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EUROPEAN UNION FOREIGN POLICY:
AGENTS, STRUCTURE, PREFERENCES AND NETWORKS

By

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The main objective of this dissertation is to analyze the EU Foreign Policy, which is considered the dependent variable. One independent and three intervening variables are taken into consideration. The independent variable is the uncertainty created by the international system on the EU. There is a strong relationship between international crises and the development of the EU Foreign Policy organization, instruments and practices. In addition to this direct relationship, there are three elements that also affect the dependent variable, once a sense of uncertainty is perceived at the European level. The first is the relative autonomy of Community institutions such as the Commission to converge the interests of the numerous participant actors in the EU foreign policy. The second is the performance of the existing community institutional instruments (either community or intergovernmental) to define foreign policy goals, reach consensus on the actions to be taken, and provide the means to carry them out. The third is the convergence and divergence of the national interests of the governments on particular issues of the EU foreign policy agenda.

Three hypotheses are defended in the dissertation. First, the structure of the EU Foreign Policy is developing as a result of the convergence of national interests represented in the Council of the EU when they face an international crisis; the EU is reactive rather than proactive in the field of foreign policy. Second, community agents

and interest groups have a relative influence on the formulation of the EU Foreign Policy; although this assumption is most visible in the first pillar, the intergovernmental pillars are also influenced by community actors and interest groups. Third, once an instrument of foreign policy is agreed upon and institutionalized among the member states, the preferences of the states are transformed.

The hypothesis is tested in six cases of the relationship with the United States. Two cases related to international politics: the International Criminal Court and the Kyoto Protocol; two economic cases: the Foreign Sales Corporation Act and the U.S. tariff on steel imports; and two soft security cases: the Passenger Name Record and the Galileo Project.

Dedication

To my parents, Rosalinda and Adolfo, without whom this dissertation would have never

been written.

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I want to express my gratitude to the members of the committee for giving me their advice during the different stages of this dissertation. Especially I thank all my professors who taught me, both inside and outside the classroom, that knowledge can be acquired only by the lonely and steady process of self-learning.

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Introduction

At the end of World War II, Western Europe began a period of reconstruction and created a new political and economic process to eradicate the possibility of another war within its borders: European integration. This mechanism of pacification has developed into a complex regional political entity with diverse actors and different levels of political organization interacting with and reinforcing each other to govern European citizens.

Within the International Relations field, there are at least three problems regarding the conceptualization of the European Union. The first is the transformation of the Westphalia state, particularly considering the context of regional integration. The second is the participation of new actors involved in the policy making process at the European level. The third is the unbalanced development of European integration in different sectors; whereas some areas such as competition and trade are highly integrated, others such as social and foreign policy are still fragmented.

Among the numerous policies in the EU, the area of external relations clearly reflects these three difficulties. More specifically, when the EU is able to act internationally, the policy making process involves not only states, but several community institutions and interest groups as well. In addition, when EU external relations are understood as a comprehensive policy, they involve the distinct institutional arrangements and decision-making procedures within the EU and, by extension, the different personalities of the EU in international relations, namely, EU foreign policy, EU foreign economic policy, and EU security policy.

I

This dissertation is about EU foreign policy and raises several questions. The first is why this theme is relevant to the field of International Relations. In a global world, an entity composed of the integration of states has two types of effects. On the one hand, citizens within the entity are affected by the failures and achievements of the EU collective foreign policy. The incapability to reach an agreement on the U.S. intervention in Iraq in 2003 is one example that divided Europe whereas the different networks of states, community institutions and interest groups worked together to resuscitate the Kyoto Protocol. On the other, EU external relations have important impacts on international relations; when the EU has been able to exert pressure or mediate potential international crises, such as in Iran and Libya in 2004, the international presence of the EU contributes to strengthen the vision of a Kantian world. Likewise, the creation of the EU as a new form of political, economic and social organization raises questions in the discipline of International Relations with regard to the new shapes that states and international systems are taking.

II

A second inquiry is posed regarding how scholars have tried to explain the phenomenon of integration and its foreign policy. Under the theoretical umbrella of functionalism in social sciences and based on the relatively successful early years of integration (in terms of objectives reached), scholars considered that integration had its

own logic, based on the premise that the key issue of integration is the solution to technical problems with a transnational approach. Unfortunately, the integration process slowed down in the mid-1960s and the explanatory power of the functionalist school was derailed with the Empty Chair Crisis. Neo-functionalism emerged stressing the logic of diversity and the intergovernmental aspects of the then European Community, giving birth to the recognition of supranational institutions. Likewise, it included in its analysis the role of interest groups in the integration process and elaborated in depth the concept of spillover (functional, technical and political). Neo-functionalism has been criticized because it is market-driven and transnational exchange oriented, ruling out in some cases the role of the state in the integrations process. These limitations are clearly evident in the cases of the social and foreign policy dimensions of the European Union.

Contrary to these inconsistencies, state-oriented theories have had a major impact on the explanation of the integration process. In essence, IR theory debates have impregnated integration theory. Adapting the realist principles to the peculiarities of EU integration, Liberal Intergovernmentalism has postulated that demands for integration arise within processes of domestic politics whereas integration outcomes are supplied as consequences of intergovernmental negotiation. Although it acknowledges the role of supranational bodies in promoting this cooperation, in its view, the EU always has evolved as a result of its members' interstate bargains and each government looks to defend its own policy preferences in the EU arena.

Concomitant to the mainstreams of integration theory, the literature on EU foreign policy displays analogous tendencies. The existing analysis on EU foreign policy is basically divided into two main areas: the actor oriented and the institutional approach.

The challenge is to take the analytical tools from the foreign policy analysis and apply them to actor rather than to a state perspective, namely the EU as a political system. By looking at the day-to-day actions of the EU foreign policy making, this system works as an interplay between national and collective actors, which produces patterns of action with a complex set of interacting and overlapping national and supranational interests. Along similar lines, constructivism promotes the study of European governance in terms of foreign policy, which considers the formal and informal decisions and the notions of European identity and interest.

III

Facing a mosaic of integration theories, what are the proper theoretical tools to study EU foreign policy? Based on the assumption that each theory pursues different levels of generalization, intentions, scope, and emphasis on the object study, the present dissertation proposes three stages to study the EU foreign policy. The first stage that corresponds to the most general level of explanation, the ontological; it highlights the contribution of constructivism to integration theory, particularly the agency-structure debate, which provides integration theory with the necessary flexibility to encapsulate the interrelationship between states and community institutions. The second stage explores ways in which the overall nature of European integration might be theorized; this search is commonly known as grand theory and refers to the liberal intergovernmentalism and neo-functionalism debate. The third focuses on middle range theories which look at

particular aspects of the integration process. In this case the policy network theory is taken as the base of the analysis.

Reviewing of the performance of the EU foreign policy, a preliminary assumption shows that states in the Council of the EU are the driving force in this particular area. Even in the case of the Community foreign policy, in which the Commission has a relevant role, a careful reading demonstrates that the Council maintains an important position in the decision-making process. Not all actors have the same political weight. In this view, this dissertation also proposes three agents (actors) in the EU foreign policy making process: principal (the Council), delegated (Commission and Parliament) and interest groups acting at the European level. The interrelation of these three types of agents is shaping the structure of the EU and the most visible aspects are reflected in the organizational setting, instruments and practices of the EU foreign policy.

IV

The main objective of this dissertation is to analyze the EU Foreign Policy, which is considered the dependent variable. One independent and three intervening variables are taken into consideration. The independent variable is the uncertainty created by the international system on the EU. There is a strong relationship between international crises and the development of the EU Foreign Policy organization, instruments and practices.

In addition to this direct relationship, there are three elements that also affect the dependent variable, once a sense of uncertainty is perceived at the European level. The first is the relative autonomy of Community institutions such as the Commission to converge the interests of the numerous participant actors in the EU foreign policy. The second is the performance of the existing community institutional instruments (either community or intergovernmental) to define foreign policy goals, reach consensus on the actions to be taken, and provide the means to carry them out. The third is the convergence and divergence of the national interests of the governments on particular issues of the EU foreign policy agenda.

In line with the dependent and independent variables, the main hypothesis of the dissertation is: the structure of the EU Foreign Policy is developing as a result of the convergence of national interests represented in the Council of the EU when they face an international crisis. The EU is reactive rather than proactive in the field of foreign policy. However, in order to capture the complexity of the European Union Foreign Policy, two corollary hypotheses must be included.

The second hypothesis states that the community agent and interest groups have a relative influence on the formulation of the EU Foreign Policy. Although this assumption is most visible in the first pillar, the intergovernmental pillars are also influenced by community actors and interest groups.

The third hypothesis considers that once an instrument of foreign policy is agreed upon and institutionalized among the member states, the preferences of the states are transformed. In other words, there is a policy feedback into the EU system that is the consequence of previous decisions.

V

The first chapter argues that the European integration process has led to the creation of a Regional System of Integrative Governance, which has four main characteristics: territorial space to develop common institutions (region); area of multiple interconnections among states, community institutions and transnational actors at different levels of political organization (system); steady and growing collective institutions and decision making processes (integrative); and arrangements of differentiated problem solving mechanisms through numerous types of networks (governance).

The second chapter focuses on a proposed theoretical framework in the study the EU. Three stages are proposed according to the level of generalization of the explanation. The first stage corresponds to the most general and highlights the contribution of constructivism to integration theory, particularly the agency-structure debate. The second is based on the grand theory debate and refers to interests and preferences in the liberal intergovernmentalist and neo-functionalist theories. The third focuses on the policy network theory as middle range theory to study concrete cases.

Chapter Three explores the debates with regard to the concept of EU foreign policy. In light of the concentration of decision-making power of the community institutions, the chapter proposes three kinds of agents in the EU foreign policy making: principal (the Council), delegated (Commission and Parliament) and interest groups acting at the European level.

Likewise, Chapter Three focuses on the relations among these three types of agents in shaping the structure of the EU. The most visible aspects in which these take place is reflected in the organizational setting, instruments and practices of the EU foreign policy.

Chapter Four presents the development of the EU foreign policy from 1957-1993. Rather than providing a narrative history of European integration, it looks at a selection of historical events, documents, and interpretations related to the development of the EU foreign policy system. The argument of the chapter is that the historical background reveals different patterns of relations and institutional developments among agents in the realm of EU foreign policy making (political, military, and security).

Chapter Five explains how the EU foreign policy has expanded its action in the political, economic, and security areas. The underlying argument is that the context of uncertainty in the 1990s accelerated the institutionalization and evolution of the EU foreign policy. In fact, the important innovations established by the Maastricht and Amsterdam treaties in order to create new agents (High Representative) and modify the organizational setting (role of the Commission in external affairs) were to some extent the result of the practices of previous decades.

Chapter Six analyzes the preference formation of the EU foreign policy in six negotiations with the United States. As a result of the identification of common interests, agents (states, community institutions, and interest groups) form networks that can be permanent or temporal. In the medium term, these networks may also aggregate preferences to reach specific non-biding agreements or transform their preferences by negotiating and accepting legally binding instruments.

Three areas of EU foreign policy are analyzed in Chapter Six. The first section focuses on two cases related to international politics: the International Criminal Court and the Kyoto Protocol. The second part of this chapter describes two economic cases: the Foreign Sales Corporation Act and the U.S. tariff on steel imports. The third section explains negotiations linked to two soft security cases: the Passenger Name Record and the Galileo Project.

VI

The research can be divided in two different stages that were conducted simultaneously. The first is the review of specialized information, which can be broken down into four different categories. The first was the immediate information, reviewing newspaper and weekly journals; these sources tend to focus on particular junctures and provide information on a day-to-day basis. The second was to examine specialized journals on international relations and European integration, which offer medium-term analyses on the themes under consideration. The third was to follow official information from the different institutions of the European Union, national governments (basically France, Germany and the United Kingdom), and U.S. departments, agencies and Congress. The fourth was the review of books, providing long-term and theoretical information.

The second phase relied on interviews and examination of a selection of EU institution archives in Brussels. Some interviews were conducted with officials in charge of different areas of EU foreign policy and the relations with the United States in the

European Commission and the Council of the European Union. These interviews took place in Brussels in October 2001, July 2003, and June 2004 (Victoria, Canada, and Salzburg, Austria).

Chapter One

The European Union:
A Regional System of Integrative Governance

The present chapter argues that the European integration process has led to the creation of a Regional System of Integrative Governance. Scholars have suggested numerous definitions of the EU, eight of which are mentioned in this chapter. Such variety reflects the diversity of viewpoints from which the EU can be understood. The challenge, then, is to determine which one is the definition that best explains the EU according to this dissertation. More importantly, the kind of definition of EU will determine the premises of the analysis. How to face this definitional challenge? The inductive method was chosen in order to determine the main characteristics of the EU, which were derived from the development, behavior, and cases analyzed with regard to the EU foreign policy.

Rather than using a definitional straightjacket, four main characteristics are identified. First, the EU as a territorial space in which countries share not only common history, but also the will to develop common institutions (region); second, the EU as an area of multiple interconnections among states, community institutions and transnational actors at different levels of political organization (system); third, the EU as a steady and growing process of collective institutions and decision making processes (integrative); and forth, the EU as an arrangement of differentiated problem solving mechanisms through numerous types of networks (governance).

The first section describes the traditional characteristics of the Westphalian state and its contemporary context in international relations. The second is an exploration of the definitions of the EU. The third section provides an explanation of the elements embedded in the nature of the EU, which are the following: the neo-Westphalian features of the European state; the multiple interconnections creating a region; the driving force of the integration process; the institutionalization of norms and practices in a regional political system; and the diversity of mechanisms to cooperate and implement decisions.

1.1. The Context: The Westphalian State in the Era of Globalization and Interdependence

Why should the traditional conception of the state be revisited? The underlying reason is that the Westphalian state is undergoing several transformations and, consequently, so are the participant units of the international system. The mere existence of the EU, despite all fair criticisms, is a result of these transformations that entail qualitative, observable, significant and durable changes.[1]

Despite the relatively increasing role of new international actors such as international organizations or transnational corporations, the state is the basic and indispensable reference in the field of International Relations. A definition of the state suggests that, "The state means, essentially, the whole fixed political system, the set-up of authoritative and legitimately powerful roles by which we are finally controlled, ordered and organized."[2] From a traditional state-oriented perspective, the characteristics

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[1] David Long, "The Euro and the Transformation of International Relations" (Europe-Russia, Working Papers, vol. 1, no. 2, The Centre for European Studies, Carleton University, March 2001).

[2] David Robertson, *A Dictionary of Modern Politics*, (London: Europa Publications, 2002), 457.

of the state have remained the same if we consider the four basic legal criteria that define a state: a territorial base with as geographically-defined border; a stable population residing in it; a government to which the population pledges allegiance, and diplomatic recognition by other states.[3] In terms of its functions, the state is a normative order and also the entity that has the monopoly on the legitimate use of force within a society.[4]

Based on these premises, the Westphalian system is legally structured on the foundational tenets of international law: the equality of states, sovereign immunity, and the doctrine of non-intervention.[5] Such principles only partially reflect the international reality, the one based on international law. A different picture arises when current events suggest that the logic of international law is not the same as the logic of international politics or economic rationale. States are different in size, wealth, power and international role. Thus, the Westphalia paradox is that although the assumption of the "equality of states" as the cornerstone of international law remains valid, the daily nature of the Westphalia model has "effortlessly accommodated the realities of radical inequality among states" and "...generated its own distinctive form of global governance, relying on the performance of special managerial roles by leading state actors, know as Great Powers."[6] By the same logic, the legal "equality" of the 191 states in the United Nations General Assembly is "overridden by the "veto power conferred on the five

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[3] Karen Mingst, *Essentials of International Relations* (New York: W.W. Norton, 2001), 110-111.

[4] Max Weber, State and Society (New York: Bedminster Press, 1968).

[5] Richard Falk, "The Post-Westphalia Enigma," in *Global Governance in the 21st Century: Alternative Perspectives on World Order*, ed. Bjorn Hettne and Bertil Odén (Stockholm: Almkvist and Wiksell International, 2002), 145-148.

[6] Falk, 148.

permanent members of the Security Council."[7] This represents the formal recognition of the inequality in the Westphalia reality, particularly when the numerous positions supported by most of the General Assembly members are dismissed by one or two countries in the Security Council, such as the case of the thirteenth General Assembly resolutions to end the four-decade-economic, commercial and financial embargo imposed by the United States against Cuba.[8]

Political and economic inequality can bring instability to the entire international system. Susan Strange stated that the Westphalian system has failed to satisfy the long term conditions of sustainability. In that light, she argued that the "Westfailure System" has failed in three areas: to manage and control the crisis in the financial system; to protect the environment; and to preserve a socio-economic balance between the rich and the powerful and the poor and the weak.[9]

In this regard, the classical concept of sovereignty (the notion of territorially-rooted political authority, which is exclusive and undivided) has increasingly become subject to criticism from different political quarters:

> Liberals, environmentalists and postmodernists, all seem unanimous in their expectation of the inevitable demise of the Westphalian State system.... According to the first group of

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[7] Falk, 154.

[8] Fifty-Ninth General Assembly, "Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America Against Cuba," A/59/PV.44, A/RES/59/11, 44th Meeting (AM), October 28, 2004. 178 countries voted in favor; there was one abstention (Federated States of Micronesia), six absents (El Salvador, Iraq, Morocco, Nicaragua, Uzbekistan, Vanuatu), and four votes against (Israel, Marshall Islands, Palau, United States).

[9] Susan Strange, "The Westfailure System," in *International Political Economy: State-Market Relations in a Changing Global Order*, ed. Roe Goddard, Patrick Cronin, and Kishore C. Dash (Boulder: Lynne Rienner, 2003), 495.

progressive reformers, economic globalization is pushing us towards a 'borderless world'; in the view of the second group we are moving towards an ecologically interdependent and unitary world struggling with common survival; whilst the third group of postmodernists is raising the prospect of a global village and a cyberspace where chronopolitics takes over the role of geopolitics.[10]

The common denominator in the three positions quoted above is that a transformation of the units (states) and the system (Westphalia) is taking place. Two processes are crucial in such transformations: globalization and interdependence. Globalization is the main process of interaction capacity in contemporary international relations. It has become a constant reference in International Relations and has pervaded several aspects of the traditional domains of the states and common citizens. One of the less controversial definitions that depicts the essence of globalization affirms that, "Globalization may be thought of initially as the widening, deepening and speeding up of worldwide interconnectedness in all aspects of contemporary social life, from the cultural to the criminal, the financial to the spiritual."[11]Certainly, there are disagreements about its longevity, scope, and impact; such scholarly confrontations are the natural result of the various perspectives from which globalization is interpreted and explained.[12]

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[10] Alfred Van Staden and Hans Vollaard, "The Erosion of State Sovereignty: Towards a Post-Territorial World?" in *State, Sovereignty, and International Governance*, ed. Gerard Kreijen (Oxford: Oxford University Press, 2002), 165.

[11] David Held, *Global Transformations: Politics, Economics and Culture* (Stanford: Stanford University Press, 1999), 2.

[12] The literature about globalization encompasses a variety of specific aspects and theoretical tendencies. Some titles can reveal such diversity. Henry Veltmeyer, ed., *Globalization and Antiglobalization: Dynamics of Change in the New World Order* (Burlington, VT: Ashgate, 2004); Marcelo M. Suárez-Orozco and Desirée Baolian Qin-Hilliard, eds., *Globalization: Culture and Education in the New Millennium* (Berkeley: University of California Press, 2004); Jagdish Bhagwati, *In Defense of Globalization* (New York: Oxford University Press, 2004); John Rapley, *Globalization and Inequality: Neoliberalism's Downward Spiral* (Boulder: Lynne Rienner, 2004); Sheila Croucher, *Globalization and Belonging: The Politics of Identity in a Changing World* (Lanham: Rowman and Littlefield, 2004).

