication des objectifs hautement politiques de la construction européenne dès le départ». La CECA était une création politique ayant pour but la réconciliation entre les peuples qui s'étaient affrontés dans des guerres sans fin (une tous les vingt ans, avait calculé Jacques Delors). La CECA était née contre la volonté de la plupart des industriels et du monde de la finance. La gestion de l'acier, qui représentait à l'époque le nerf de la guerre, était soustraite par la CECA aux autorités nationales et confiée à une Haute Autorité supranationale où tous les pays, et aussi les syndicats des travailleurs, étaient représentés. Le terme Haute Autorité disparaîtra ensuite pour les Communautés ultérieures; le général De Gaulle ne l'aimait pas et il sera remplacé, pour la Communauté ultérieure, par le terme plus neutre de Commission européenne.

Mais la déclaration de Laeken, qui relancera quelques décennies plus tard la construction européenne, définissait encore la CECA comme «une simple coopération économique et technique», alors qu'elle signifiait la fin des conflits entre les peuples qui venaient à peine de se déchirer dans une guerre affreuse, leur réconciliation définitive dans la paix et l'unité; et elle devait représenter «la première étape de la Fédération européenne». En 2002, Max Kohnstamm, dernier survivant cette année-là des protagonistes de ces journées de 1950, avait expliqué que pendant la guerre il avait «pris conscience de la fragilité de notre civilisation» et que la naissance de la CECA lui avait permis de comprendre la «possibilité de donner un sens à sa propre existence». C'est pourquoi la réalité de la CECA représentait et représente toujours ma première «bataille» à faire connaître aux jeunes.

## RECONNAÎTRE LA SIGNIFICATION DE L'AGRICULTURE

Le sujet de la deuxième bataille est: «Rôle et signification de l'agriculture pour la civilisation européenne, contre la tendance à la considérer comme une activité en déclin». Conduite pendant des décennies alors que des intérêts puissants tendaient à détruire l'agriculture européenne ou à la réduire à un rôle folklorique, cette bataille vise à affirmer la signification pour l'Europe de sa souveraineté alimentaire, politiquement indispensable, et la sauvegarde de sa nature, de ses traditions et de ses paysages. Je m'efforce en même temps

d'indiquer les intérêts véritables des pays pauvres, intérêts si souvent faussés par le grand commerce et par des objectifs très éloignés de la lutte contre la faim dans le monde. Il suffit de rappeler la tendance de la Banque mondiale à orienter ces pays vers la «monoculture pour l'exportation», qui détruit la production vivrière locale et leur équilibre territorial, à l'avantage des commerçants et parfois de classes politiques locales corrompues.

### IMPORTANCE DE L'INDUSTRIE MANUFACTURIÈRE

La troisième bataille, conduite par l'Agence EUROPE après les deux premières, autour de l'an 2000, concerne «les obstacles et en définitive la reconnaissance de la nécessité d'une politique industrielle européenne», bataille justifiée ces années-là par la tendance des milieux politiques et économiques de certains États membres à ne maintenir en Europe que les prétendus aspects nobles de l'activité industrielle (recherche, conceptions des produits, gestion financière, stratégie commerciale), en confiant aux pays tiers à bas salaires la fabrication matérielle des produits. J'ai l'impression que cette tendance a reculé; il est maintenant admis que l'industrie manufacturière représente la base de la prospérité européenne, ma bataille journalistique appartient désormais davantage à l'histoire de la construction européenne qu'à son actualité.

La quatrième bataille décrit la longue querelle politique, juridique et sociale autour des services d'intérêt général, d'abord méconnus et incompris et enfin reconnus comme l'un des piliers de la civilisation européenne. Cette bataille se poursuit, car plusieurs aspects sont toujours en discussion; mais les grands principes paraissent acquis, alors qu'au départ dans certains États membres la terminologie même n'était pas compréhensible. Les termes services publics, encore aujourd'hui utilisés en France non seulement pour la santé et l'éducation mais aussi pour l'électricité, le transport ferroviaire, le téléphone et la poste, étaient assimilés dans certains États membres à l'assistance publique, si bien que la terminologie avait dû être modifiée; tous les documents communautaire parlent de «services d'intérêt économique général» et non plus de services publics.