In terms of contemporary interaction capacity, what is relevant is that there are differences between the current globalism and the globalism that existed 20 years ago.[13] To explain these differences, scholars make a distinction between "thin" and "thick" globalism.[14] The former refers to weaker ties, primarily dealing only with an elite stratum of consumers. The latter refers to more long-distance flows that are continuous and affect many strata (if not all) of society. Thus, there are three kinds of changes in degree that have risen with the "thickening" of globalism. The first is the increased density of networks. As the world becomes more interdependent, the effects of events that happen on one side of the world in one sector can have deep effects on other sectors in another place. The second is increased institutional velocity, which has created a great change in networks and interconnections among those networks and refers to how rapidly a system changes with intensity of contact. The third is increased transnational participation. Due to faster technological advances in communication, transnational participation among actors has become possible.

Nonetheless, it is important to remark that such a worldwide interconnectedness is not simultaneously and evenly spread over all areas of human activity. Depending on the geographical area, the thickening of globalism in economic, military or cultural areas will vary. As to the geographical aspect, the European case has been deeply ingrained in globalization throughout world history, particularly in the view of those scholars that

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[13] Robert Keohane, among other authors, differentiates between globalization and globalism. Broadly speaking, globalism is a state of the world involving networks of interdependence at multicontinental distances whereas globalization is the process of reaching this state.

[14] Held and Keohane have elaborated at length the characteristics of thin and thick globalism.

consider the inception of globalization as the initial intercontinental migration, the modern era or industrialization.[15]

In spite of the expanded effects of global interactions, some processes have a more reduced scope, even though at some point they may intersect with the global level.[16] While interdependence is a situation characterized by mutual impact between at least two different states, globalization refers to a condition of the world involving networks of interdependence at multicontinental distances. Keohane and Nye have emphasized that globalism is a type of interdependence that has a network of connections that include multicontinental distances, as opposed to single linkages and regional networks. The common denominator of comments made by experts about globalization leads to two general observations:

1) It refers to the increased global interdependence of economic, communication, and transportation systems, which are influenced by the technological revolution.

2) Moreover, its features involve both "multiple" relations (not a single linkage) and multicontinental distances.

Despite their similarities, the concepts of globalization and interdependence are not interchangeable. Interdependence, which became a buzzword in the field of

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[15] Respectively, these are the cases of Clive Gamble, *Timewalkers: The Prehistory of Global Colonization* (Cambridge: Harvard University Press, 1992); Roland Robertson, *Globalization: Social Theory and Global Culture* (London: Sage, 1992); and Christopher Chase-Dunn, *Global formation: structures of the world-economy* (Lanham, Md.: Rowman and Littlefield, 1998).

[16] See Thomas Friedman, *The Lexus and the Olive Tree*, New York: Farrar Straus & Giroux, 1999. Also see Fall 1999 issue of *Foreign Policy* journal, for Thomas Friedman and Ignacio Ramonet debate over globalization. For a skeptical post-cold war view, see William Greider, *One World, Ready or Not: The Manic Logic of Global Capitalism* (New York: Simon & Schuster, 1977).

International Relations in the 1970s, refers to an international condition characterized by mutual effects. Robert Keohane and Joseph Nye[17] defined the term interdependence as a situation characterized by reciprocal effects among states or among actors in different states. In other words, they argued that interdependence exists between two states when events in one country directly influence events in another and vice-versa. For Keohane and Nye, the most prominent example of an interdependent situation was the relationship between the major Western industrial states, whose economies and politics were intertwined in numerous ways. This is the case of European integration.

1.2. Defining the EU

Globalization and interdependence have increased the interconnections among the units of the international system. The development of interconnections in Europe is particularly relevant. The free movement of labor in the EU, for example, is one of the most distinctive features of such interconnections. In this regard, what kind of entity is emerging in Europe? It is unusual to find consensual and clear-cut definitions about the EU, however, there is no shortage of attempts to encapsulate what the EU is. It has been variously described as a "system of multilevel governance,"[18] a "confederation,"[19] a

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[17] Robert Keohane and Joseph Nye, *Power & Interdependence: World Politics in Transition* (Boston: Little, Brown, & Company 1977; third edition, New York: Longman, 2000). Also see by the same authors, *Transnational Relations & World Politics in Transition* (Cambridge: Harvard University Press, 1972). In the field of economics see Richard Cooper, *The Economics of Interdependence: Economic Policy in the Atlantic Community* (New York: McGraw Hill, 1968). Raymond Vernon, *Sovereignty at Bay: The Multinational Spread of U.S. Enterprises* (New York: Basic Books, 1971).

[18] Gary Marks, *Governance in the European Union* (London: Sage, 1996).

[19] Richard Bellamy and Alex Warleigh, eds., *Citizenship and Governance in the European Union* (London: Continuum, 2001).

"confederal consociation,"[20] a "political system, but not a state,"[21] a "post-sovereign, polycentric, incongruent (and) neomedieval,"[22] "part of a reconfigured pattern of European governance,"[23] "a policy-making state,"[24] and a "regulatory state."[25]

Since its origin, research on European integration was inspired by the debate between the Intergovernmental and Functional schools; the intellectual dispute between David Mitrany and Ernst Haas, on the one side, and Karl Deutsch and Stanley Hoffman, on the other, has been a crossfire since the end of the 1950s.[26] Recent developments in these two classical theories of European integration have been guided, *inter alia*, by the Liberal Intergovernmentalism of Andrew Moravcsik and the Neo-Functionalism of Philippe Schmitter.[27]

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[20] Dimitris Chryssochoou, *Democracy in the European Union* (New York: St. Martin's Press, 1998).

[21] Simon Hix, *The Political System of the European Union* (New York: St. Martin's Press, 1999).

[22] Philippe Schmitter, "Federalism and the Euro-polity," *Journal of Democracy* 11, no. 1 (January, 2000).

[23] Helen Wallace, "The Institutional Setting. Five Variations on a Theme," in *Policy-Making in the European Union*, ed. Helen Wallace and William Wallace (Oxford: Oxford University Press, 2000), 9.

[24] Jeremy J. Richardson, *European Power and Policy* (New York: Routledge, 1996).

[25] Giandomenico Majone, "Delegation of *Regulatory* Powers in a Mixed Polity," *European Law Journal* 8, no. 3 (September, 2002).

[26] David Mitrany, *A Working Peace System* (Chicago: Quadrangle Books, 1966); Ernst Haas, *The Uniting of Europe; Political, Social, and Economic Forces, 1950-1957* (Stanford: Stanford University Press, 1958); Karl Deutsch, *Political Community at the International Level; Problems of Definition and Measurement* (Garden City, N.Y.: Archon Books, 1970); Stanley Hoffmann, "Obstinate or Obsolete: The Fate of the Nation State and the Case for Western Europe," *Daedalus* 95, no. 3 (1966): 862-915.

[27] Andrew Moravcsik, "A New Statecraft? Supranational Entrepreneurs and International Cooperation," *International Organization* 53, no. 2 (1999): 267-306; Philippe Schmitter, "Neo-Neo-Functionalism," in *European Integration Theory*, ed. Antje Wiener and Thomas Diez (Oxford: Oxford University Press, 2004).

In their own old and new versions, these two predominant schools in the field of European integration tend to polarize in two opposite perspectives. The first depicts member states strategically oriented and fully in charge of the integration process. The second suggests that states are malleable to supranational intervention and emphasizes the increasing role of supranational institutions. Consequently, each one of these two orthodoxies perceives and explains a different kind of EU, which transits along the extremes of a continuum between the state, on the one hand, and a sort of institutional "supranational" political organization, on the other.

Looking at international processes through only one of the extremes of the continuum "state-supranational" might result in distorted understanding of the regional integration in Europe. Instead of assuming any one of these two positions, for the present dissertation it is more relevant to select the elements of both positions that characterize the contemporary European state in relation with the regional and global processes.

One of the revealing definitions of what the European Union is from the liberal intergovernmental view is provided by Andrew Moravcsik, who considers it as follows:

> The EC's complex institutions include a semi-autonomous legal system, parliament, and bureaucracy as well as detailed norms, principles, rules, and practices governing direct relations among national governments. These institutions resemble those of a modern nation-state as much as those of a conventional international regimen. Today the EC is a unique, multileveled, transnational political system.[28]

Several relevant features stemmed from Moravcsik's characterization. First, it acknowledges the impact of regional institutions on the relations between EU members of

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[28] Andrew Moravcsik. *The Choice for Europe. Social Purpose and State Power from Messina to Maastricht* (Ithaca, N. Y.: Cornell University Press, 1998), 1.

the EU. Second, it remains ambiguous about the EU's nature: regional modern state or international regime or both. Third, however, the EU is a transnational political system. More than an orthodox position, Moravcsik's liberal intergovernmentalism is flexible enough to maintain the national governments as central actors and to consider the impact of the complex regional institutions on their relations.

On the neo-functional side, Philippe Schmitter provides a definition that emphasizes the centrality of the regional dynamic instead of the state. He understands the EU as a *sui generis* system of multilayered and polycentric governance.[29] In this regard, he explains both as follows:

> Multilayered... An arrangement for making binding decisions that engages a multiplicity of politically independent but otherwise interdependent actors –private and public—at different levels of territorial aggregation in more or less continuous negotiation/deliberation/implementation, but does not assign exclusive policy competence to any of these levels or assert a stable hierarchy of political authority...
> Polycentric... An arrangement for making decisions binding over a multiplicity of actors that delegates authority over functional tasks to a set of dispersed and relatively autonomous agencies which are not themselves controlled --de jure or de facto—by any single collective institution.[30]

The definition provided by Schmitter advances the neo-functional agenda; it accurately acknowledges the multiplicity of actors and dispersion of power at different levels of government as well as the various stages during the lifetime of EU policies, namely the continuous "negotiation/deliberation/implementation." The delegation of

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[29] Philippe C. Schmitter, "Democracy in Europe and Europe's Democratization," *Journal of Democracy* 14, no. 4 (October 2003).

[30] Philippe C. Schmitter, "Democracy in Europe and Europe's Democratization," *Journal of Democracy* 14, no. 4 (October 2003): 72.

authority over functional tasks to autonomous agencies is also a feature that must be considered in studying the EU: the integration process cannot be understood without the role of the Commission and the European Court of Justice; likewise, most of the EU policies are indeed inclusive of various levels of government and different actors. This explains why Schmitter's definition does not assign exclusive policy competences to any of these levels or assert a stable hierarchy of political authority. However, it should not be dismissed that states are the central element in the decision-making process, even in the case of the policies of the first pillar in which the European Commission has certain delegated competences.

In the same logic of identifying the kind of political entity the EU is, John McCormick[31] lists several organizational manifestations of the EU that increase the level of complexity of the analysis: EU institutions have power to make laws; some policies are binding on the member states; member states are not equal in some areas; and the EU has the authority to negotiate on behalf of the 25 members states in some cases. With regard to the levels of cooperation, the EU is not considered a confederation or a federation; however, it performs activities inherent to both organizational models. It has several features of a confederal system: a) the member states have their own separate identities (systems of law, foreign policy), b) there is no generalized European tax system, c) there is no European Military or defense system (yet), and d) citizens still have a great sense of allegiance to their national flags. On the other hand, with regard to the federal system, a) the EU has its own currency; b) the European Commission has some degree of authority in negotiations with third parties; c) EU institutions have their own

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[31] John McCormick, *Understanding the European Union. A Concise Introduction* (New York: Palgrave, 2002), 1-18.

budget; d) citizens are represented in the European Parliament; e) EU law supersedes national law in some policy areas.

1.3. Elements of the Regional System of Integrative Governance

The definitions quoted in the preceding section as well as the two main theoretical explanations of the EU are examples of the diversity of perceptions about the integration process. In light of the particular policy that the present dissertation focuses on, EU foreign policy, the main characteristics of a Regional System of Integrative Governance can be summarized in the overall idea that formal and informal interconnections of a variety of actors (system) within a territory (regional) have led member states to negotiate mechanisms to solve problems and implement their decision (governance) through the creation of common institutions, in which an increasing number of policies are collectively decided (integrative).

1.3.1. The Neo-Westphalian State

In the analysis of the European state, the transformations caused by the integration process played a central role. James Rosenau has made important contributions in that regard by developing a classification of the contemporary state based upon its abilities to manage its own affairs. Three categories are identified: pre-modern, modern and post-modern political entities. The first refers to states in the developing world that were created out of former colonial empires and that lack the resources to

move effectively along the Frontier (domestic-foreign).[32] The second category of entities encompasses the traditional model of Westphalian states; and the third groups those "states that have adapted to the widening of the Frontier through cooperation and yielding some of their sovereignty to a more encompassing entity."[33] This later is the kind of state the present dissertation focuses on.

The transformations that the traditional state is undergoing have opened several debates not only with regard to the characteristics of such changes, but also related to the name of this new stage. For those scholars prone to emphasizing the changing elements, the common label is post-Westphalia state, particularly when they refer to the European state, whose political organizations offer the best arena to asses the transformational aspects brought about by regional integration practices. Nevertheless, the prefix "post" may result in excessively taking into account the unquestionable predominant role of the state in the current integration process. Having as a reference the vocabulary in the discipline of International Relations, the prefix "post" as applied in post-structuralism or post-modernism implies overcoming or contradicting the previous premises. The rise of transnational processes, the focus on human rights, the accountability of political leaders, and the role of international institutions, *inter alia*, have changed the radical intellectual model of the Westphalia state. In other words, such modifications do not mean that the state has been relegated to a secondary position. Even in the European case in which these changes are more evident, it may be more accurate to name the state "neo" Westphalia as neo-realism does with realism or neo-liberalism with liberalism. Richard

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[32] James N. Rosenau, *Along the Domestic Foreign Frontier. Exploring Governance in a Turbulent World* (Cambridge: Cambridge University Press, 1997), 361-362.

[33] Rosenau, 362.

Falk has sharply pointed out that these reforms would qualify as basic beneficial modifications of the Westphalia reality,

> ...but would not seem sufficiently transformational so as to merit unfurling the "post-Westphalia" banner. Perhaps, instead, the label of "neo-Westphalia" would seem to offer an appropriate degree of acknowledgements that the framework had changed in important respects, but that its statist character remains. Naming is an interpretative act with significant effects. The naming of world order, particularly its re-naming, generates both expectations and controversy... A 'Neo-Westphalia' world order would continue to be understood primarily through the prism of statist geopolitics, although accompanied by a conceptual acknowledgement that normative concerns are integral (relevance of international law and morality) and that transnationalism (localism, regionalism, and cosmopolitanism) are significantly more relevant than in the Westphalia era.[34]

In line with Rosenau, Robert Cooper[35] has expanded the conceptualization of the EU as "an encompassing entity." He maintains that if modern Europe was born with the Peace of Westphalia, then post-modern Europe began with two realities: the Treaty of Rome and the Treaty on Conventional Forces in Europe. Unlike the modern system, which emphasizes the balance of power and sovereignty, the postmodern system has at least five main characteristics: a) the breakdown of the distinction between domestic and foreign affairs; b) mutual interference in traditional domestic affairs and mutual surveillance; c) the rejection of force for resolving disputes and the consequent

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[34] Richard Falk, 159 and 162.

[35] Robert Cooper, "Europe: The Post-Modern State and the World Order," *New Perspectives Quarterly* 14, no. 3 (Summer 1997): 46-57.

codification of rules of behavior; d) the growing irrelevance of borders; and e) security is based on transparency, mutual openness, interdependence and mutual vulnerability.

Robert Kagan endorses Cooper's thesis and emphasizes the intrinsic non-military nature of the Europe that emerged from World War II. Europe is living in "a self-contained world of laws and rules and transnational negotiation and cooperation."[36] The "miracle" of European integration, Kagan acknowledges, came from the rejection of military power and its utility as an instrument of international affairs. This vision of power can be explained by two factors. The first is that "Europeans today are not ambitious for power, and certainly not for military power. Europeans over the past half century have developed a genuinely different perspective on the role of power in international relations, a perspective that springs directly from their unique experience since the end of the World War II."[37] The second is that the United States solved the Kantian Paradox for the Europeans: "by providing security from outside, the United States rendered it unnecessary for Europe's supranational governance to provide it. Europeans did not need power to achieve peace, and they do not need power to preserve it."[38] Based on Cooper's and Kagan's assumptions, it can be said that interests in the EU are essentially matters of policy preference and burden-sharing, whereas the prisoner's dilemma is fading due to the overall sense of trust. This does not mean that states stall seeking to defend their particular interests; in fact, disagreements are part of the day-to-day negotiations. Rather this means that the fear of invasion has been dissipated or is very

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[36] Robert Kagan, *Of Paradise and Power. America and Europe in the New World Order* (New York: Alfred A. Knopf, 2003), 1.

[37] Kagan, 55.

[38] Kagan, 57-58.

low, situation that contributes to cooperate at the regional level and yield some sovereignty.

1.3.2. The European Regionalism

The interaction capacity of the units (states) within the international system (derived from the technological revolution in communications) has grown exceptionally since the end of the Second World War. Globalization is the most general barometer of the increasing pressure of such processes. At a lower level in the spatial dimension, regions, composed of two or more countries, constantly face phenomena originated at the global or regional scale or sometimes simultaneously at both.

In this context, there are observers who continue to advocate the exclusiveness of nation states in the global system, while, on the other hand, others predict the end of the state as the central institution of international relations. Michael Niemann has accurately assessed the damages of such dichotomy by saying that

> ...the state-global dichotomy lead us to ignore regionalism or analyze it from a state-centered perspective and thereby relegate it to a secondary position in the larger theoretical effort... the emergence of regional political institutions as a sign that globalization requires an analysis goes beyond the state/global division.[39]

The concept of region was originally invented in the eighteenth century to designate a "natural" physical division of the land in order to differentiate an individual

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[39] Michael Niemann, *A Spatial Approach to Regionalism in the Global Economy* (New York: St. Martin's Press, 2000), 4.

unit distinct from those of neighboring areas. As such, the conceptualization of region is flexible given that there are no fixed criteria to define it. In that view, regions are "ambiguously forming part of, but also reacting against and modifying the process of globalization. Therefore, regionalism can also be, intentionally or unintentionally, on the road to globalism."[40] However, much of that road will depend on the kind of interconnections reached by the component units of the region. A territorial region with weak interconnections of the constitutive units is only a fiction. The Latin American and African "regionalisms without region" of the 1970s are examples of it. Thus, a region is defined by the interconnectedness of the constitutive units of an area, the acknowledgement of the parties of such linkages and the will to manage the direction of such interconnections. From the perspective of the global system, regions are 1) territorial subsystems of the international system, and 2) there are many varieties of regional subsystems with different degrees of regionness, namely, "the degree to which a particular region in various respects constitutes a coherent unit."[41] In this sense, regions are created and recreated by their constituent units.

Whereas regionalization and globalization are steady processes, the different types of regionalism and globalism, respectively, represent historical snapshots of such processes. In view of the developments of regions worldwide, the International Relations literature distinguishes three different kinds of regionalism: old, open and new.

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[40] Bjorn Hettne, "The New Regionalism: A Prologue," in *National Perspectives on the New Regionalism in the North*, vol. 2, eds. Bjorn Hettne, András Inotai, and Osvaldo Sunkel, (New York: St. Martin Press, 2000), xxi.

[41] Hettne, "The New Regionalism...", xv.

The old regionalism was conceived in the context of the bipolar world and pursued an inwardly oriented strategy. Likewise, old regionalism was institution/government driven and practiced discrimination against the rest of the world, regional or sub-regional competition, emphasis on intraregional trade and security and South-South or North-North membership.[42] The initiatives of Latin America integration in the 1960s and 1970s are representative of this kind of regionalism, in which the import-substitution model was at the height of its development.

Conversely, open regionalism was designed to be compatible with globalization more than the earlier more protective forms of regionalism. In the context of the economic paradigm-shift in the 1980s, globalization would gain ground if all the different regions had adopted open regionalism. However, protectionism practiced by some regions acted as a stumbling block to this process. Open regionalism is generally associated with the outward-looking export oriented economies of East Asia and the Pacific (APEC and ASEAN), which, unlike NAFTA and the EU, are not formally grouped into any regional bloc.[43] In few words, the characteristics of open regionalism are: market driven, export promotion and trade liberalization; no discrimination against the rest of the world; global competition with an emphasis on open trade, investment and growth; and North-South membership.

The new regionalism has been tentatively defined as a multidimensional form of integration, which includes economic, political, social, and cultural aspects and consequently "goes far beyond the goal of creating regional free trade agreements or

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[42] A. S. Bhalla and Praveen Bhalla, *Regional Blocs, Building Blocks or Stumbling Blocks* (London: MacMillan Press, 1997) Base upon Table 2.1 in page 21.

[43] Bhalla and Bhalla, 20-39.

security alliances."[44] Likewise, the prefix "new" is taking place in the context of globalization in the 1990s and is more compatible with an interdependent world.[45]

The contemporary new regionalism has internal and external dimensions, particularly considering the analysis of the EU. Once a region has attained a certain degree of institutionalization, the regional agreements, formal or informal, become part of the politics at the state level. At this point, what remains to be seen is the level of regionness of the distinct areas worldwide. In that regard, Björn Hettne states that

> The level of regionness defines the position of a particular region or regional system in terms of regional coherence and identity, which can be seen as long-term endogenous historical processes switching between coercion (earlier history) and voluntary cooperation. Region is a process. Regions are always evolving and changing. Like a nation a region is an "imagined community.[46]

From the perspective of the present analysis, the emphasis is made on those regional "imagined communities" that have tangible institutional arrangements, formal or informal. Following Hettne, five levels of regionness can be found,: a) regional space is a geographical area; b) regional complex implies ever widening and intensifying translocal relations between human groups; c) regional society; d) regional community; and e) regional institutionalized polity. By looking at the several regional forms of organization, the EU is the one that possesses elements of all five levels of regionness.[47]

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[44] Hettne, *The New Regionalism*, xvi.

[45] Bjorn Hettne, "The Europeanization of Europe: Endogenous and Exogenous Dimensions," *European Integration* 24, no. 4 (2002): 326.

[46] Bjorn Hettne, "The Europeanization of Europe...," 327.

[47] Bjorn Hettne, "The Europeanization of Europe...," 328.

1.3.3. The Process: Integration

The processes of regionalization worldwide can be analyzed based upon various criteria. Perhaps one of the more holistic ways to do so is through the identification of multiple interconnections among the component units of each region; as previously described, the current theoretical trends of new regionalism represent a step forward in this direction. However, the predominant perception of regions not only from some IR perspectives, but also in the specialized media, emphasizes their economic criterion. For instance, the association of the idea of region in the Western Hemisphere is automatically linked to the Free Trade Area of the Americas. In this view, the EU is more than a group of free market economies; it is the most developed experience of integration, whereas regionalization in other geographical areas does not go far beyond free trade areas or customs unions; in the most advanced experiences, there are experiments of integration with weak regional institutions, rhetorical commitments and vague results such as the case of the Andean Community or MERCOSUR.

A useful definition of economic integration is the "progressive removal and ultimate eradication of economic barriers between different states... whose rhythm is determined by economic as well as political bargaining and compromise."[48] Accordingly, based on the traditional stages of Bela Balassa,[49] it would be expected that free trade projects worldwide will progressively move forward step by step towards complete

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[48] Andrés Rodríguez–Pose, *The European Union. Economy, Society, and Polity* (New York: Oxford University Press), 8-9; Gary P. Sampson and Stephen Woolcock, *Regionalism, Multilateralism, and Economic Integration* (New York: United Nations University Press, 2003).

[49] Bela Balassa, *The Theory of Economic Integration* (Homewood, Ill.: R. D. Irwin, 1961).

economic integration. The first phase is the *free trade area*, which is the simplest level of integration and allows only free movement of goods. This is the case of the European Free Trade Area Association (EFTA) and the North American Free Trade Area (NAFTA). The second level of integration is the *customs union*, which is characterized by the harmonization of external tariffs; despite its numerous failures, this is the case of MERCOSUR. The third level of surrendering economic sovereignty to integration is the *common market*, which was reached by the EU at the beginning of the 1990s; this level allows free mobility of capital, labor and services. The fourth stage is the harmonization of economic policies and is known as the *economic union*; to some extent, the experience of the euro has indirectly obliged the EU to adopt some of such characteristics in specific sectors. The final stage is the complete *economic integration*, in which central institutions substitute for national ministries in the policy-making process. There is currently no regional experience at this level, although it remains to be seen whether the future evolution of the European Central Bank, the closest institutions to this final stage, will enhance its power and will be an example to be followed by other institutions in different sectors.

Balassa's stages of economic integration have guided part of the debate on European integration. However, beyond economic implications, this process has had several impacts on a myriad of areas in the member countries. In fact, early efforts to study regional international integration demanded from social scientists explanations about the nature and scope of the then embryonic European Coal and Steel Community (ECSC) and the European Economic Community (EEC). In addition to economics-based definitions, there was much discussion in the literature regarding how to describe the

concept. It was, for instance, debated whether integration refers to a process or to an end product. Of course, integration is both the process and the product.

From more comprehensive perspectives than those of economists, Karl Deutsch defined integration as "the attainment, within a territory, of a 'sense of community' and of institutions and practices strong enough and widespread enough to assure, for a 'long' time, dependable expectations of 'peaceful change' among its population." In such reasoning, when a group of people or states have been integrated this way, they constitute a "security community," which is one of the distinctive concepts in European integration. Security communities may assume either amalgamated or pluralistic forms. The former refers to the "formal merger of two or more previously independent units into a single larger unit, with some type of common government;" this form of security community goes beyond the current and foreseeable development of the EU.[50] The pluralistic form, on the other hand, has to meet two or three essential conditions: a) compatibility of major values relevant to political decision-making; b) the capacity of the participating political units or governments to respond to each other's needs, messages, and actions quickly, adequately, and without resort to violence; and c) mutual predictability of behaviour.[51] A pluralistic security community is not necessarily limited to integration processes. However, as a tangible expression of integration, the institutional development of the EU does meet features of a pluralistic security community.

Ernst Haas, one of the classic authors in literature of European integration, defined integration as "... the process whereby political actors in several distinct national settings

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[50] Karl Deutsch, ed., *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton: Princeton University Press, 1957), 5-6.

[51] Deutsch, 66-67.

are persuaded to shift their loyalties, expectations and political activities to a new center whose institutions possess or demand jurisdiction over the pre-existing national states."[52] Haas' definition is highly idealistic by most standards and many would argue that it would be difficult to achieve it in the most advanced regional systems of integration. Complementary to Haas' definition, Lindberg added that "... political integration is... the process whereby nations forgo the desire and ability to conduct foreign and key domestic policies independently of each other, seeking instead to make *joint decisions* or to *delegate* the decision-making process to new central organs."[53] Central to it was "the development of devices and processes for arriving at collective decisions by means other than autonomous action by national governments."[54] In this regard, Lindberg considered his own concept of integration more cautious than that of Haas.

After five decades in the making of integration theory and based on the evolution of the EU, Amitai Etzioni has revisited the concepts of supranationality and integration. In his assessment, Etzioni indirectly questions utopian views of integration and states that the European Commission and Parliament are largely international or regional bodies and not truly supranational ones, and adds that currently the EU is a "halfway integration" process.[55] Numerous examples support this less idealistic view of integration. One of the most recent events with regard to the fallacy of the "shifting of loyalties" was the low

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[52] Ernst B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces 1950-1957* (Stanford: Stanford University Press, 1958), 16.

[53] Leon N. Lindberg, *The Political Dynamics of European Economic Integration,* (Stanford: Stanford University Press, 1963), 6.

[54] Lindberg, 5.

[55] Amitai Etzioni, *Political Unification Revisited. On Building Supranational Communities* (Maryland: Lexington Books, 2001).

turnout in the 2004 European Parliament elections. Likewise, doubts about the supranationality of community institutions are reflected in the decision of the European Court on the Stability and Growth Pact in 2004 and the weakness of the European Commission to penalized France and Germany for violating the pact's deficit ceiling of 3 percent for three consecutive years.

Finn Laursen has suggested that collective decision-making is an important aspect of all regional integration efforts. This collective decision-making can cover a varying number of functional areas (scope). The decision-making process can be more or less efficient and the established common institutions can be more or less adequate (institutional capacity).[56] Comparable to the Lindberg and Laursen definitions, the present dissertation takes Lynn Marie Tesser's definition, which states as follows: "The general harmonization of polices, procedures, and practices via collective decision-making between entities such as institutions, organizations, and countries that, at the very least, limits the wholesale autonomy of each body."[57] Instead of adopting a concept of integration as a long-term institutional fusion, this definition is malleable because it lets one apply it to areas in which there is high or low interdependence. The former is a case of economic integration in which there is a progressive removal and ultimate eradication of economic barriers between different states. In the case of low interdependence in areas such as military or political diplomacy, the harmonization of policies is more dispersed. However, in order to maintain a comprehensive approach, what is key in the definition of

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[56] Finn Laursen, "Comparing Regional Integration Schemes: International Regimes or Would-be Polities?" (occasional paper, Miami European Union Center, Jean Monnet/Robert Schuman Paper Series, vol 3, no. 8, September 2003, http://www.miami.edu/eucenter/lauarsenfinal.pdf).

[57] Lynn Marie Tesser, "Europeanization and Prospects for Nationalism in East-Central Europe (Hungary, Czech Republic, Slovakia, Poland)" (Ph.D Dissertation, University of Chicago, 2003).

integration is a) the aim of harmonizing policies, procedures and practices; and b) collective decision-making.

1.3.4 Regional Political System

There seems to be widespread acknowledgement in the field of European integration that the EU is better studied as an instance of a political system than as an experiment in regional integration or as an international organization as traditionally conceived.[58] Based on a study carried out by Fulvio Attina,[59] a great part of the bibliography published in the 1990s has developed a research agenda derived from the political system approach and three groups of items which follow out of three general assumptions.

The first assumption is that the EU –like all national political systems – has a set of formal rules for collective decision-making, ie, an EU constitution (or constitutional treaty) that defines and regulates the main aspects of the political and government institutions. However, as government institutions are concerned, the EU constitution does not include the classic separation of powers, but a distribution of functions across the EU institutions. This model is specific to the political system of the EU.

The second assumption of the political system approach is that politics and policy making in the political system of the EU and the member states are much alike. The

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[58] Knud Erik Jørgensen and Ben Rosamond, "Europe: Regional Laboratory for a Global Polity?" in *Towards a Global Polity*, ed. Morten Ougaard and Richard Higgott (London: Routledge, 2002), 190.

[59] Fulvio Attina, "The Study of EU Politics: What Is It and Who Does What?" (Paper presented at the International Conference New Trends and Perspectives in European Studies, Beijing, July, 2001): 7-9.

office-holders, collective political actors (i.e. political parties and private interests groups) and ordinary citizens take part in EU politics and policy making to defend interests and uphold ideologies and values.

The third assumption is that despite the small EU budget size, the classic concept of politics as the authoritative allocation of values and resources also applies to the EU. Structural and cohesion funds give the EU the power to redistribute some financial resources among disadvantaged regions and areas. However, this small direct redistribution is complemented by the considerable effect of indirect distribution.

1.3.5. Regional Governance

In light of the different perspectives on the EU, this dissertation considers that the characteristics of the object study, the EU, demands concepts flexible enough to encompass most of its current features. Thus, the governance concept is particularly apposite to EU policy studies because it captures the different types of cooperation, degrees of integration, and modes of decision making. The term governance is a relative novelty in the field of International Relations. Although it may be defined from different angles, most of them share the ideas of transgovernmental networks, specific problem-solving purposes, and a lack of a central authority.

In line with his analysis of globalism/globalization, Robert Keohane highlights the intensification of the role of networks of interdependence and how they are thickening into globalism. Then, he defines governance "as the processes and institutions,

both formal and informal, that guide and restrain the collective activities of a group,"[60] in

the context of the increasing connections between networks. Certainly, Keohane's

definition is general. The concept, however, has been also developed under similar

premises by other scholars such as Anne-Marie Slaughter. Having in mind the emphasis

on the worth of networks, Anne-Marie Slaughter postulates about the concept of

governance that it

> ... is not a matter of regulating states the way states regulate their
> citizens, but rather of addressing the issues and resolving the
> problems that result form citizens going global –from crime to
> commerce to civic engagement. Even where genuinely
> supranational officials participate in vertical government
> networks—meaning judges or regulators who exercise actual
> sovereign authority delegated to them by a group of states—they
> must work very closely with their national counterparts and must
> harness national coercive power to be effective.[61]

In a world of government networks, officials are reaching out to their foreign

counterparts to help address the governance problems that arise when national actors and

issues spill beyond their borders. In the same approach of problem solving, Philippe

Schmitter defines governance as "A method or mechanism for dealing with a broad range

of problems and conflicts in which actors regularly arrive at mutually satisfactory and

binding decisions by negotiating and deliberating with one another and cooperating in the

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[60] Robert O. Keohane, "Introduction: From Interdependence and Institutions to Globalization and Governance," in *Power and Governance in a Partially Globalized World*, ed. Robert O. Keohane (New York: Routledge, 2002), 15.

[61] Slaughter, 16.

implementation of the decisions."[62] This assumption leads to a slightly different nuance

on the concept of governance.

One of the features that this dissertation identifies is that in the EU in general and

in the EU foreign policy in particular, the degree of integration in the different sectors of

European public policy varies. In this regard, Hettne states that "governance can be

exercised by state or public sector actors, but also non-state actors. Governance

institutions may be of different types, *ad hoc* or created for specific purposes.

Governance is not exclusive to any particular level of the world system but is a multilevel

phenomenon. It can be seen as the content as well as the process of world order."[63] From

the perspective of European integration theory, Ann P. Branch and Jakob C. Øhrgaard

state that "Integration, as reflected in mode of governance, can take many institutional

forms, ranging from the intergovernmental to the supranational, over time and across

policy domains and that it is mode of governance itself."[64] In this same logic, Jürgen

Habermas states that "Today the European Union is a regime of continental magnitude

that is very thickly networked horizontally via markets while maintaining relatively weak

political regulations vertically through indirectly legitimated authorities."[65] As it can be

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[62] Philippe C. Schmitter, "Democracy in Europe and Europe's Democratization," *Journal of Democracy* 14, no. 4 (October, 2003): 72.

[63] Bjorn Hettne, "In Search of World Order", in *Global Governance in the 21st Century: Alternative Perspectives on World Order*, Bjorn Hettne and Bertil Odén, eds. (Stockholm: Almkvist & Wiksell International, 2002), 6-7.

[64] Ann P. Branch and Jakob C. Øhrgaard, "Trapped in the Supranational-Intergovermental Dichotomy: A Response to Stone Sweet and Sandholtz," *Journal of European Public Policy* 6, no.1 (March, 1999), 126.

[65] Jürgen Habermas, "Toward a Cosmopolitan Europe", *Journal of Democracy* 14, no. 4, (October 2003): 95.

observed in these definitions and statements, there is a continuum in the concepts of governance, plurality of actors, levels of organization and policy areas and networks.

Conclusions

Density of networks, institutional velocity, and transnational interactions are features of globalization and the EU as well. In the latter case, however, the scope of such characteristics is contained in one region. Over five decades, the EU has enhanced its territory by several enlargements and created a physical division that differentiates it as individual political unit from those of the neighboring area. What makes European regionalism different are the kind of interconnections and the attempts to create a coherent unit.

The uniqueness of the EU has raised a debate about new forms of organization that are transforming some of the tenets of the traditional state, particularly with regard to the concept of sovereignty. In this regard, integration is the distinctive feature of the EU, not as a merge or centralization of power, but as a process of harmonization of polices, procedures, and practices via collective decision-making which limits the wholesale autonomy of each participant unit. In addition, by looking at the history of the EU, this process has expanded its scope and the issues to be considered as part of the integration sphere. As such, the development of the EU has favored integration, namely, it is integrative.

Even competing integration theories coincide in important concepts such as transnational political system and practices of governing as part of the EU. In this respect, the neo-Westphalian era has not been overcome the state, and probably will not; however, EU countries have yielded some sovereignty to accept interdependence, mutual vulnerability and a codified mutual interference as part of the integration process. The result is that the European governance has created institutions to negotiate, deliberate, and implement decisions, reached by intergovernmental to community decision-making mechanisms, and across a variety of policy domains.

Chapter Two

The Theoretical Dialogue Concerning the Study of European Integration

The present chapter focuses on the theoretical dialogue in the study of the EU. Thus far, this dissertation has defined the EU as a unique regional, social, and political entity: a regional system of integrative governance. In this approach, the EU is a form of political organization that challenges deterministic traditional theories of the state. Most visibly in the European continent, the essence of the state has been transformed as a result of regional integration. How should one study this phenomenon?

The task is not easily solved. Experts like Thomas Diez and Antje Wiener have said that "there is surely no shortage of books on European integration. This is a booming field, and readers will know better than anyone else the difficulties in choosing the appropriate literature."[66] In order to delimit the theoretical mosaic, two assumptions guide this chapter. The first is that each theory has different intentions and scope, and emphasizes distinct parts of the object study. The second is that when two or more theories overlap, it is difficult to sustain theoretical orthodoxies and there is some degree of dialogue between competing theories. In analyzing the "degeneration" or different versions of the realist tenets, Jeffrey W. Legro and Andrew Moravcsik astutely asked "Is

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[66] Thomas Diez and Antje Wiener, "Introducing the Mosaic of Integration Theory," *in European Integration Theory*, eds. Antje Wiener and Thomas Diez (Oxford: Oxford Universiyt Press), 1.

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anybody still a realist?"[67] The same question can be applied to orthodoxies in the field of European integration.

The theoretical toolkit for studying the regional system of integrative governance is divided into three stages according to the level of generalization of the explanation. After examining the EU as a differentiated level of analysis, the chapter presents the first stage that corresponds to the most general level of explanation, the ontological; it highlights the contribution of constructivism to integration theory, particularly the agency-structure debate, which provides integration theory with the necessary flexibility to encapsulate the interrelationship between states and community institutions. The second stage explores ways in which the overall nature of the European integration might be theorized; this search is commonly known as grand theory[68] and refers to the liberal intergovernmentalism and neo-functionalism debate. The third focuses on middle range theories (all types of institutionalism, multilevel governance, network policies, *inter alia*),[69] which look at particular aspects of the integration process. In this case the policy network theory is taken as the base of the analysis. Table 1 summarizes the articulation of the theoretical problems and the alternate explanations proposed in the present dissertation.