Je suis conscient que mes déclarations ne seront pas partagées par tous les professeurs présents à la conférence. M<sup>me</sup> Philomena Murray nous a annoncé la parution prochaine d'un livre à elle qui parle du «snobisme de l'intégration». Je le lirai avec intérêt, mais je ne suis pas sûr d'en partager totalement l'orientation. Je sais qu'en général la règle des discours de clôture réside dans les félicitations réciproques; mais je crois que la confrontation des opinions et des idées est tout autant importante et parfois plus fructueuse. J'estime donc que les professeurs des Chaires Jean Monnet ne devraient pas négliger, chacun à sa manière et selon ses convictions, de rappeler à leurs étudiants la signification et les buts originaires de la construction européenne, au-delà de ses lacunes et de ses erreurs.

# Annexes

Programme of the Global Jean Monnet/ECSA-World Conference 2008

Programme de la conférence mondiale Jean Monnet/ECSA-Monde 2008

PROGRAMME OF THE GLOBAL JEAN MONNET/ECSA-WORLD  
CONFERENCE 2008

## 'A Europe of Achievements in a Changing World'

European Commission, Directorate-General for Education and Culture,  
Jean Monnet Programme  
European Parliament  
Brussels, 24 and 25 November 2008

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### Monday, 24 November 2008

European Parliament Room P3C050  
Paul-Henri Spaak Building

**8.00**

Registration of the participants

**9.15–9.40**

#### OFFICIAL OPENING SPEECH

Mrs **Odile Quintin**, Director-General for Education and Culture,  
European Commission

**SESSION 1:**  
**9.40–11.20**

#### The European Market, Innovation and International Competitiveness

*Moderator:*

Professor **Anne Deighton**, Jean Monnet Chair at Oxford  
University

*Speakers:*

Mrs **Nathalie de Basaldua**, Deputy Head of Cabinet of  
Commissioner Charlie McCreevy, responsible for the Internal  
Market and Services

Mr **Philippe de Buck**, Secretary-General of BUSINESSEUROPE  
Professor **Sara González**, Jean Monnet Chair at Universidad  
Complutense de Madrid; President of AUDESCO in Spain  
Professor **Vivien A. Schmidt**, Jean Monnet Chair at Boston  
University

**10.50–11.20**

Debate

**SESSION 2:**  
**11.20–13.00**

#### The Modernisation of Europe's Social Agenda in a Global Perspective

*Moderator:*

Professor **Catherine Barnard**, Jean Monnet Chair at the  
University of Cambridge

*Speakers:* Mr **Jan Jařab**, Member of the Cabinet of Commissioner Vladimřřpidla, responsible for Employment, Social Affairs and Equal Opportunities

Professor **Maria Jepsen**, Director of the Research Department at the European Trade Union Institute for Research, Education and Health and Safety; Associate Professor at the Universitř Libre de Bruxelles

Professor **Iris Vittini**, Director of the Jean Monnet Diploma of the University of Chile

**12.30–13.00**

Debate

**LUNCH**

**13.00–14.30**

Lunch at the European Parliament's Yehudi Menuhin Room, Paul-Henri Spaak Building

**SESSION 3:**

**European Citizenship, Migration and Intercultural Dialogue**

**14.30–16.00**

*Moderator:*

Professor **Antonio Papisca**, Unesco Chair in Human Rights, Democracy and Peace and Jean Monnet Chair *ad honorem* at the Universitř degli Studi di Padova; Founder of its Centro Interdipartimentale di Ricerca e servizi sui Diritti Della Persona e Dei Popoli; former President of ECSA-World