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[67] Jeffrey W. Legro and Andrew Moravcsik, "Is Anybody Still a Realist?" *International Security* 24, no. 2. (Fall 1999).

[68] Nugent, 478-179.

[69] Walter Carlsnaes, Helene Sjursen and Brian White, eds., *Contemporary European Foreign Policy* (London: Sage, 2004).

Table 1
Theoretical Contributions for the Explanation of EU Level of Analysis

Problem	Options
Ontological Stage	
Anarchy in the international arena as a timeless truth. Then, is the integration process a reproduction of international anarchy? Unidirectional determination of the integration process. State determines integration. Then, how can the existence of the EU's *acquis communitaire* be explained?	Mutual Transformations of agents and structures. Integration (European Union) is what agencies (mostly, but not exclusively states) have made of it. Agencies have internalized the structure over five decades of integration: the interests of the states are continuously changing. Power is considered as part of the analysis
Grand Theory Stage	
Unitary states with fixed preferences. Then, how can we explain the increasing integration and institutional development of the EU?	Preferences are permanently in transformation. Preference aggregation, intergovernmental means to reach agreements. Preference transformation, legal binding instruments, convergence of interests.
Middle Range Theory	
Different degrees of integration depending on the sector or policy analyzed. Then, how can we explain distinct developments in the integration process?	The EU as a disaggregated entity. Transgovernmental, transnational and transcontinental networks promote different types of cooperation and/or integration depending on their interests. Networks: Convergence of information and practices, compliance with regional rules, harmonization. At the European level, networks can be temporal or permanent. Fusion Theory: "Fusion" of public instruments from several state levels linked with the respective Europeanization of national actors and institutions.

2.1. The EU as a differentiated level of analysis

After more than half a century of European integration and in light of its institutional developments, it is time to consider the EU and other process of integration as a differentiated level of analysis in the IR literature. This is plausible because both categorizations must be inclusive of new phenomena, and there are is no agreement on a unique typology of levels of analysis; all are ontological referents that help the observer organize international reality.

Unlike the traditional levels of analysis (the international system and the nation-state), the regional level has received less attention or simply has been neglected by scholars. A speculative explanation is that from a historical perspective the integration process is relatively recent. As a matter of fact, an overview of the levels of analysis literature suggests that there is a trend towards increasing the number of levels in direct relation to the emergence or acknowledgment of the plurality of participating actors and/or approaches in international relations. In this regard, while in the early 1960s David Singer proposed two main levels (the international system and the nation-state), some authors have subsequently broadened the scope. For instance, Joshua Goldstein considers four levels of analysis,[70] Buzan and Little[71] take into account five whereas Russet, Starr and Kinsella,[72] based on the classic analytical scheme of James Rosenau, ponder the

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[70] Joshua S. Goldstein, *International Relations*, 5th ed. (New York: Longman, 2004), 12-20.

[71] Buzan and Little, 69.

[72] Bruce Russet, Harvey Starr, and David Kinsella, *World Politics. The Menu for Choice* (Boston: Bedford/St. Martin's, 2000) 13.

understanding of international reality in six levels of analysis (individual, role, government, society, relations and world system).

Based on these multiple levels of analysis, ranging from the lowest (individuals) to the highest (international organization) the ability of the actors to react is directly correlated to the level they represent. This dynamic is summarized by Goldstein when he states that, "individuals go in and out of office often; the structure of the international system rarely changes."[73] At the highest level, international organizations tend to operate more slowly than those at the lower levels such as citizens. For example, in the EU case, the implementation of directives, Community laws to be transposed into the national law, takes much longer time than national or local laws.

The individual level of analysis is the most disaggregated and refers to the perceptions, choices and actions of individual human beings. At this level, decisions may differ from one individual to other. Complementarily, Russet, Starr and Kinsella contemplate the role of individual decision-makers, who are supposed to act on behalf of an organization and are the focal points of pressures and constraints. The next level is defined is defined by Buzan and Little as "subunit" or by Russet, Starr, Kinsella as "governmental structure" or "domestic," both referring to aggregation of individuals within states that influence state actions in the international arena.

The fourth level of analysis is the international actor itself, the state. Daniel Papp states that "In its purest form, this level views each actor as a monolithic entity with neither internal divisions nor external attractions." [74] The regional system, a spatial

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[73] Goldstein, 14.

[74] Daniel S. Papp, *Contemporary International Relations. Frameworks for Understanding*, 6th ed. (San Francisco: Addison Wesley Longman, 2001), 25.

domain in which integration takes place, is the fifth level of analysis. The present

research focuses on the symbiotic relationship between the fourth and the fifth levels of

analysis. The sixth level of analysis centers on the global system, asserting that even the

regional level is too confining.

The international subsystem, the level in which the present research focuses, is

defined by Buzan and Little as a

> ...group or units within the international system that can be distinguished from the whole system by the particular nature or intensity of their interactions/interdependence with each other. Subsystems may be either territorially coherent, in which case they are regional (ASEAN, the OAU), or not (OECD, OPEC), in which case they are not regions but simply subsystems.[75]

The EU is a regional subsystem in which problems have to be addressed from a

regional perspective; the exclusive consideration of the state level limits the scope and

hinders resolutions. In fact, a widely accepted explanation for the creation of the first

European Community is that it was precisely the closest way to confront the problem of

war in Europe.

The EU is a political phenomenon that encompasses a plurality of actors, the state

being the most relevant. This assumption does not dismiss other significant actors in the

daily life of member countries. Interest groups and NGOs can be considered regional

only when they are able to organize themselves to exert pressures at the EU level either

through their government, the community institutions or in alliance with other national

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[75] Buzan and Little, 69.

groups. To that extent, actors and processes may operate at different levels, and sometimes at two or more levels simultaneously.

The logic of behavior of the groups involved in the EU policy making process varies depending on the sector they carry out their activities, namely, political (power), economic (gains) and military (hard security).[76] In light of its three pillar structure, the EU activities are clearly disaggregated in different sector. The present research focuses on three sectors: military, political and economic. The security/military sector refers to intelligence, information, coercion, and the ability of actors to fight wars with each other. The political sector encompasses relationships between leaders and governments, and concerns stability and legitimacy. The economic sector focuses on trade, production, and finance, access to resources, and markets necessary to sustain acceptable levels of welfare and political power.[77]

2.2. The Agent-Structure Contribution in the Context of European Integration

Constructivism made its debut in the IR field in the mid-1990s. Jeffrey Checkel has pondered whether the IR community would be worse off if constructivist books had never been written. His answer is yes, "IR would be worse off. Yet, as with any maturing research program, there are gaps to be filled and challenges to be met."[78] In this

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[76] Braudel has argued for the case of the History field that reality is simplified by dividing it into sectors, which can be political, economic, social, and cultural history. Fernand Braudel, *The Perspectives of the World: Civilization and Capitalism 15th-18th Century*, vol. iii (London: Fontana Press, 1985).

[77] Buzan and Little, 73.

[78] Jeffrey T. Checkel, "Social Constructivism in Global and European Politics (A Review Essay)" (working paper, Advanced Research on the Europeanization of the Nation-State-ARENA, Norway, 15/03, 2003): 2.

maturation process, numerous constructivist approaches have simultaneously emerged and it is difficult, just as with most IR theories, to encapsulate the different variants of constructivism under one label.[79]

In the area of European integration the adoption of constructivist tenets has been rather slow and remains in an embryonic stage. However, one of the early contributions is the constructivist agent-structure debate, which emphasizes the transformative feedback between units (states) and structures (institutions) instead of the unidirectional assumption that states determine the international structure. The mere existence of the so-called *acquis communautaire*, which means applying 80,000 pages of EU law, is the result of the agreement of the states, but also it is the structure that regulates the autonomy of the EU members.

In this logic, scholars such as Thomas Christiansen, Knud Erik Jorgensen and Antje Wiener forcefully argue that constructivism cannot serve as a substantive theory of European integration. "It would be a mistake to compare theories of European integration such as neo-functionalism to constructivism. Furthermore, there is no attempt at developing a constructivist grand theory of European integration."[80] In a similar fashion, Maria Green states that "Constructivism is an ontological approach to social enquiry —not

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[79] Based on their differentiated philosophical premises, three taxonomies of constructivism have been developed. The first contemplates three variants of social constructivism: neoclassical, derived from Durkheim and Weber, and based on intersubjective meanings; postmodernist, derived from the works of Nietzsche, Foucault, and Derrida, and based on a decisive epistemological break with modernism; and naturalistic, derived from the works of Bhasker and based on the philosophical doctrine of scientific realism. The second classification points to four types of constructivism: modernist, rule oriented, narrative knowing, and postmodernist. The third distinguishes three versions of postmodernism: conventional, critical and postmodern. On the other hand, a fourth classification is based on conventional, interpretative, and critical constructivisms. Jeffrey T. Checkel, "Social Constructivisms in global and European Politics: A Review Essay," *Review of International Studies* 30 (2004) 230-233.

[80] Thomas Christiansen, Knud Erik Jorgensen and Antje Wiener, "The Social Construction of Europe," *Journal of European Public Policy* 6, no. 4 (1999), 530-531.

a theory per se– that is relatively new to European integration."[81] On the other hand, the scholars quoted also maintain that constructivism contributes specific elements to the theory of integration: a) constructivism focuses on social ontologies including such diverse phenomena as intersubjective meanings, norms, rules, institutions, discourses, symbolic politics, and so on; b) there are connections and similarities between key aspects of neo-functionalist theorizing and constructivism, for instance, processes of socialization, learning, transfer of loyalty, redefinitions of interests and, in general, concepts that imply steady transformation; and c) constructivism is a social theory that is applicable across disciplines which therefore helps transcend recurring inter-disciplinary squabbles, be it IR vs. Comparative Politics or IR vs. European Studies. Furthermore, social constructivism has the potential to counter tendencies towards excessive specializations in studies of European integration.

In general terms, "constructivism is based on two assumptions: a) the environment in which agents/states take action is social as well material; and b) the setting can provide agent/states with understandings of their interests."[82] Applied to the EU, constructivism provides a rich understanding of the rules and norms of European governance, political community, identity formation in the Euro-polity, discourses, communication actions, and the role of ideas on European integration.

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[81] Maria Green Cowles, "Non-State Actors and False Dichotomies: Reviewing IR/IPE Approaches to European Integration," *Journal of European Public Policy* 10, no. 1 (February 2003), 110.

[82] Maria Green Cowles, "Non-State Actors and False Dichotomies: Reviewing IR/IPE Approaches to European Integration," *Journal of European Public Policy* 10, no. 1 (February 2003), 110.

Are the constructivist premises relevant to the traditional debates of integration theory? In this research, the dialogue between liberalism and realism with constructivism is possible. Although there is no yet developed research agenda, Samuel Barking has proposed a Realist Constructivist approach. In that regard,

> Birgit Locher and Elisabeth Prugl compliment constructivism for its 'transformational' characteristics, but criticize it for not accepting the central role of power in the construction of international politics...Mearsheimer characterizes critical theory, in which he includes constructivism, as focusing on the transformation of world politics without addressing the role of power in creating and disseminating ideas and modes of discourse.[83]

The Realist Constructivism would examine the way in which power structures affect patterns of normative change in international relations and, conversely, the way in which a particular set of norms affects power structures.[84] In the particular case of European integration, Amy Verdun has pointed out that, "Social constructivists... also argue that the role of socialization, knowledge and perceived reality is helping to create the Europe of tomorrow."[85] In other words, it questions the capacity of state-centric and institutionalist approaches to identify unambiguous preferences, interests, and policies.

From the perspective of the present dissertation, the study of European integration and European Union Foreign Policy has benefited from the agency-structure approach because it allows scholars to observe a twofold process. On the one hand, the structure (European Union) is what agencies (mostly but not exclusively states) have made of it.

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[83] J. Samuel Barking, "Realist Constructivism", *International Studies Review* 5, (2003): 335.

[84] Barking, 337.

[85] Amy Verdun, "An American/European Divide in European Integration Studies: Bridging the Gap with International Political Economy," *Journal of European Public Policy* 10, no.1 (February, 2003): 94.

On the other hand, agencies have internalized the structure over five decades of integration: the interests of the states are in transformation all the time.

In this agency-structure approach, an agent is "the ability or capacity of an actor to act consciously and, in so doing, to attempt to realize his or her intentions."[86] This basic characterization responds to the etymological Latin root that signifies drive, lead, act, do, agree, which means literally a "person doing something." In addition to the "capacity to do," a second sense of the term relates to an entity as an "agent of something," which allows linking it to a social context.[87]

The conceptualization of the state as a human being has sparked a debate in the field of International Relations. Alexander Wendt, for instance, suggests that the state is a person.[88] Scholars such as Colin Wight emphatically disagree with such perceptions since the state or other agents are "agent of something" else, namely, human beings.[89] In European politics as well as politics in general, human beings are relevant as far as they are part of a collectivity. Due to the spatial (physical and intellectual) scope of European integration, human beings raise their voices and interests through the variety of collective representations at their disposal, namely, the state and its various institutions. In the constructivist jargon, Wendt holds that corporate agents (states) qualify as agents.[90] Thus,

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[86] Colin Hay, *Political Analysis. A Critical Introduction* (New York: Palgrave, 2002), 94-95.

[87] Colin Wight, "State Agency: Social Action without Human Activity?" *Review of International Studies* 30 (2004): 275-276.

[88] Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), 215.

[89] Friedman and Starr argue that only human beings are in possession of power and intentional choice. Gil Friedman and Harvey Starr. *Agency, Structure and International Politics: From Ontology to Empirical Inquiry* (London: Routledge, 1997), 32.

[90] Wendt, *The Social Theory...,* 216-217.

states are conceptualized as agents whenever changes in international governance are to

be explained because they still are the most relevant constituent units of the international

system.[91] At the level of European integration, personalities matter as far as they head an

agent in the policy making, which would be for instance the case of the Secretary General

of the Council of the EU or the Commissioner for External Relations. In this sense,

based on Colin Hay's assumptions, the term agent can be associated with a range of

several characteristics, including reflexivity (the ability of an actor to monitor

consciously and to reflect upon consequences of previous actions), rationality (the

capacity of an actor to select modes of conduct most likely to realize a given set of

preferences); and, motivation (the desire and passion with which an actor approaches the

attempt to realize a particular intention or preference).[92]

2.3. Grand Theories: Intergovernmental or Neofunctional

The debate of grand theories of integration is essentially guided by the premises of

liberal intergovernmentalism and neofunctionalism. Which one of these two grand theories

provides better ground to explain the integration process? The initial verdict favors the

dialogue and complementarities between these two options, based on the assumption that

both are incomplete theories and they need one another to complement their explanations

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[91] In contrast, "whenever developments of domestic structures, such as society's political culture are of interest, actors within the political system –the government as the most prominent one, but also courts, political parties, the media – are more appropriate conceptualizations of agency". Wolfgang Wagner, Rainer Baumann and Gunther Hellmann, "Agents, Structures, and German Foreign Policy after Unification. From Meta Theory to Empirical Enquiry" (Paper Prepared for Presentation at the 42nd Annual Convention of the International Studies Associations, Chicago, 20-24, February, 2001), 8.

[92] Hay, 95.

about integration. This is better explained in the voice of one leading neofunctionalist theorist:

> ... If Moravcsik were to concede that the calculation of member-states strategies was affected not only by domestic interests, but also (and even increasingly) by transnational firms, associations and movements working through domestic channels, then, this approach would be virtually indistinguishable from neo-functionalism.[93]

Nevertheless, is there a mid-point in the dialogue between intergovernmentalism and neofunctionalism? The review of the literature suggests that liberal intergovernmentalism, realist in essence, is leading the field of integration theory. Numerous examples corroborate the intergovernmental assumptions of integration as a state driven process. The most recent are the member state positions in the negotiations surrounding the distribution of votes in Constitutional Treaty for Europe or the confronted positions with regard to the participation in the U.S. assault to Iraq. However, it is difficult to dismiss the role that such agreements and institutions as well as transgovernmental and transnational actors have on the state. In that regard, Helen Wallace has convincingly asserted that it "is not that supranational entrepreneurs can control or direct the process, but that in some circumstances they can be –and sometimes have been—important catalysts of plausible ideas and brokered agreements."[94] Such judgment can be corroborated on the fact that, *inter alia*, those Presidents of the Commission who are more prone to conciliate the interests of the member states are better positioned to successfully carry out their tasks

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[93] Philippe C. Schmitter, "Neo-Neo-Functionalism," in *European Integration Theory*, ed. Antje Wiener and Thomas Diez (Oxford: University Press, 2003), 2.

[94] Helen Wallace, "Piecing the Integration Jigsaw Together," *Journal of European Public Policy* 6, no. 1 (March 1999): 158.

than those willing to impose the interests of the Commission. Ralf Dahrendorf has

referred to this issue by stating that Romano Prodi has mistakenly patterned his actions.

> He is the second Commission president to make this mistake: the
> first was Roy Jenkins (1977-81). Both believed that being
> Commission president is in some way like being prime minister.
> That is not the case. The Commission president is the head of an
> agency that has to achieve objectives decided by the national prime
> ministers. That is why I cannot see any sense in the proposal for
> direct election of the Commission president –not even from the
> viewpoint of democratic legitimacy.[95]

What are the theoretical implications of Dahrendorf's analysis? From a Liberal

Intergovernmentalist perspective, demands for integration arise within processes of

domestic politics, whereas integration outcomes are consequence of intergovernmental

negotiations.[96] Although this approach acknowledges the role of "supranational" bodies

in promoting cooperation, in its view, the EU always has evolved as a result of its

members' interstate bargains where each government looks to defend its own policy

preferences in the EU arena. This tenet of Liberal Intergovermentalism is accurate

although incomplete. The observation in that respect is that throughout the history of

European integration, the outcomes of "grand bargains" have affected the domestic realm

(national preferences) of its members as well the structure of the EU (intergovernmental

negotiations). As Richard Little puts it, "These theorists talk as if history did not exist.

International Relations are seen to be conducted in a rigid and unchanging anarchic

international system… The mistake of these decision-makers was to believe that realist

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[95] Ralf Dahrendorf, "The Challenge for Democracy," *Journal of Democracy* 14, no. 4 (October 2003): 106.

[96] Ben Rosamond, *Theories of European Integration*, (New York: St. Martin's Press, 2000), 201.

principles represented timeless truths."[97] In other words, national preferences are not fixed; instead, they are increasingly influenced by European interconnections.

As the collective decision-making arena has grown, the dichotomy supranational-intergovernmental has been transformed. Most of the EU decisions are made in the intergovernmental sphere, even in those areas in which the Commission has the prerogative such as international negotiations. Nevertheless, the Commission has proved its capabilities as policy coordinator, consensus maker and influential actor in the decision making process. This is the case of the active role of the Commission in the initiative, jointly with the Parliament, of the Convention approach to the Constitution, the proposal of the EU foreign minister, and the criticism to the Stability and Growth Pact, which in words of Romano Prodi, "many felt was necessary (to adapt) but did not have the courage to say so."[98] Likewise, the European Court of Justice has attained its role in preserving the spirit of the Community Law and, consequently, influencing and harmonizing the internal law of the EU member states. For instance, in 2003 the Court of Justice completed 494 cases and accepted 561 new cases, while it had 974 pending cases.[99]

The contributions of liberal intergovernmentalism are important for understanding the current developments within the EU. Three of these contributions are particularly

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[97] Richard Little, "International Relations and the Triumph of Capitalism," in *International Relations Theory Today*, ed. Ken Booth and Steve Smith. (University Park, Pennsylvania: The Pennsylvania State University Press, 1997), 71.

[98] Romano Prodi, "Five Years On: What Our Objectives Were and What We Have Achieved" (Speech at the European Parliament, Brussels, October 13, 2004)

[99] European Court of Justice, *Annual Report 2003*, (Brussels, 2004), 215.

relevant:[100] the liberal theory of national preference formation; the intergovernmentalist interpretation of inter-state relations; and, the rationale to pool decision-making in international institutions.

The first stage in this model is to try to explain national preferences. The central question asked by Moravcsik is whether economic or geopolitical interests dominate. The answer, based on major decisions in the European integration process, is that economic interests are the most important ones.[101]

The second stage, interstate bargaining, seeks to explain the efficiency and distributional outcomes. Here two alternatives for reaching agreements are contrasted: asymmetrical interdependence and supranational entrepreneurship. Moravcsik arrives at the answer that asymmetrical interdependence is most significant.

The third stage explores the reasons why states choose to delegate or pool decision-making in international institutions. Delegation in the EU refers to the powers given to the Commission and the European Court of Justice (ECJ). Pooling of sovereignty refers to the application of majority decisions. To understand institutional choice, Moravcsik contrasts federalist ideology, centralized technocratic management, and more credible commitments. He finds that the predominant explanation is to exercise credible commitments.

The clarity of Moravcsik's approach sacrifices several aspects of the integration process, such as the influence of community institutions and other actors as well as the informal day-to-day negotiations as compared to historical negotiations.

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[100] Neill Nugent, *The Government and Politics of the European Union*, 5th edition (Durham: Duke University Press, 2003) 482-484.

[101] Moravcsik, Chapter One.

The European polity is a collective decision making body. In adapting realist principles to the peculiarities of EU integration, Liberal Intergovernmentalism acknowledges the role of supranational bodies in promoting the cooperation, however, in his view, the EU has always evolved as a result of its members' interstate bargains and each government looks to defend its own policy preferences in the EU arena.

In order to describe such transformations, some scholars have developed the concepts of preference aggregation and preference transformation. Preference aggregation focuses on the limits of the problem solving capacity of EU governance, and thus sees the decentralization of decision making process as the major prerequisite for EU governance. On the other hand, the concept of preference transformation focuses on the EU's capacity to shape interests in such a way that they become more compatible.[102] In this case, the EU member states accept certain level of common interest on specific sectors and develop legally biding commitments at the community level.

In the explanation of preferences, interests of states or any other actor play a key role.[103] Federica Bicchi introduces an original approach to deal with interests from a transformational perspective. She states that interests change over time through the following mechanism: "when previous ways of doing things becomes virtually impossible... Only if there is a deconstruction of previous policy stances, attitudes and preferences, then is it possible to reconstruct a different approach embodying a new set of

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[102] Burkard Eberlein and Dieter Kerwer, "New Governance in the European Union: A Theoretical Perspective," *Journal of Common Markets Studies* 42, no. 1 (2004): 129.

[103] Astrid Spreitzer, "A Union of Interests: Mapping Theories of European Integration" (Paper Presented at Second Pan-European Conference Standing Group on EU Politics, Bologna, Italy, 24-26, June 2004), 13.

preferences."[104] Bicchi's argument responds to the challenge of preference change and the possibility of convergence towards a new common definition of interest at the European level. The best example of the changes in the preferences of the states is the increasing institutionalization of the integration process, to the point that a ratification process for the Constitution of Europe has been taking place since 2004. Despite the limits of the Constitutional Treaty, the preferences of the states have redefined their national interests to include the European variable, with all its constrains, responsibilities and the acceptance of the "mutual interference" in domestic affairs, as Cooper would say. These changes occur when national foreign policy makers perceive new political and security challenges and thus experience uncertainty. In order to face such challenges, member states' national interests are revisited, the possibility of reconstructing them in a different format emerges, and the possibility of converging on a common core may rise.[105] The events of March 11, 2004, for instance, obliged EU member countries to revisit state and collective policies in justice and home affairs; as a result, the uncertainty contributed to unlocking and speeding up the cooperation of matters of the third pillar related to cooperation in combating terrorism.

2.4. The EU as a Disaggregated Area: A Policy Network Approach

One of the problems to study the EU in general and its foreign policy in particular is that the integration process presents different degrees of integration depending on the

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[104] Federica Bicchi, "Defining European Interests in Foreign Policy: Insights from the Mediterranean Case" (Unpublished paper, Centre for Analysis of Political Change, University of Siena), 3.

[105] Bicchi, 5.

specific sector to be studied. Even in the case of the state, the assumption of the unitary

state is relative. Aware of such a tendency, Anne-Marie Slaughter developed the concept

of the disaggregated state to highlight how multiple interconnections have undermined

the argument of the unitary state. She asserts that:

> The disaggregated state sounds vaguely Frankenstinian –a
> shambling, headless bureaucratic monster. In fact, it is nothing so
> sinister. It is simply the rising need for and capacity of different
> domestic government institutions to engage in activities beyond
> their border, often with their foreign counterparts. It is regulators
> pursuing the subjects of their regulations across borders; judges
> negotiating minitreaties with their foreign brethren; and legislators
> consulting on the best ways to frame and pass legislation affecting
> human rights or the environment.[106]

Slaughter's epistemic community is well known. Those scholars have written

extensively about the state/increasing interconnections subject. Under different labels,

the premises of the disaggregated state are traced back to several decades ago. It is, in

fact, part of the broader neo-liberal/neo-institutionalist agenda in IR. In the 1970s, an

embryonic form of disaggregated state was conceived by Joseph Nye when he coined the

term transgovernmental.

> Transgovernmental refers to direct interactions between agencies
> (governmental units) of different governments where those
> agencies act autonomously from central governmental control.
> Transnational, which is used in several different senses in
> contemporary literature, here refers to interactions across the
> border in which at least one actor is nongovernmental.[107]

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[106] Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2004), 12.

[107] Annette Baker Fox, Alfred O. Hero, Jr., and Joseph S. Nye, Jr., *Canada and the United States: Transnational and Transgovernmental Relations* (New York: Columbia University Press, 1976), 4.

In the same line of premises, a seminal article on the "Legalization of World Politics," written by Goldstein, Kahler, Keohane and Slaugher, pointed out that, "Legalization, a particular form of institutionalization, represents the decision in different issue areas to impose international constrains on governments."[108] After several years of research, Slaughter articulates the disaggregated state as a particular vision to emphasize what Keohane, Nye, Kahler, *inter alia*, have postulated for decades: the eroding bases of the traditional conceptualization of state facing globalization.

The underlying argument of disaggregated states explains entities such as the EU that do not present characteristics of unitary actors. Thus, Slaughter says that "thinking about states the way we think about domestic governments – as aggregations of distinct institutions with separate roles and capacities—provides a lens that allows us to see a new international landscape. Government networks pop up everywhere."[109] Looking at the international system through the lens of unitary states leads us to focus on traditional international organizations and institutions created by and composed of formal state delegations. The integration process, however, is distancing itself from that model.

Interconnections in the European states can be studied through networks. A broad definition of network states that it "is a regular pattern of regular and purposive relations among like government units working across the border that divide countries from one another and that demarcate the domestic from the international sphere."[110] When specific issues are addressed by participant actors, "policy networks are arenas in which decision-

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[108] Judith Goldstein, Miles Kahler, Robert O. Keohane, and Anne-Marie Slaughter, "Introduction: Legalization and World Politics," *International Organization* 54, no. 3 (Summer 2000): 386.

[109] Slaughter, 13.

[110] Slaughter, 14.

makers and interests come together to mediate differences and search solutions."[111] Historically, it is still early to refer to the disaggregated state at the global level. Certainly, government networks are making their appearance worldwide; however, such networks are dispersed and weak in many areas. In the particular context of intensive regionalization and integration processes, however, the concept of disaggregated states helps explain the current intensive interconnections in the EU. The summits of the European Council, the so-called comitology, and the entangled legal and political structure of the EU are examples of multiple networks of ministers, parliamentarians and even judges, as in the case of the application of community law. In other words, by looking at EU policy making, it is clear that European states relate to each other not only through their foreign offices, but also through regulatory, judicial, and legislative channels.

Having the treaties as a backdrop, the cornerstone of European integration is the daily contact between states, community institutions, and interest groups. According to Slaughter, networks are articulated in three ways 1) by creating convergence of information; 2) by improving compliance with international rules (enforcement); and 3) by increasing the scope, nature, and quality of international cooperation (harmonization).[112]

Policy networks vary in character according to three key variables: the relative stability (or instability) of network memberships; the relative insularity (or permeability) of networks; the relative strength (or weakness) of resource dependencies. From these

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[111] Nugent, 490-491.

[112] Slaughter, 25.

variables a continuum emerges, at one end are tightly integrated policy communities in which membership is fluid and often hierarchical, external pressures have minimal impact, and actors are highly dependent on each other for resources. At the other are loosely integrated issue networks, in which membership is fluid and non-hierarchical, the network is easily permeated by external influences, and actors are highly self-reliant.[113]

In regard to the decision-making structure, horizontal government networks are links between counterpart national officials across borders. Far less frequent, but potentially very important, are vertical governmental networks, those between national government officials and their supranational counterparts.

Horizontal networks operate both between high-level officials directly responsive to the national political process—the ministerial level—as well as between lower level regulators. They may be surprisingly spontaneous—informal, flexible, and of varying membership—or institutionalized within official international organizations. Horizontal networks have proliferated in the European context. As solving problems is not always possible exclusively in the domains of the state, the delegation of powers to regional institutions has been helpful in facing common challenges. The term supranational is controversial, particularly due to the lack of a central authority in the EU. Instead, based on the functioning of the Commission and the Court, it is more accurate to refer to the delegation of regulatory power to common institutions to address specific problems (trade and aid, for instance). In other words, these are vertical networks, not in the sense of "super" supranational authority, but in the delegation of regulatory powers to EU institutions.

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[113] John Peterson, "Decision-Making in the European Union: Towards a Framework for Analysis," *Journal of European Public Policy* 2, no. 1 (March 1995): 77.

Thus far, national government officials retain primary power over public policy, but work together with integration institutions to formulate and implement it. The states delegate some regulatory power to these institutions, but then work closely with those officials through vertical networks.[114] In this regard, Slaughter asserts that:

> The EU legal system devolves primary responsibility for enforcing ECJ judgments not onto EU member states, per se, but on to the national judges of those states... These vertical networks are enforcement networks. But they can also operate as harmonization networks, in the sense that they will bring national rules and supranational rules closer together.[115]

On the other hand, some networks are more consolidated than others. There are "networks of a policy community"; that are often found in areas where a specific EU policy is well established, organized groups exist, and decision makers benefit from the cooperation of interests. Examples of such policy areas include agriculture and research and development. In contrast, "issue networks" are found where EU policy is not well developed, the policy debate is fluid and shifting, and organized interests have few resources to influence decision-makers. This is the case of specific themes for instance within the third pillar of Justice and Home Affairs.

Networks are constantly modifying the structure of the EU through information, enforcement and harmonization. Once established, networks have an impact on the interests of the agents involved in the EU policy making process. The point to highlight here is the variety of interests and their transformations. As Astrid Spreitzer has put it, in

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[114] Slaughter, 262.

[115] Slaughter, 21.

Policy Network Analysis there exist two possibilities of behavior in a bargaining situation: exchanging and strategic interactions, and obtaining a result. Thus, actors do have a fixed preference order when they enter a network and bargaining. In the meantime, when they try to solve a common problem, this preference order may change, because of a superior problem solving philosophy.[116]

As a corollary, there must be considered that the role of networks and transgovernmental processes strengthens the structure of European integration. In the theoretical debates, this tendency is explained by Europeanization and fusion theories, which shed some light on the future shape of the EU. With regard to Europeanization, Helen Wallace has defined it as "the development and sustaining of systematic European arrangements to manage cross-border connections, such that a European dimension becomes an embedded feature which frames politics and policy within European states."[117] She clarifies that her definition does not imply that Europeanization connotes an inexorable erosion of the domestic; rather, it leaves open the possibility that within European countries some arenas of political activity may be insulated from the impacts of Europeanization. On the other hand, under similar premises, Wolfgang Wessels states that there is a process of fusion in the EU, particularly because the EU institutional development shows long term trends of structural growth and differentiation, which are sometimes overshadowed by cyclical ups and downs. The major feature of this process is a "fusion" of public instruments from several state levels linked with the respective

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[116] Spreitzer, 16.

[117] Helen Wallace, "Europeanisation and globalization. Complementary or contradictory trends? in *New Regionalisms in the Global Political Economy*, ed. Shaun Breslin (New York: Routledge, 2002), 138.

Europeanization of national actors and institutions.[118] Thus, networks and transgovernmental processes are key elements in the Europeanization of EU foreign policy.

Conclusions

One of the best ways to augment the explanatory power of theories is to inhibit orthodoxies and promote dialogue between competing premises. The essence of social science depends on the debate of opposing ideas to modify weak foundations of theories and improve existing explanatory frameworks. Scholars benefit from it by enhancing the "principle of scholarship, namely that no one theory or approach should dominate by fiat."[119] Likewise, it is important to determine the domains of each theory in order to elude unnecessary confrontations and find complementarities.

Due to its convoluted institutional arrangements, the EU is a multifaceted political entity that it is doubtfully explained by deterministic approaches. In this light, a combination of distinct approaches converges to help to explain the EU from three different levels of generalization. Constructivism contributes to integration studies with the "mutually transformational" character of "agencies and structures" and offers the flexibility needed to capture how the EU works and evolves. In this agency-structure approach, European agents, broadly defined as the ability or capacity of an actor to do

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[118] Wolfgang Wessels, *The Amsterdam Treaty in Theoretical Perspective or Reflections on the "Acquis Académique"* (Remarks for the Meeting of the Cellule de Prospective - Brussels, September 24 1997, http://www.politik.uni-koeln.de/wessels/DE/PROJEKTE/FORUP/CELLULE.HTM, accessed 12 December, 2004).

[119] Steve Smith, "Dialogue and the Reinforcement of Orthodoxy in International Relations," *International Studies Review* 5, no. 1 (March 2003): 141.

something as well as representative of something, have created the institutions and practices of European integration, which simultaneously transform the states.

In such a transformational framework, interests matter and in fact are the driving forces of integration. States' preferences change over time as a result of permanent discussion and exchange of arguments that collective institutions promote; depending on the issues at stake, states may remain anchored in nonnegotiable positions or can make their interest more community compatible and thus mitigate problems of collective action. As the institutional development of the EU indicates, the tendency points out toward more integration, despite the slow process of convergence of preferences.

Finally, at a more concrete level, there is a plurality of agents participating in the EU policy making. As will be presented in Chapter 6, the detailed analysis of concrete cases reveals that underneath the broad transformation of agents, structures, preferences and interests, networks operate to shape consensus in the policy making. Networks provide a valuable exchange of ideas, techniques, experiences, and problems, and create the equivalent of a collective memory. Likewise, networks lead to action and promote harmonization of practices, laws and regulations.

Chapter 3

European Union Foreign Policy

The study of foreign policy has been tackled from different perspectives in the discipline of International Relations. From state oriented approaches to postmodern views of what constitutes foreign policy, academics emphasize particular aspects of the actors involved as well as their motivations and the effects of their decisions. The main challenge in analyzing EU foreign policy is to adapt the current debates on foreign policy to the nature of the European Union. In that regard, the present chapter explores these debates with regard to the concept of foreign policy, the evolution of foreign policy analysis and its connection to the EU foreign policy.

Due to EU's plurality of characteristics in terms of actors, levels of political organization and differentiated developments of integration, the dissertation's scheme of analysis relies in the agent-structure debate. In light of the concentration of power of the community institutions in the decision making process, the chapter proposes three kind of agents in the EU foreign policy making: principal (the Council), delegated (Commission and Parliament) and interest groups acting at the European level. The last part of the chapter focuses on the interrelation of these three types of agents in shaping the structure of the EU. The most visible aspects in which such interrelation takes place is reflected in the organizational setting, instruments and practices of the EU foreign policy.

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3.1. About Foreign Policy: Connotation and Denotation in the Conceptualization of Foreign Policy

The starting point to the study of the Foreign Policy of the European Union is to determine whether it is feasible to apply the set of attributes or properties (connotation) of the concept of foreign policy to particular entities (denotation) such as the European Union. In that regard, the first debate is about the concept foreign policy itself, which sometimes is indiscriminately used as a synonym of foreign affairs, foreign relations, and diplomacy.

Foreign affairs is defined as "the total activities, interests, and dealings of a state with other states and other international personalities."[120] In contrast, the term foreign relations is understood as "a looser and broader term than diplomatic relations, it refers as well to relations that states welcome or encourage but not necessarily initiate or conduct."[121] Diplomacy refers to the activities carried out by representatives of states and "varies from the gathering of information and evaluation of the politics of the host country... to international negotiations."[122] Even in the case of the traditional definition of diplomacy, which is more focused on the exclusiveness of the state, scholars have said that the recent evolution of international relations has involved "the practice of diplomacy by non-governmental organizations and actors... and also the practice of diplomacy directed toward populations rather than toward their governments."[123] The three

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[120] Cathal J. Nolan, *The Greenwood Encyclopedia of International Relations*, vol. 2, (Westport, CT: Greenwood, 2002), 560.

[121] Nolan, 562-563.

[122] David Robertson, *A Dictionary of Modern Politics* (London: Europa Publications, 2002), 147.

[123] William Zartman, "Diplomacy," in *Encyclopedia of Government and Politics*, ed. Mary Hawkesworth and Maurice Kogan (New York: Routledge, 2004), 1004.

definitions share the centrality of the state; however, all of them acknowledge the presence of "other international personalities" or "relations conducted by other actors," which allows considering the EU's different agencies or regional bodies as agents of foreign policy. The acknowledgement of different groups participating in the foreign policy making is consequent with the assumption of the EU as disaggregated entity in which a variety of actors articulate their interests in transnational networks.

The term "policy" reflects a "course or principle of action adopted or proposed by an organization or individual,"[124] although it "is typically reserved for the action of governments, government institutions and government officials."[125] In the perspective of the present dissertation, this definition is beneficial because it is open to political entities other than states. The distinctive feature of a policy is the "course of action" of an entity that encompasses several elements: collective preferences, targets, and instruments.[126] These three elements are not fixed; they are determined by external and domestic inputs to the system and, therefore, they are objects of change.

On the other hand, the modifier Foreign is meant to imply policies "toward the world outside state's territorial borders (regional borders in the present dissertation)...if the primary target lies outside the country's borders, it is considered foreign policy, even

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[124] Pearsall, Judy, ed. "Policy." *The Concise Oxford Dictionary*. Oxford University Press, 2001. http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t23.e55183. Accessed September 13, 2004.

[125] Ryan K, Beasley, Juliet Kaarbo, Jeffrey S. Lantis, and Michael Snarr, eds., *Foreign Policy in Comparative Perspective. Domestic and International Influences on State Behavior* (Washington, DC: Congressional Quarterly, 2002), 5.

[126] The assumption of the three elements is based on and adapted from Jim Tomlinson, "Economic Policy," in *Encyclopedia of Government and Politics*, ed. Mary Hawkesworth and Maurice Kogan (New York: Routledge, 2004), 668-681.

if it has secondary consequences for policies inside the country."[127] Conclusively, it must

be emphasized that some policies that originally have only regional or domestic

implication, may create external ramifications and become part of the foreign policy

agenda. In that regard, "Foreign policy is not limited to military or security policy. It also

includes such areas as foreign economic policy, international environmental policy, and

human rights policy...,"[128] among others. For instance, some EU policies on the single

market, that in principle are domestic or regional oriented, have had effects on the global

trade system.