*Speakers:*

Professor **Dusan Sidjanski**, Special Adviser to the President of the European Commission; Honorary President of the European Cultural Centre in Geneva; Founder and Professor Emeritus at the Department of Political Science of the University of Geneva

Professor **Dora Kostakopoulou**, Jean Monnet Chair at the University of Manchester

**15.30–16.00**

Debate

**SESSION 4:**

**The World Economy Today**

**16.00–18.00**

*Moderator:*

Professor **Manuel Porto**, President ECSA-World; Jean Monnet Chair and former Dean of the Law Faculty at the University of Coimbra; former Vice-Chairman of the Committee on Budgets of the European Parliament

*Speakers:*

Professor **Daniel Gros**, Director of the Centre for European Policy Studies in Brussels

Professor **Paul J. J. Welfens**, Jean Monnet Chair; Chair of the Institute of Macroeconomic Theory and Politics at the University of Wuppertal; President of European Institute for International Economic Relations; Alfred Grosser Professor at the Institut d'Etudes Politiques, Paris (2007–08)

Mr **Enrique Barón Crespo**, Member and former President of the European Parliament, former Spanish Minister for Transport, Tourism and Communications

**17.30–18.00**

Debate

**DINNER**

**19.30**

Reception and official dinner at the Renaissance Hotel with musical performance by the Prince of Asturias Foundation Choir

**Tuesday, 25 November 2008**

European Parliament Room P1A002

Paul-Henri Spaak Building

**9.30–9.45**

**MUSICAL PRELUDE**

Prince of Asturias Foundation Choir

**9.45–10.00**

**JEAN MONNET PRIZE 2008**

Mr **Ján Figel'**, Member of the European Commission responsible for Education, Training, Culture and Youth

**10.00–11.00**

**INTERVENTION BY THE PRESIDENT OF THE EUROPEAN COMMISSION**

Mr **José Manuel Barroso**, President of the European Commission  
*Message of thanks on behalf of the Jean Monnet network:*

Professor **José-Maria Gil Robles**, Former President of the European Parliament; President of the former Members of the European Parliament; President of the European University Council for the Jean Monnet Programme; President of the Jean Monnet Foundation; Honorary President of the European Movement; Jean Monnet Chair and coordinator of the Jean Monnet Centre of Excellence at the Universidad Complutense de Madrid

**11.00–12.30**

**WORLD PERSPECTIVES ON THE EUROPEAN UNION**

*Moderator:*

Professor **Loukas Tsoukalis**, Jean Monnet Chair at the University of Athens; President of the Hellenic Foundation for European and Foreign Policy; Special Adviser to the President of the European Commission

*Speakers:*

Professor **Malek Chebel**, Anthropologist of Religions; expert in Islam

Ambassador **Kristen Silverberg**, United States Mission to the European Union

Professor **Dai Bingran**, Jean Monnet Chair and Director of the Centre for European Studies (a Jean Monnet Centre of Excellence) at Fudan University, Shanghai, People's Republic of China

Professor **Martin Holland**, Jean Monnet Chair and Director of the National Centre for Research on Europe (a Jean Monnet Centre of Excellence) at the University of Canterbury, New Zealand

Professor **Philomena Murray**, Jean Monnet Chair and Director of the Contemporary Europe Research Centre (a Jean Monnet Centre of Excellence) at the University of Melbourne, Australia

**12.30–13.00**

**CLOSING SESSION**

*Speakers:*

Professor **Ariane Landuyt**, Jean Monnet Chair and Director of the Centro di Ricerca sull'Integrazione Europea at the Università degli Studi di Siena

Professor **Manuel Medina Ortega**, Member and former Vice-President of the European Parliament; former Vice-Rector and Professor of International Law at the University of La Laguna; former Dean of the Faculty of Politics and Sociology and Professor of International Relations at the Complutense University of Madrid