The definitions of foreign policy may be grouped in two main categories: state-

oriented and approaches focused on the participation of other actors. In the former, Nolan

states that Foreign Policy is:

> The web of official decisions, actions, and principles taken by a
> state concerning its position and interests in world affairs,
> especially those actions and positions governing relations with
> other states and international personalities. (It is also) Any stable
> goal, and the strategy to achieve it, followed by a state in the
> conduct of its diplomacy.[129]

In the same vein, another definition states that Foreign Policy is "thus a guide to

actions taken beyond the boundaries of the state to further the goals of the state."[130]

Likewise, Eliassen defines foreign policy

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[127] Beasley, Kaarbo, Lantis, and Snarr, 3.

[128] Beasley, Kaarbo, Lantis, and Snarr, 4.

[129] Nolan, 562.

[130] Bruce Russet, Harvey Starr, and David Kinsella, *World Politics. The Menu for Choice* (Boston: Bedford/St. Martin's, 2000), 117.

...as the part of a state's policy that determines its relations with other states and with the international community. This concept covers diplomacy, alliances, military policy, trade policy, etc. The broadness of the concept reflects the complex nature of politics and the multitude of connections between different policy areas. This makes foreign policy a multi-faceted animal.[131]

From a less state-centric view, a second group of scholars considers foreign policy as follows: "Collective coping with the international environment is, indeed, a useful shorthand definition of foreign policy, and one (of) which enables us to include a sweep of official activity, not just that conducted by diplomats and foreign ministries."[132] Similarly, a broad definition of foreign policy indicates that it is, "The sum of official external relations conducted by an independent actor (usually a state) in international relations."[133] Another definitions states that, "The central focus of foreign policy analysis is on the intentions, statements, and actions of an actor – often, but not always a state— directed toward the external world and the response of other actors to these intentions, statements and actions."[134] The common denominator of these concepts of foreign policy is that they encompass elements of strategy, guidance and goals deployed by official institutions, generally the state.

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[131] Kjell A. Eliassen, "Introduction: The New European Foreign and Security Policy Agenda," in *Foreign and Security Policy in the European Union*, ed. Kjell A. Eliassen (London: Sage, 1998), 2-3.

[132] Christopher Hill, "What is to be done? Foreign Policy as a site for political action," *International Affairs* 79, no. 2 (2003): 239.

[133] Christopher Hill, *The Changing Politics of Foreign Policy* (New York: Palgrave McMillan, 2003), 3.

[134] Deborah J. Gerner, "The Evolution of the Study of Foreign Policy," in *Foreign Policy Analysis. Continuity and Change in its Second Generation*, ed. Laura Neack, Jeanne A.K. Hey, and Patrick J. Haney, Haney (New Jersey: Prentice Hall, 1995), 18

3.2. Foreign Policy Analysis and European Union Foreign Policy

Strongly state-oriented definitions of foreign policy will privilege realist approaches whereas those that incorporate other actors will favor a more pluralistic approach. In this view, the next stage is to analyze whether the current literature about Foreign Policy Analysis (FPA) has also developed the plurality necessary to support the kind of definition this dissertation requires and also to look at the theories available to its study.

FPA has been one of the most innovative and productive areas in International Relations since 1954, when Richard Snyder published the first formal study of decision-making in foreign policy.[135] However, the development of FPA has gone through ups and downs in both the essence of the debates and the productivity of the analysis. In fact, a group of scholars postulated the origin of the Second Generation of foreign policy in the mid-1980s.[136] The so called First Generation, as in the study of Comparative Politics and International Relations, was characterized by the boom of the behavioral revolution and focused heavily on the individual and system levels of analysis, relegating domestic politics to a position of secondary importance, and attempted to build a grand theory to explain "all aspects of foreign policy for all countries at all points in time."[137] Some scholars from the First Generation made outstanding contributions to the field, including,

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[135] Also, in 1954, Snyder, Buck and Sapin published the action-reaction-interaction model.

[136] Laura Neack, Jeanne A.K. Hey, and Patrick J. Haney, *Foreign Policy Analysis. Continuity and Change in its Second Generation* (New Jersey: Prentice Hall, 1995).

[137] Deborah J. Gerner, "The Evolution of the Study of Foreign Policy," in *Foreign Policy Analysis. Continuity and Change in its Second Generation*, ed. Laura Neack, Jeanne A.K. Hey, and Patrick J. Haney, (New Jersey: Prentice Hall, 1995), 30.

for instance, Graham Allison,[138] who attempted to explain foreign policy decision-making employing the models of "rational actor", "organizational process", and "governmental politics"; Alexander George,[139] on the other hand, incorporated the factors of belief system and personal character; and, Robert Jervis[140] used the "perception/misperception" element for explaining and predicting foreign policy responses.

A relative decline in the interest in foreign policy started to take place in the 1980s. Christopher Hill argues that this waning is due to three main reasons. First, there was skepticism about the utility and durability of the state. Hill responds to this claim arguing that, "Even the most powerful states, at the height of the Westphalian system... have never enjoyed full autonomy internally."[141] What is clear is that even in the academic perspectives of 'global governance', the aim of international organizations is still to influence states and their strategies, and "indeed they require the continued health of the state in order to function well in their own realms."[142] The second point was that "foreign" was no longer a meaningful category because of the blurred distinction between internal and external. Both areas are connected as the two ends of a continuum, allowing overlaps in a category sometimes called "intermestic". Thirdly, while some decision-

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[138] Graham T. Allison, *Essence of Decision* (Boston: Little Brown, and Company, 1971)

[139] George Alexander, "The Case of Multiple Advocacy in Making Foreign Policy," *American Political Science Review* 66, no. 3 (September 1972): 751-785.

[140] Robert Jervis, *Perception and Misperceptions in International Politics* (Princeton, NY: Princeton University Press, 1976).

[141] Hill, 235-238.

[142] Hill, 235.

making theories were limited in their scope, there was an emerging bridge between international political theory and FPA.[143]

In order to face these challenges, the second generation of scholars "is trying to build midrange theories that are empirically grounded, culturally sensitive, and often issue- or domain-specific."[144] Likewise, they attempt to use a wide variety of methodologies, complex interactions and more systematic attention to non-American cases. In the particular case of rational theory, for instance, the second generation has sought to increase the number of variables in order to enhance the explanatory power with regard to the behavior of the actors. More concretely, this is the case of the poliheuristic approach to foreign policy, which attempts to integrate both rational choice and cognitive approaches, suggesting that leaders simplify their choices according to a two-stage decision process: in the first phase, the alternative choices are eliminated after considering unacceptable returns; in the second, the decision maker uses a utility-strategy.[145]

The developments in the field of FPA suggest that flexibility and adaptation to study the transformations of new phenomena is one of the characteristics of the second generation. In this regard, there are two main tendencies in the literature on EU foreign policy. On the one hand, there is a group rooted in the traditional views of the state as exclusive actor and reticent to new conceptualizations. On the other hand, another group

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[143] Hill, 236.

[144] Deborah J. Gerner, "The Evolution of the Study of Foreign Policy" in *Foreign Policy Analysis. Continuity and Change in its Second Generation*, eds Laura Neack, Jeanne A.K. Hey, and Patrick J. Haney (New Jersey: Prentice Hall, 1995).

[145] Alex Mintz, *Integrating Cognitive and Rational Theories of Foreign Policy Decision Making* (New York: Palgrave, 2002).

is open to new approaches that can explain the case of the EU and attempt to measure the actor capability of the EU. This is the case of the present dissertation.

Richard Whitman prefers the term "international identity" to foreign policy or external relations of the EU, arguing that "the broad agreement that foreign policy is a function of a nation state creates a circumstance in which the European Union can only be considered for international relations if it resembles the form and functions of a nation state."[146] However, several arguments can be made in favor of the concept of EU foreign policy. According to the definitions mentioned above, it is clear that the term "official" is not necessarily limited to the state. Second, the EU, even in a fragmented fashion, has developed strategies and goals, based on "ideas, expectations and patterns of behavior."[147] Third, foreign policy is not constrained to only one sector, where it be, political, economic, or diplomatic.

In line with the reasoning of the present dissertation, Brian White suggests a framework more suitable for the analysis of European foreign policy that would focus on interrelated elements – actors, processes, issues, instruments, context, and outputs – that constitute a foreign policy system in action. This more eclectic and interdisciplinary approach, White argues, provides a new research agenda as well as augments the more established approaches in the discipline.[148] While the Community foreign policy, which essentially constitutes foreign economic policy, can be called truly "common," the CFSP

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[146] Richard G Whitman, *From Civilian Power to Superpower? The International Identity of the European Union* (Great Britain: Macmillan Press, 1998), 233.

[147] Per M. Martisen, "The European Security and Defense Policy, a Strategic Culture in the Making?," (Paper prepared for the ECPR Conference, Marburg, September 18-21, 2003): 7.

[148] Brian White, "The European Challenge to Foreign Policy Analysis," *European Journal of International Relations* 5, no. 1 (1999): 37-66.

is by no means "common" in the same way: it is developed intergovernmentally and it is not a substitute for national foreign policies.

3.3. The agents of the EU foreign policy

In order to analyze the EU foreign policy, two general premises should be considered. The first is that aside from the degree of international "actorness" or "presence" attributed to the EU, the European integration should be considered as a separate level of analysis because a) it is a "process and a set of complex institutions, roles and rules which structure the activities of the EU,"[149] and b) it is an international subsystem, which is defined as a "group or units within the international system that can be distinguished from the whole system by the particular nature or intensity of their interactions/interdependence with each other."[150] Thus, examining the EU as a separate level of analysis allows us to consider a plurality of actors from a different perspective: groups and actors can be considered regional only if they are able to organize themselves to exert pressure at the European Union level either through their government, the community institutions or in alliance with other national groups.

The second premise is that the study of European integration and European Union Foreign Policy can benefit from the agency-structure approach because it allows one to observe a twofold process. On the one hand, the structure (European Union) is what

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[149] Michael Smith, "The EU as an international actor", in *European Union. Power and Policy-Making*, ed. Jeremy J. Richardson (London: Routledge, 1996), 245.

[150] Barry Buzan and Richard Little, *International Systems in World History. Reaming the Study of International Relations* (Suffolk: Oxford University Press, 2000), 69.

agencies (mostly but not exclusively states) have made of it. On the other hand, agencies have internalized the structure over five decades of integration: the interests of the states are continuously changing.

The EU is a system of dynamic interaction among states, regional interest groups, and EU institutions. To some extent, agency-structure allows us to take off the analytical straightjacket of two polarized positions: states determining the integration or EU institutions deciding state behavior. More nuances are necessary for the explanation.

In the case of the EU, there are three categories of corporate agents based on their capabilities to transform the structure: principal agents, delegated agents, and interest agents.

Chart 1
Corporate Agents in the EU Foreign Policy

The first type is the principal agent: although states are the original source of power, the Council of the EU (made of the state members) is the most important as a collective body of decision making at the European level. The denomination "principal" in integration theory is proposed by Mark Pollack's theoretical scheme of "principal-agent analysis." Pollack's reasoning is established on the grounds of international regime

theory and studies of congressional organization; it aims to predict the functions that are likely to be delegated to "supranational" institutions.[151] With a slightly different perspective, "principal agent" is understood in the present dissertation to be a collective decision making body of states with the capacity to create mandatory legal norms, implement policies, and delegate functions to regional monitoring institutions.

In addition to the state, the Council of the European Union (formerly known as the Council of Ministers), is a space of consensual decision making and enabled as a corporate agent. In other words, the Council of the EU is not a linear sum of the states; it is an institution of communication among the member states, negotiation of positions, and increasingly capabilities. The Council is the main decision-making body of the European Union, in which the member state ministers meet. Depending on the issue on the agenda, each country will be represented by the minister responsible for that subject (foreign affairs, finance, social affairs, transport, agriculture, etc.). Each year more than one hundred Council sessions take place. In order to rationalize the organization of the Council, the member states established nine configurations in June 2002.[152] As part of the permanent work carried out in Brussels, the preparatory meetings for the Council are done by the Permanent by the Permanent Representatives Committee (COREPER), made up of member states' ambassadors to the EU, assisted by officials of the national ministries.

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[151] Mark A. Pollack, *The Engines of European Integration: Delegation, Agency, and Agenda Setting in the EU* (Oxford: Oxford University Press, 2003).

[152] In the 1990s there were 22 configurations; this was reduced to 16 in June 2000 and then to 9 in June 2002. The Council of the EU, *Council Configurations* (http://ue.eu.int/cms3_fo/showPage.asp?id=426&lang=EN&mode=g, accessed December 24, 2004); John Van Oudenaren, *Uniting Europe. An Introduction to the European Union* (New York: Rowman & Littlefield, 2005), 78.

The Presidency of the Council is held for six months by each member state on a rotating basis. The presidency country is responsible for preparing the schedule of and chairing Council meetings. On contentious issues, the presidency often, working with the Commission, will come up with compromise positions for presentation to the other member states. Likewise, the presidency country also traditionally has had important representation functions.

The Council and European Parliament share legislative power as well as responsibility for the budget. The Council also concludes international agreements that have been negotiated by the Commission. According to the treaties, the Council makes decisions either unanimously or by a majority or qualified majority vote.

Table 2

Qualified Majority and Unanimity for EU Foreign Policy (Council as Decision Maker)

Qualified Majority (consensus decisions are the practice)	Unanimity
Appointment of the Union Minister for Foreign Affairs (with the agreement of the President of the Commission)	All matters related to Common Foreign and Security Policy
International Trade Policy	Admitting new member states (after consulting with the Commission and approval by the EP, ratification of all member states)
Environmental Policy*	
Fisheries Policy*	Negotiation of international agreements in the fields of trade in services involving the movement of persons and the commercial
Agricultural Policy*	aspects of intellectual property.
Asylum, Refugee, and some aspects of immigration policy (from April 30, 2004 forward)	Association agreements with third countries
	Decision to establish a common defense (European Council)
	Budget
	The European Council may unanimously decide that the Council of Ministers should act by qualified majority in cases other than those
* Examples of policies with external implications	referred to in Part III of the Constitution (transportation networks, agriculture, fisheries)

As table two shows, in the particular case of foreign policy or sectors with external implications, most of the relevant decisions are taken by unanimity. However, there are several issues in which the qualified majority system applies.

Based on the 2000 Nice Treaty, in the current system big countries are assigned 29 or 27 votes, median between 14 and small between 7 and 3. This means that "The qualified majority is set at 72 per cent of the votes, deriving from a majority of states (13 in an EU of 25 countries; 14 in 27), representing at least 62 per cent of the population."[153] After several months of negotiation, member states agreed that under the Constitution, as of 2009, the new qualified majority will consist of a "double majority" representing at least 55 percent of the members of the Council of Ministers (representing at least 15 member states), which in turn represents at least 65 percent of the EU population. Likewise, a blocking minority must consist of at least four member states (eliminating the mathematical possibility that three large states could block action by themselves) and member states forming ¾ of a blocking minority may demand postponement of a vote.[154]

On important questions such as amending the treaties, launching a new common policy or allowing a new country to join the Union, the Council has to agree unanimously.[155] It is the Council that decides whether Directives and Regulations should be adopted. The Council, then, has come to serve this crucial legislative function and

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[153] Article 7 and Declaration 20 on the Enlargement of the EU, *Treaty of Nice*, December 11, 2000. See also Joaquín Roy, "The European Union: An introduction to its history, institutions and aims" (Unpublished paper, November 2004): 5. A previous version was published in Spanish in *Europa en Transformación. Procesos Políticos, Económicos y Sociales*, edited by Alejandro Chanona and Roberto Domínguez (México: UNAM-UQROO-Plaza y Valdés).

[154] Delegation of the European Commission to the USA, *EUFOCUS* (March, 2005).

[155] Pascal Fontaine, *Europe in 12 Lessons* (Brussels: European Commission, 2003), 16-17.

also checks the executive function of the Commission.[156] In other words, as illustrated in table 3, the Council is the most important agent to take decisions in the integration process,. However, it must be considered in the analysis the likewise important role of the Commission particularly with regard to the right of initiative and its power in the first pillar.

Table 3
The Council as the Principal Agent in the Foreign Policy Decision Making
in the Three Pillar Structure

First Pillar (areas with external implications)	Second Pillar	Third Pillar
Cooperation Procedure: Commission proposal. After obtaining the opinion of the European Parliament, the council formulates a common position by qualified majority Co-decision procedure: Commission proposal, Parliament gives its opinion. The Council decides (internal market, environment, customs cooperation, preventing and combating fraud) Consultation Procedure: Commission proposal is sent to the Council. The Parliament's opinion is not binding upon the Council (Police and judicial cooperation, agriculture, competition) Assent Procedure: Similar to consultation, the Parliament cannot amend a proposal (international agreements, accession of new members)	The Council adopts joint strategies concerning the CFSP. Decisions on the basis of a joint strategy and decisions implementing joint actions or common positions are take by qualified majority. The Commission shares the right of initiative with the member states	As a rule, the Council decides unanimously. The Council decides measures implementing decisions at the EU with a qualified majority. The Commission shares the right of initiative with the member states

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[156] J. Mangus Ryner, "European Integration" in *Encyclopedia of Government and Politics*, ed. Mary Hawkesworth and Maurice Kogan (New York, Routledge, 2004),1151.

The second type of corporate agent in the EU is the delegated agent, which refers to the European Commission, the Parliament, and the Court of Justice. The European Commission is defined as a regional institution created to monitor compliance, provide expert regulation, facilitate policy making, and exert influence on the principal agents, namely, states and the Council of the EU.

It is important to recall that in the first pillar the assumed "supranational" nature of the Commission is relative. Certainly, the Commission is the guardian of the treaties and also in some cases represents the EU in some international negotiations, such as trade. The Commission is also the only institution that has the right to propose new EU legislation, under the first pillar, and it can take action at any stage to help bring about agreement both within the Council and between the Council and the Parliament. However, "still, the Commission must watch its back. Member governments typically defend their own economic interest robustly at all stages of the process: when defining the Commission's mandate for negotiations, during the negotiations themselves, and when the Council ratifies draft deals."[157] As the EU's executive arm, the Commission carries out the decisions taken by the Council.

The European Parliament is the directly elected body that represents the EU citizens. It shares legislative powers with the Council, using three different procedures. The first is the cooperation procedure; the Parliament gives its opinion on draft directives and regulations proposed by the European Commission, which can amend its proposal to take account of Parliament's opinion. The second is the assent procedure, under which

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[157] The reference quoted is clearly applied even in trade international negotiations of the EU. Peterson and Smith, in *The European Union. How Does It Work?*, ed. Elizabeth Bomberg and Alexander Stubb. (New York: Oxford University Press, 2003) 195-200.

the Parliament gives its assent to international negotiations and the accession of new member states, but it cannot amend a proposal: it must accept or reject it. The assent procedure was applied in the most recent enlargement process in 2004 as well as in the cases of the Global Agreements with Mexico and Chile. The third is the co-decision procedure; this puts the Parliament on an equal footing with the Council when legislation under the domain of the first pillar is negotiated such as free movement of workers, customs cooperation, consumer protection, and internal market, among other issues.[158]

Based on the claims of the European Commission, the guardian of the treaties, or member states, the European Court of Justice's main task is to uniformly interpret and apply EU law. It can find any EU member state guilty of noncompliance with its obligations under the treaties. It can check whether EU laws have been properly enacted and it can find the European Parliament, the Council or the Commission guilty of failing to act as required. The Court of Justice is also the only institution that can, at the request of the national courts, give a ruling on the interpretation of the treaties and on the validity and interpretations of EU law.[159]

The third group of corporate agents is formed by civil society groups that exert their pressures on states or EU institutions based upon issue-specific areas of their concern. In modern complex societies a great variety of organizations link the individual to public institutions. Interest groups may be defined as groups that consciously try to move public policy in particular directions. This distinguishes them in the first place from those groups whose members share certain attitudes, but are not concerned with

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[158] Pascal Fontaine, *Europe in 12 Lessons* (Brussels: European Commission, 2003), 19.

[159] Pascal Fontaine, 21.

public policy. The concept of interest group is defined broadly and it encompasses corporations, foundations, business and professional associations, labor unions, as well as environmental and consumer groups. The concept also covers collectivities that have a more general outlook and seek to promote values or the interest of society at large. Although interest groups often have informal or formal connections with political parties, they are different from political parties in that they do not nominate their own candidates in order to run the government. Compared to social movements, they have a higher degree of formal organization.[160]

The participation and interconnectedness of several corporate agencies (actors) in the EU foreign policy process create a complex analytical scheme, which can be divided into two stages. The first one reflects how and sometimes why actors group with others in the negotiation process. Based on the premises of Liberal Intergovermentalism, this stage may be considered as the EU preference formation.[161] As the collective decision-making arena has grown, the dichotomies supranational-intergovernmental and domestic-external have been transformed. Most of the EU decisions are made in the intergovernmental sphere, even in those areas in which the Commission has representational powers such as international negotiations. Nevertheless, the Commission has proved its capabilities as policy coordinator, consensus maker and influential actor in the decision-making process. Likewise, the European Court of Justice has reinforced its role in preserving the spirit of the Community Law. In this process of

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[160] Ivar Bleiklie, "Interest Groups" in *Encyclopedia of Government and Politics*, ed. Mary Hawkesworth and Maurice Kogan (New York: Routledge, 2004), 370-380.

[161] Neill Nugent, *The Government and Politics of the European Union*, 5th edition (Durham: Duke University Press, 2003) 482-484.

EU preference formation, other corporate agents (actors) can participate in the process and exert their influence. Generally speaking, in economic issues the participation of interest groups or other community institutions may be important, such as in the case of the Common Agricultural Policy (CAP). In negotiations with third countries, the participation of political parties in the European Parliament may affect the outcome of a negotiation.[162] This concrete stage of policy making may be explained by the use of policy "networks theories". Essentially, for this specific part of the policy making of the EU foreign policy, this approach is based on the acknowledgement of arenas in which decision-makers and interests come together to mediate their differences and search for solutions.[163]

3.4. The Structure of the EU Foreign Policy

In the agent-structure debate, the underlying question is who determines whom in the integration process: states or community institutions. In the case of EU foreign policy, a widespread perception is that states do not allow the development of the political aspects of EU external relations and, consequently, the EU remains a political dwarf. On the other hand, the assumption that the delegated functions of the Commission

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[162] An example of the obstacles members of the European Parliament can argue to ratify international agreements is the case of the Agreement of Economic Partnership, Political Coordination and Cooperation between Mexico and the EU. Although the agreement was ratified, criticism came from the Green Party Euro Parliamentarians, Gianni Tamino and Wilfried Telkamper, and external groups such as the International Federation of Human Rights (IFHR). The Mexican government, in response, had to lobby the European Parliament about its achievements in human rights.

[163] Nugent, 490-491.

portrays it as a synonym of "supranationalism" also reflects a certain determinism from the EU level to the states.

Unlike these polarized positions, the contribution of Anthony Giddens goes beyond the dualism of agency-structure.[164] The key elements of Giddens' theoretical toolbox are the twin concepts of structuration and duality of structure. Structuration is defined as "the structuring of social relations across time and space, in virtue of duality of structure,"[165] whereas duality of structure is understood, "as the medium and the outcome of the conduct it recursively organizes; the structural properties of social systems do not exit outside of actions but are chronically implicated in its production and reproduction."[166] Thus, Giddens' aim has been to develop a hybrid theory capable of reconciling, on the one hand, a focus on structures, which are the conditions of social and political interaction, with, on the other hand, the autonomy and participation of agents within the structure.[167]

In social sciences, it is generally agreed that structure is one of the most important, but also most elusive concepts. It has been defined in various forms. One of the simplest definitions asserts that it is the "the arrangement of and relations between the parts of something complex."[168] Another one postulates that it is "a term loosely applied

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[164] Knud Erik Jørgensen, "European Foreign Policy: Conceptualizing the Domain," in *Contemporary European Foreign Policy*, ed. Walter Carlnaes, Helene Sjursen, and Brian White (London: Sage, 2004).

[165] Anthony Giddens, *The Constitutions of Society* (Cambridge: Polity, 1984), 376.

[166] Giddens, 374.

[167] Colin Hay, "Structure and Agency" in *Theory and Methods in Political Science* (London:Mcmillan, 1995), 197.

[168] Judy Pearsall, ed. "Structure" in *The Concise Oxford Dictionary*. Oxford University Press, 2001. http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t23.e55183. Accessed September 13, 2004).

to any recurring pattern of social behavior; or, more specifically, to the ordered interrelationships between the different elements of a social system or society."[169] A more elaborated definition states that structure

> ... basically means context and refers to the setting within which social, political, and economic events occur and acquire meaning... In particular, they (political scientists) are referring to the ordered nature of social and political relations – to the fact that political institutions, practices, routines, and conventions appear to exhibit some regularity over time.[170]

In this regard, the substance of the structure will depend on the conceptual delimitation of the system to be studied. From the perspective of international relations theory, Wendt divides the structure in two: macrostructures refer to attributes and tendencies of the international system as a whole, whereas microstructures refer to the interaction of units in a social system. This latter is the case of the "complex interaction" among states (the Franco-German-British triumvirate, for example) or among the members of an international organization, such as the European Union. Both levels of structure are reproduced by the actions of the agents.[171] The norms and collective practices constitute the structure of the European Union.

The regular interrelationships between the agents at the European level have been developing just over five decades. Through these years, several EU political institutions, practices and conventions have emerged as a result of the integration process. In the case

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[169] Gordon Marshall, ed. "Structure," in *A Dictionary of Sociology* (Oxford University Press, 1998, http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t88.e2265, accessed March 1, 2004).

[170] Colin Hay, *Political Analysis. A Critical Introduction* (New York: Palgrave, 2002), 94.

[171] Wendt, *The Social Theory...*, 147-151.

of the present dissertation, three structures are considered: the organizational setting of the EU, the instruments to carry out foreign policy, and the informal practices.

3.4.1. The Organizational Setting

Most of the explanations of the EU foreign policy are based upon the three pillar legal structure set up by the Maastricht Treaty. Based on this division of labor, it has become a common perception that the second pillar, devoted to the Common and Security Foreign Policy, is synonymous with inefficiency. The flaws in such perceptions are based on three mistaken assumptions. The first is to connect the three pillar EU structure, usually compared with the construction of a European cathedral,[172] with a narrow concept of foreign policy. The second is to asses the EU in terms of a finished political product when as a matter of fact is an ongoing project. The third is to consider the degree of "incoherence" as a unitary actor as the distinctive and exclusive feature of the EU; in world affairs, the general trend is that the states, even the United States, more readily accept the international rules in the economic sector than in the case of military security and political commitments.

EU external relations cannot only be analyzed in reference to the second pillar because also encompasses a variety of actors and sector. To illustrate this assumption, according to Peterson and Smith,[173] based on White, the European foreign policy has three policy making systems:

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[172] Enrique Barón, *Europa al Alba del Milenio* (Madrid: Acento, 1994)

[173] Peterson and Smith, in *The European Union. How Does It Work?*, ed. Elizabeth Bomberg and Alexander Stubb. (New York: Oxford University Press, 2003), 195-200.

1. The national system of foreign policies. This system does not always operates at or have affects on the EU level.

2. The Community system (external trade policy, aid and development policy and actions to externalize the internal market).

3. The EU system (CFPS and ESDP). One may add certain aspects of JHA such as the fight against terrorism.

Following the approach of the present dissertation, what remains permanent in the Community (second) and EU (third) systems is the role of the Council and the states as the indispensable corporate agents. Thus, the European Union can be also understood as a system in which the collectivity of states remains the central actor with two methods of collective decision making. The first is the Community method, in which the European Commission has a relevant role and the qualified majority system of decision making is accepted as a rule; the second is the intergovernmental method that is headed by the Council of the European Union in which the unanimity and consensus prevail and eventually the qualified majority system is used.

In comparison to this organizational setting of the EU, Fritz Scharpf has argued some other nuances, particularly when the EU policy-making is conducted in terms of the criteria of effectiveness and legitimacy. The first and most fundamental is that of intergovernmental negotiation, based essentially on the principle of unanimity. Its polar opposite is supranational centralization, requiring – for example, with the European Central Bank— no agreement whatsoever on the part of national governments. However,

the most frequently employed mode of governance is what Scharpf has called joint decision making - in Brussels often referred to as the "Community Method." It has a number of procedural variants (one of the tasks of the Convention has, in fact, been to simplify these), but the dominant procedure is that policy proposals must originate in the Commission, and in order to become effectuated, they need to be approved by a qualified majority vote in the Council of Ministers and by an absolute majority of the members of the European Parliament.[174]

Certainly, the institutional setting and the decision making methods have considerable impact on the external performance of the EU. In fact, one of the most widely spread arguments is that in order to increase the effectiveness of the CFSP is needed to apply qualified majority voting when a consensus appears too difficult and time-consuming to reach. However, as a result of the current limitations in the qualified majority system, when the external relations of the EU are evaluated in view of their leverage on international relations, they have been explained in the following way: "while the prospectus of the EU becoming a major military superpower is uncertain, its status as an economic superpower is no longer in doubt."[175] The problem of these two parallel facts is that they are part of the same integration process and have to be coordinated. The pulling tendency is that as more commitments are made (within the 25 countries toward integration), the greater is the need for building a common external identity in the world.

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[174] Walter Carlsnaes, "Introduction," in *Contemporary European Foreign Policy*, ed. Walter Carlsnaes, Helene Sjursen, and Brian White (London: Sage, 2004), 4-5.

[175] John McCormick, *Understanding the European Union. A Concise Introduction* (New York: Saint Martin Press, 2002), 214.

With regard to security-military issues, the reluctance of individual states to pool their power is reflected in the slow and tenuous development of the CFSP, which is one of the three pillars of the EU.[176] Pillar one is more supranational, whereas pillar two, the CFSP, is more intergovernmental. Legally, one could think that the division between the first and the second pillar is clear. The former EU Commissioner for External Relations, Chris Patten, stated that, "the Commission has no competence and no ambition in the military area."[177] Commissioner Patten has also stated that in order to have an operational and effective policy of security and defense, "it (the Commission) needs the support of complementary bases... The Commission has an important role to play in promoting a favorable environment in Europe... there will always be a substantial non-military component before, during and after a crisis."[178] In this regard, the daily performance of the EU shows these activities are extremely connected. Patten's argument defends the role of Commission in the development and implementation of the CFSP as crucial in providing coherence to the external relations of the EU. Thus, the external relations of the European Union are intergovernmental and community, both have to complement each other.

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[176] John McCormick, *The European Union: Politics and Policies* (Boulder: Westview Press, 1996), 282.

[177] Christopher Patten, "The Future of the European Security and Defense Policy (ESDP) and the Role of the European Commission (Conference on the Development of a Common European Security and Defense Policy –The Integration of the New Decade, Berlin, December 16 1999), 6.

[178] Ibid.

The depiction of the European Union sometimes is as complicated because it is in ongoing motion. Until now, explanations of the EU foreign policy are based on the legal structure of the three pillars. From a structural perspective, the three pillar structure is the way the actors agreed to interact with one another. However, the reality of everyday policy-making processes may lead us to revisit the formality of the three pillars of the European Union in the field of foreign policy. In fact, the pillar structure has collapsed in the Constitutional Treaty because it was seen as an impediment for further integration in the second and third pillars. Thus, the EU can be also understood as a system in which the state remains as the central actor with two methods of collective decision making. The first is the Community method, which is lead by the European Commission; the second is the intergovernmental method that is head up by the Council of the European Union.

3.4.2. The Instruments of EU Foreign Policy

The EU, as any political entity, needs to have instruments to carry out external policies in order to successfully reach its objectives. As a matter of fact, the assessment of the instruments of foreign policy is one of the most tangible indicators of the EU foreign policy performance. Richard G. Whitman has developed a typology in which the international identity of the EU is analyzed along five interrelated parameters: informational, procedural, transference, declaratory, and overt. The informational identity concerns the overviews of the rationale of the Union's relationship with the outside world; an example of it is the Venice Declaration, which constitutes one of the

most important EU position documents with regard to the Israel-Palestine conflict in the early 1980s. The procedural element of the Community refers to the standing institutionalized relations established by the Community, which is represented, for instance, in the Cotonou Agreement. The transference aspect denotes the financial and technical assistance relationships that the Community has created, exemplified in the aid policies. The fourth dimension consists of EU declarations regarding events worldwide. Finally, the overt dimension refers to the physical presence of the Community and its representatives outside the Community; this is the case of the increasing number of EU delegations throughout the world.[179]

From a different perspective, Roy Ginsberg proposes a different type of instrument assessment. He states that "an output is an EFP decision, whether a common declaration or position or, more tangibly, an action,"[180] whereas the outcomes are the effects of those EFP decisions. Among other outputs, Ginsberg considers: strategies/positions/actions, enlargement and conditionality, diplomatic recognition, association accords, development/humanitarian aid, sanctions, and summits. Ginsberg's framework is one of the most complete from the systemic approach.

In this regard, the EU has developed several concrete instruments throughout its history. From its modest start in 1970 with the EPC, for instance, the Community created, developed, and made use of concrete instruments, such as economic and financial aid, and economic and financial sanctions, which typically involved the

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[179] Richard G Whitman, *From Civilian Power to Superpower? The International Identity of the European Union* (Great Britain: Macmillan Press, 1998), 18-20.

[180] Roy H. Ginsberg, *The European Union in International Politics. Baptism by Fire* (New York: Rowman and Littlefield, 2001), 10-11.

European Commission to some extent. As the international role of the EU has grown, the demand for more concrete instruments to carry out external policies has consequently increased.

Slowly but steadily, other foreign policy instruments were established and put in practice from the mid-1970s on, including political dialogues and association agreements, embargoes on weapons and other products, anti-terrorism policies, peace plans and peacekeeping.

By the 1990s, boosted by the insecurity derived from the failure to act in the Gulf War, and subsequently in Yugoslavia, "EU foreign policy, in the form of the CFSP, also was laying the groundwork for the use of police or military forces in certain areas, which now include plans for the European rapid reaction force."[181] The impact of the instruments of foreign policy depends on the availability of tangible resources and the objectives they entail. Some have the function of expressing positions such as the declarations and demarches (a diplomatic tool whereby the local EU representative formally submits an opinion or criticism to the foreign ministry of a third country). Other instruments are devoted to create consensus among the EU members, such as the institutionalized coordination at the United Nations and the OSCE and the Code of Conduct for EU firms in third states.

The impact and complexity of other instruments grow when economic tools or negative measures are deployed such as peace plans, endorsement of a military operation by some EU states, weapons embargoes, common positions, joint actions, common strategies, and plans for a EU military/rapid reaction force and armaments cooperation.

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[181] Michael E. Smith, "Institutionalization, Foreign Policy Adaptation and European Foreign Policy Cooperation," *European Journal of International Relations* 10, no. 1 (2004): 112.

Albeit to a differing degree, the instruments in this latter group share some common institutional characteristics that make their realization more difficult than arriving at common statements or declarations. Most of them involve philosophical, budgetary, and inter-pillar implications.[182] Interestingly enough, most of the political disputes among EU members occur not over the value of actions, but over the means. The table below summarizes the foreign policy instruments.

Table 4
Establishment of major EPC/CFSP policy instruments

Date	Policy Instruments
1970	Declarations, Démarches
1971	Institutionalized coordination at the UN on various topics
1973	Institutionalization of consultations with allies outside the EU
1974	Institutionalized regional political dialogues
1975	Coordination at the CSCE; use of economic tools for EPC
1977	Code of Conduct for EC firms in third states
1981	Peace Plans; endorsement of a military operation by some EU states
1982	Use of an EC regulation for an EPC action
1984	Weapons embargoes
1993	Common positions; joint actions; actions taken in conjunction with the Western European Union
1998	Common Strategies
2000	Plans for a EU military/rapid reaction force and armaments cooperation
2001	Plans for coordination civilian aspects of crisis management
2003	Police Missions
	Military Operations
2004	European Defense Agency

Source: Based on and updated from Michael E. Smith, "Institutionalization, Foreign Policy Adaptation and European Foreign Policy Cooperation," *European Journal of International Relations* 10, no. 1 (2004): 112.

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[182] Roy H. Ginsberg, "The EU's CFPS: The Politics of Procedure," in *Common Foreign and Security Policy. The Record and Reforms*, ed. Martin Holland (London: Pinder, 1997), 28.

Joint actions, common positions, and common strategies have considerable impact on EU foreign policy. Joint actions address specific situations where operation action by the EU is considered necessary and lay down the objectives of the CFSP, whereas common positions permit the alignment of policies without necessarily taking action or committing resources. The underlying logic of both instruments is explained as follows: "Whereas joint actions were seen by the Council to enable the EU to act in selected high-profile areas, common positions were seen as a means to respond to day-to-day matters."[183] Both are legally binding.

Reaching agreements on joint actions is complicated because they carry financial obligations. Since pillar two is intergovernmental, the member states often resort to pillar one. Pillar one constitutes most of EC budget, so it is central in terms of resources. The problem is that these resources are approved by the European Parliament and subject to investigation by the Court of Auditors, and legal review of the European Court of Justice, [184] which implies a certain degree of inflexibility.

Common Strategies, on the other hand, are one of the most recently created instruments.[185] They cover several areas of the EU's external relations and are intended to be an improved mechanism for ensuring coherence. Since their creation in 1998, the EU has designed three common strategies: on Russia, Ukraine, and the Mediterranean. This instrument may cover issues across the three pillars rather than CFSP alone and,

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[183] Ginsberg, "The EU's..." in *Common*, 21.

[184] Ginsberg, "The EU's..." in *Common*, 24.

[185] Article J.3 (2) of the Treaty of Ámsterdam.

crucially for the coherence and effectiveness of the European Foreign Policy, may draw upon capabilities and instruments from the EU and the member states.

The Treaty of Amsterdam introduced the mechanism of the Common Strategy. The first concern was to respond to the increasing demands of internal or cross-pillar policy making, where it was felt that the existing EU instruments and agencies were insufficiently coordinated and not making a strategic impact. In particular, it was necessary to link the economic, financial and trade instruments at the disposal of the EC more closely with the EU's diplomatic and political objectives. The second concern was the fact that important strategies of this kind were decided at the highest level, in the European Council, and only at that level. In other words, CS is a response to the insufficiencies of the single institutional framework and a reaction to the pillar structure of the dual system of foreign affairs.[186]

3.4.3. Practices

The organizational setting and the instruments of the EU foreign policy also impact the foreign policy making of the member states. The research agenda in this area demonstrates that in addition to tangible institutions and instruments, the structuration of the foreign policy also operates at the level of state diplomats and officials. The EPC/CFSP mechanism has clearly produced numerous collective foreign policy perceptions among EU states.