Mr **Ferdinando Riccardi**, Editorialist of Agence Europe

**LUNCH**

**13.00–14.30**

Lunch at the European Parliament's Members Restaurant, Altiero Spinelli building

PROGRAMME DE LA CONFÉRENCE MONDIALE JEAN MONNET/CONFÉRENCE  
ECSA-MONDE 2008

## «L'Europe des réalisations dans un monde en mutation»

Commission européenne, direction générale Éducation et culture, Programme Jean Monnet

Parlement européen

Bruxelles, 24-25 novembre 2008

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### Lundi, 24 novembre 2008

Parlement européen, Salle P3Co50

Bâtiment Paul-Henri Spaak

**08h00**

Accueil des participants

**09h15 – 09h40**

**DISCOURS D'OUVERTURE**

M<sup>me</sup> **Odile Quintin**, Directeur général, direction générale Éducation et culture, Commission européenne

### **SÉANCE 1:**

**09h40 – 11h20**

**Le marché européen, l'innovation et la compétitivité internationale**

*Modératrice:*

Prof. **Anne Deighton**, Chaire Jean Monnet à l'Université d'Oxford

*Orateurs:*

M<sup>me</sup> **Nathalie de Basaldua**, Chef de Cabinet adjointe du Commissaire Charlie McCreevy, responsable pour le Marché intérieur et les services

M. **Philippe de Buck**, Secrétaire général de BusinessEurope

Prof. **Sara González**, Chaire Jean Monnet à l'Université Complutense de Madrid; Présidente de AUDESCO en Espagne

Prof. **Vivien A. Schmidt**, Chaire Jean Monnet à l'Université de Boston

**10h50 – 11h20**

Débat

### **SÉANCE 2:**

**11h20 – 13h00**

**La modernisation de l'agenda social européen dans la perspective mondiale**

*Modératrice:*

Prof. **Catherine Barnard**, Chaire Jean Monnet à l'Université de Cambridge

*Orateurs:* M. **Jan Jařab**, Membre de Cabinet du Commissaire Vladimř Špidla, responsable pour l'emploi, les affaires sociales et l'égalité des chances

Prof. **Maria Jepsen**, Directeur du Département de Recherche de l'Institut syndical européen pour la recherche, l'éducation et la santé et sécurité; Chargé de Cours à l'Université Libre de Bruxelles

Prof. **Iris Vittini**, Directeur du Diplôme Jean Monnet à l'Université du Chili

**12h30 – 13h00**

Débat

**DÉJEUNER**

**13h00 – 14h30**

Déjeuner à la salle Yehudi Menuhin du Parlement européen, bâtiment Paul-Henri Spaak

**SÉANCE 3:**

**14h30 – 16h00**

**Citoyenneté européenne, migration et dialogue interculturel**

*Modérateur:*

Prof. **Antonio Papisca**, Chaire UNESCO en droits de l'homme, démocratie et paix et Chaire Jean Monnet *ad honorem* à l'Università degli Studi di Padova; Fondateur de son *Centro Interdipartimentale di Ricerca e servizi sui Diritti Della Persona e Dei Popoli*; ancien Président de ECSA-Monde

*Orateurs:*

Prof. **Dusan Sidjanski**, Conseiller Spécial du Président de la Commission européenne; Président honoraire du Centre européen de la culture à Genève; Fondateur et ancien Directeur du Département de Science politique de l'Université de Genève  
Prof. **Dora Kostakopoulou**, Chaire Jean Monnet à l'Université de Manchester

**15h30 – 16h00**

Débat

**SÉANCE 4:**

**16h00 – 18h00**

**La situation actuelle de l'économie mondiale**

*Modérateur:*

Prof. **Manuel Porto**, Président de ECSA-Monde; Chaire Jean Monnet et ancien Doyen de la Faculté de Droit de l'Université de Coimbra; ancien Vice-président de la Commission des budgets du Parlement européen

*Orateurs:*

Prof. **Daniel Gros**, Directeur du Centre for European Policy Studies à Bruxelles

Prof. **Paul J. J. Welfens**, Chaire Jean Monnet; Chaire à l'Institut de Théorie et Politique Macro-économique à l'Université de Wupperthal; Président de l'Institut européen pour les relations économiques internationales; Professeur Alfred Grosser à l'Institut d'études politiques, Paris (2007-2008)

M. **Enrique Barón Crespo**, Membre et ancien Président du Parlement européen; ancien Ministre espagnol des transports, du tourisme et des communications

**17h30 – 18h00**

Débat

**DÎNER**

**19h30**

Réception et dîner officiel à l'Hôtel Renaissance, avec représentation musicale du Chœur de la Fondation «Prince des Asturies»

**Mardi, 25 novembre 2008**

Parlement européen, Salle P1A002

Bâtiment Paul-Henri Spaak

**09h30 – 09h45**

**PRÉLUDE MUSICAL**

Chœur de la Fondation «Prince des Asturies»

**9h45 – 10h00**

**REMISE DU PRIX JEAN MONNET 2008**

M. **Ján Figel'**, Membre de la Commission européenne, responsable pour l'éducation, la formation, la culture et la jeunesse

**10h00 – 11h00**

**INTERVENTION DU PRÉSIDENT DE LA COMMISSION EUROPÉENNE**

M. **José Manuel Barroso**, Président de la Commission européenne

*Remerciements au nom du réseau Jean Monnet:*

Prof. **José-Maria Gil Robles**, ancien Président du Parlement européen; Président des anciens Membres du Parlement européen; Président du Conseil universitaire pour le Programme Jean Monnet; Président de la Fondation Jean Monnet; Président honoraire du Mouvement européen; Chaire Jean Monnet à l'Université Complutense de Madrid et coordinateur de son Centre d'excellence

11h00 – 12h15

### PERSPECTIVES MONDIALES SUR L'UNION EUROPÉENNE

*Modérateur:*

Prof. **Loukas Tsoukalis**, Chaire Jean Monnet à l'Université d'Athènes; Président de la Fondation hellénique pour la politique européenne et étrangère; Conseiller Spécial du Président de la Commission européenne

*Orateurs:*

Prof. **Malek Chebel**, Anthropologue des religions; expert de l'Islam

Ambassadeur **Kristen Silverberg**, Mission des États-Unis auprès de l'Union européenne

Prof. **Dai Bingran**, Chaire Jean Monnet et Directeur du Centre pour les études européennes (un Centre d'Excellence Jean Monnet) à l'Université Fudan de Shanghai

Prof. **Martin Holland**, Chaire Jean Monnet et Directeur du Centre national pour la recherche sur l'Europe (un Centre d'Excellence Jean Monnet) à l'Université de Canterbury en NouvelleZélande

Prof. **Philomena Murray**, Chaire Jean Monnet et Directeur du Centre pour la recherche sur l'Europe contemporaine (un Centre d'Excellence Jean Monnet) à l'Université de Melbourne en Australie

12h15 – 13h00

### SÉANCE DE CLÔTURE

*Orateurs:*

Prof. **Ariane Landuyt**, Chaire Jean Monnet et Directrice du *Centro di Ricerca sull'Integrazione Europea* à l'Università degli Studi di Siena

Prof. **Manuel Medina Ortega**, Membre et ancien Vice-président du Parlement européen; ancien Vice-recteur et Professeur de droit international à l'Université de La Laguna; ancien Doyen et Professeur de relations internationales de la Faculté de Science Politique et Sociologie à l'Université Complutense de Madrid

M. **Ferdinando Riccardi**, Éditorialiste de l'Agence Europe

### DÉJEUNER

13h00 – 14h30

Déjeuner au restaurant des Membres du Parlement européen, bâtiment Altiero Spinelli



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