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[186] Miguel Angel Medina Abellán, "The Common Strategy on the Mediterranean Region: Evidence and Analysis" (working paper no. 28, Observatori de Política Exterior Europea, Universitat Autònoma de Barcelona, September 2002), 2-3.

The areas and themes in which the EU foreign policy is operating have led to a process of adaptation by states. Michael E. Smith argues that such policy adaptation "is either a change of existing positions or the creation of new positions on unsettled policy problems thanks to a state's participation in the EPC/CFSP system."[187] Policy adaptation reflects, thus, how member states and other agents are disputing and agreeing the direction or substance of political decisions. This requirement to create, adopt and defend collective foreign policy positions is felt across the EU. For example, the Nordic states are forced to consider problems in the Balkans and the Mediterranean; Spain and Portugal must become more sensitive to Central and Eastern Europe; and all EU states must help forge common positions on countries or regions (such as Africa, the Americas and Asia) far removed from their normal (that is pre-EU) foreign policy agendas.

The institutional reference for the practices and adaptation of foreign policies is the Committee of Permanent Representatives (COREPER). This permanent representation contains a range of national officials whose job is to set the agenda and prepare the work of the Council, to maintain links with all of the other EU institutions, and to keep in close touch with national capitals. Approximately 150 working groups provide the backbone of the Council and conduct the detailed policy negotiations. Close to 70 percent of Council texts are agreed in working groups, another 10-15 per cent in COREPER or other senior committees, leaving 10-15 percent to the ministers themselves.[188] Keeping in mind the numerous daily contacts in the working groups of the

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[187] Michael E. Smith, "Institutionalization, Foreign Policy Adaptation and European Foreign Policy Cooperation," *European Journal of International Relations* 10, no. 1 (2004): 115.

[188] Helen Wallace, "The Institutional Setting. Five Variations on a Theme," in *Policy-Making in the*

COREPER as well as in informal bilateral contacts among state officials, it is expected that as a common practice foreign policy makers seek to negotiate and converge (when it is possible) positions.

The substance of the numerous meetings is that there is a trend in which "policy proposals originating in single states or in subgroups of states (are) to be aired with political cooperation partners before an ensuing unilateral/bilateral action is implemented".[189] The concepts that enclose this trend is the existence of an "automatic reflex consultation," in which "national foreign policy actors sought out the views and opinions of partners before arriving at defined national positions."[190] The occurrence of a reflex coordination among member diplomatic missions was normatively fomented by the so-called Copenhagen Report –an official EPC document—as early as 1973. Simon Nuttall and Ben Tonra have engaged in extensive research about the experience and perceptions of policy makers in different stages of the EPC/CFSP. In the words of its practitioners,

> One former participant in the CFSP process noted that there had occurred a 'habit of thinking in terms of consensus' that went beyond formalized diplomatic consultations. Another insisted that 'where there is ever any foreign policy initiative in the making, the first reflex is European. The question is now, 'what will our European partners say –what is the opinion of Europe... One senior diplomat argues that 'while countries came (to CFSP) from widely different positions there was a psychological process of

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European Union, ed. Helen Wallace and William Wallace (Oxford: Oxford University Press, 2000) 18.

[189] Kenneth Glarbo, "Reconstructing....., 149.

[190] Ben Tonra, "Constructing the Common Foreign and security Policy: The Utility of a Cognitive Approach," *Journal of Common Market Studies* 41, no. 4 (2003): 739.

narrowing differences while another described it as a learning process.[191]

Practices, as acknowledged in the concept of automatic reflex consultation, provide an important contribution to the development of the EU foreign policy. In this perspective, institutions and norms are not only formal and quantifiable arrangements; they are also collective understandings about the implications of individual decisions to the European sphere. Thus, beyond formal institutions, practices also drive policy makers to a learning process about the connection between the state and the European level. In this context, the political learning at the European level can be defined as

> something other than a mere adaptation as the result of calculations of expected benefits of changing behavior... actors change not only how they deal with particular problems but also their very concept of problem, resulting from the recognition that they and other actors face similar conditions, have mutual interest, and share aspirations.[192]

From the perspective of the present dissertation, practices reveal complementary elements to the formal elements of the EU foreign policy. The first is that contrary to rational choice perspectives, as theory of communicative action states, "shared respect for norms and institutions is established as the outcome of a process of deliberation in which different viewpoints are communicated and scrutinized.[193] The second is that junctures in

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[191] Ben Tonra, *The Europeanization of National Foreign Policies: Dutch, Danish and Irish Foreign Policy in the European Union* (Aldershot: Ashgate, 2001), 252.

[192] Helene Sjursen, "Understanding the Common Foreign and Security Policy. Analytical Building Blocks," in *Understanding the European Union's External Relations*, ed. Michéle Knodt and Sebastiaan Princen (London: Routledge, 2003), 47.

[193] Sjursen, 45.

EPC/CFSP history are not the simple products of national interest; they also emerge as the result of national diplomacies intentionally and unintentionally communicating to themselves and to each other their intents and perceptions of political cooperation. The third is that "political cooperation leaves room for social integration that stems from diplomatic communication processes set up through political cooperation history, and which is not easily discernible for the intergovermentalist codes of CFSP."[194] These three elements of practices are clearly exemplified in the historical development of EU foreign policy from the 1970s to the 1990s, which provided the background to launch the Maastricht Treaty. This development will be analyzed in the following chapter.

Conclusion

One of the problems in the study of EU foreign policy is that the predominant literature remains fragmented. Some scholars opt to emphasize the economic-trade side of the external relations of the EU, domain of the first pillar, whereas other studies are exclusively focused on the CFSP. Less attention has been devoted to the external effects of the policies within the third pillar (dedicated to justice and home affairs), whose development has been impressive in the domains of foreign policy, above all after the events in the United States in September 2001.

In order to have the overall view of EU foreign policy, this chapter has argued about three main aspects. The first is to adopt a broad conceptualization of foreign policy that allows the study of entities with plurality of actors such as the EU. In the same vein,

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[194] Kenneth Glarbo, "Reconstructing a Common European Foreign Policy," in *The Social Construction of Europe*, ed. Thomas Christiansen, Knud Erik Jorgensen, Antje Wiener (London: Sage, 2001), 140-141.

it was argued that the most feasible way to study an entity like the EU and its foreign policy is with eclectic and interdisciplinary approaches in order to continue the development of a research agenda on foreign policy of non-state actors and entities of integration as well.

The second aspect of this chapter was to develop and apply the agent-structure debate to the particular case of the EU foreign policy. Some elements of Pollack's "principal-agent" theory help categorizing the agents (community institutions) according to their power to take decisions. In that view, the Council is the principal agent, understood a collective decision making body of states with the capacity to create mandatory legal norms, implement policies, and delegate functions to regional monitoring institutions. The delegated community institutions are the Commission, the Parliament and the European Court of Justice, whereas the organized society and interest groups exert their leverage in the policy making.

The third aspect was to describe the arrangement of and relations between the parts of the integration process have created a structure that regulates to the ordered interrelationships between the different elements of the EU social system. The most relevant or evident elements of such structure are the organizational setting, instruments and practices of the EU foreign policy.

Chapter 4

The EU Foreign Policy System:
Development of Institutions, Instruments and Practices

The present chapter analyzes the development of the EU foreign policy from 1957-1993. This period is characterized by the creation of the European space as a system of governance, where the plurality of agents and networks were created and in some cases converged at the European level in the foreign policy making process; in some other instances, such as in the area of military security, agents and networks were extremely weak or simply non-existent. Rather than providing a narrative history of European integration, the following pages look at a selection of historical events, documents, and interpretations related to the development of the EU foreign policy system.

The argument of the chapter is that the historical background is relevant because it reveals different patterns of behavior developed in the realm of EU foreign policy making. Thus, it is not a novelty to observe the different levels of interconnections depending on the sector: political (diplomatic), economic and military (security). In the political area there was a steady development of permanent communication, practices and informal institutions among foreign affairs ministries. In the economic area the Commission had a substantial influence on the EC's external relations. As to the military-security sector, area of utmost priority for any state, the cooperation remained cautious and practically underdeveloped in terms of integration processes.

4.1. Political Development of EU Foreign Policy

EU foreign policy has been gradually built by informal contacts and flexible institutionalization of norms among member states. Unlike trade or security policies, the area of external political relations has followed a gradual path of enhancing the agenda of themes susceptible to collective decision making. Although the legal structure of EU foreign policy was formalized in the 1990s under the Maastricht Treaty, the previous decades of the integration process were decisive in finding commonalities between the member states. In the process of developing concrete institutional arrangements, the member countries eventually internalized each others' perspectives and steadily found common ground. In the best cases of convergence, they were able to collectively face international problems.

In the initial stages of EU foreign policy, the then six member states did not perceive the need to act together in order to face international crises or instabilities. For example, when the United Nations Security Council imposed sanctions against Southern Rhodesia (1966-1968), member states simply assumed the position that their implementation was a matter to be decided by each EC country.[195] Subsequent international events would be gradually approached by the European Community with pragmatism; scholars have highlighted the practice of "reflex cooperation," a concept defined in chapter three; likewise, new agents were enabled in the foreign policy process

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[195] Simon Nuttall, "The Institutional Network and the Instruments of Action," in *Toward Political Union. Planning a Common Foreign and Security Policy in the European Community*, ed. Reinhardt Rummel (Boulder: Westview Press, 1992), 69-71.

and some instruments to implement policies were agreed upon. This was the case of the incremental participation of the Commission in foreign policy activities or the creation of a secretariat for the European Political Cooperation (EPC) mechanism.

EPC was codified by four concrete documents: The Luxembourg Report, the Copenhagen Report, the London Report and the Stuttgart Declaration. Unlike the failed proposals of the European Defense Cooperation and the Fouchet Plans, the base documents of the EPC shared a common denominator: they were hammered out to tackle concrete problems with tangible and flexible mechanisms of cooperation instead of proposing community institutions or instruments to carry out these tasks. The basic reports provided ground rules for EPC but were never elevated into a treaty. Over the years, these ground rules constituted what Lak calls "a morally binding non-legal foundation" for EPC. Even if the Single European Act had not "legalized" the content of such reports, they could have formed the beginning of customary European law, practically applied.[196] This was the case of the working groups or the increasing meeting at the Political Committee within the EPC.

At the 1969 Hague Summit, the foreign ministers of the EEC Six were asked to report to the Community on the best ways of achieving progress in the matter of political cooperation. More concretely, member states wanted to debate the possibility of starting cooperation in other areas, such as monetary matters, and decide the future of the first enlargement of the European Community. The willingness to move the foreign policy agenda forward was permeated by the context. The launch of EPC in 1969-70 coincided with the presentation of West Germany's policy of *Ostpolitik* in 1969 and encouraged

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[196] Maarten W.J. Lak, "The Constitutional Foundation," Rummel, *Toward Political Union*, 42.

EPC states to exchange more information and improve coordination of West European foreign policy initiatives with regard to their relations with the Soviet Union and the states of Eastern Europe. Although *Ostpolitik* was initially regarded with distrust by many West Europeans, the EPC process reduced the level of suspicion and helped to prove that West Germany was a reliable and safe ally.

On October 27, 1970, in a meeting in Luxembourg, the foreign ministers adopted the "Report on the Problems of Political Unification," known as the Luxembourg or Davignon Report. This report is considered to be the starting point of EPC. The purpose of foreign policy cooperation was intended to achieve two main aims:

> a) to ensure, through regular exchanges of information and consultations, a better mutual understanding of the great international problems; b) to strengthen their solidarity by promoting the harmonization of their views, the coordination of their positions, and, where it appears possible, common action.[197]

The institutional structure set up by the Luxembourg report was extremely weak. Indeed, the foreign ministers were required only to meet at least every six months. However, more than formal institutionalization, the Luxemburg Report represented the creation of an environment in which to develop common diplomatic perceptions. For instance, consultation was intended to cover all areas of foreign policy and the member states could open any issue or question for general debate. In addition, the creation of communication mechanisms were informally established when,

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[197] "First Report of the Foreign Ministers to Heads of State and Government of the Member States of the European Community (The Davignon or Luxembourg Report)," Luxembourg, October 27, 1970, in *European Foreign Policy. Key Documents*, ed. Christopher Hill and Karen E. Smith (London:Routledge, 2000), 77.

> ... launched by the West German presidency in 1974, the extremely informal and relaxed design of the semi-annual Gymnich meetings, envisaged face-to face contact between foreign ministers without fixed agendas and surrounding diplomats, was initially a deliberate means of remedying short-term disagreement over the Middle East and energy policy.[198]

The importance of these conversations was enhanced by the creation of a complex transgovernmental network of policy experts who diversified the monopoly over foreign policy making held by foreign ministers as well as the temporary EU governments who adopted decisions in the European Council and the Council of Ministers. As it developed from 1970 forward, these networks involved an increasing number of regular meetings of EU foreign ministers and their political directors as well as meetings in international organizations and conferences.[199]

The EPC created a system of permanent communications. The meetings held by foreign ministers at least twice a year were supported by a Political Committee composed of the Political Directors of the national Foreign Ministries. The Political Committee normally met four times a year and set up sub-groups and expert panels which were required to deal with individual tasks; in that sense the structural support for the committee of foreign ministers was not that dissimilar to COREPER, which supports the Council of Ministers. EPC was chaired by the Presidency of the Council of Ministers with secretarial support supplied by the foreign ministry of the Council Presidency.

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[198] Kenneth Glarbo, 148.

[199] Michael E. Smith, "Institutionalization, Policy Adaptation and European Foreign Policy Cooperation," *European Journal of International Relations* 10, no. 1, (2004): 105.

With regard to enlargement, it is interesting to note the link between regional political balances and the willingness to move forward the foreign policy agenda. At the Hague Summit, France, the main instigator behind the meeting "was now willing to accept British membership, seeing it as a way to counterbalance an increasing prosperous and assertive Germany."[200] Likewise, the French acceptance of widening the negotiations for British accession was balanced with the demand of the completion of the system of agriculture finance within the community budget and by commitments to deepen economic and monetary union.[201]

The EPC was an intergovernmental process. Decisions at the EPC level were taken by unanimous vote rather than by QMV; the European Commission had no direct involvement in the process of foreign policy coordination/cooperation and was only consulted when the activities of the foreign ministers had a potential impact upon the activities of the Community.

A report presented to the 1973 EC Copenhagen Summit reviewed the operation of EPC. This Summit provided a higher profile for the Community's external relations when it adopted a declaration on European identity; acknowledged the growing importance of the EC as unitary agent in the international arena, and the political will of the member states to work towards common foreign policies.

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[200] Sophie Vanhoonacker, *The Bush Administration (1989-1993) and the Development of a European Security Identity* (Burlington, VT: Ashgate, 2001), 74.

[201] Anthony Foster and William Wallace, "Common Foreign and Security Policy. From Shadow to Substance?" in *Policy Making in the European Union*, ed. Hellen Wallace and William Wallace (Oxford: Oxford University Press, 2000), 464.

The Copenhagen Report facilitated the deepening of a collective foreign policy. The concept of "permanent constructive dialogue" among member states and within EC institutions had become part of the formal language and regular practice at all levels of EPC (ministers, political directors and experts). Considering the Commission particularly as part of the embryonic foreign policy, the report reaffirmed that although political cooperation was quite distinct from Community activity, both aimed at contributing to the process of European unification (paragraph 12.a of the report). EPC, according to this report, "must keep in mind implications and consequences of EC common policies and maintain close contact with Community institutions on matters affecting Community activity."[202] In that regard, the report admitted the Commission to all EPC meetings.

The Copenhagen Report also fomented practical means of interaction. As the frequency of meetings increased, the codification of cooperation grew in third country capitals.

Table 5
Growth in the number of COREU telexes on EPC (1974-1994)

Year	Number
1974-82	4,800 (avg.)
1985	5,400
1986	9,800
1990	7,548
1991	10,184
1992	11,394
1993	11,714
1994	12,699

Source: Michael E. Smith, *Europe's Foreign and Security Policy. The Institutionalization of Cooperation.* (Cambridge: Cambridge University Press, 2004), 101.

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[202] Lak, 45.

The introduction of the Correspondent groups and the COREU telex network, also called secured communications network, set up a daily working system of collective diplomacy. Table 5 presents the increasing number of communications within the EPC mechanism as a means to develop networks.

These practices had the potential to transform the attitudes of the states participating in this collective diplomacy and to draw them closer together regardless of the lack of formal legally binding commitments.[203] With regard to such pragmatism, the Report itself clearly stated that,

> In several fields, the Member States have been able to consider and decide matters jointly so as to make common political action possible. This habit has also led to the *"reflex" of coordination* among the Member States which has profoundly affected the relations of the Member States between each other and with third countries. This collegiate sense in Europe is becoming a real force in international relations.[204] (Emphasis added)

The Ministers noted that the practical mechanism set up previously by the Luxembourg Report had shown flexibility and effectiveness. The Copenhagen Report's objectives of cooperation in foreign policy were concrete and sought to ensure, by means of regular consultations and exchanges of information, mutual understanding as regards to the main problems of international relations. Likewise, it aimed at strengthening solidarity between governments by promoting the harmonization of their views and "the

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[203] Hill and Smith, Documents, 83.

[204] "Second Report of the Foreign Ministers to the Head of State and Government of the Member States of the European Community (The Copenhagen Report)," Copenhagen, 23, July 1973, in Hill and Smith, 84.

alignment of their positions and, *wherever it appears possible and desirable,* joint actions (emphasis added)."[205] Central to the Copenhagen Report's approach is the deepening of cooperation without seeking lofty objectives, which would be difficult to fulfill; instead, the governments did not force agreements, only foresaw them when "possible and desirable."

Although the 1970s is often seen as a period of Community stagnation, that is not altogether a complete picture. The Community faced a number of serious challenges, including a significant foreign policy threat in October 1973 when war broke out in the Middle East. As a result, a few years later a Euro-Arab dialogue was created, which gradually impacted the evolution of the EPC process and made the Middle East more central to West European foreign policy considerations. The outcome of the Euro-Arab dialogue of the 1970s was the Venice Declaration, an agreement in June 1980 on the special position of Palestine in the Arab-Israeli conflict. This Declaration is quite relevant because it signaled for the first time a clear and harmonized West European foreign policy (with a pro-Arab shift) with regard to a significant international conflict. Among other reasons, this consensus was in part due to the EPC process working as a means of coordinating West European foreign policy attitudes and opinions.

In the environment of a revived Cold War, the process of EPC could not operate effectively and many within the Community began to realize that it required a stronger foreign and security policy voice. The weaknesses of EPC were evident in the aftermath of the Soviet military intervention in Afghanistan in 1979; it took the Community over two years to agree to a common position and to impose limited sanctions against the

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[205] The Copenhagen Report, 84.

Soviet Union. In light of international events, on October 13, 1981, the governments of the European Community agreed on the London Report. Scholars[206] agree that the London Report was relevant because it established more effective mechanisms for crisis consultation and for continuity of coordination between successive presidencies of the Council of Ministers; likewise, there were further refinements of the communications and information networks which had emerged in the 1970s.

In this regard, the report provided a new role for the rotating presidency of the Council, formalizing a troika system (where the previous, current and incoming presidents can act together on behalf of the EC). On the other hand, the Report gave the European Commission full accession to the EPC, established a consultation role for the Commission, and allowed it the implementation of common positions adopted in a number of areas such as on economic and trade sanctions.[207]

Among the new mechanisms established by the London Report, the introduction of Crisis Procedures had particular significance. This consultation mechanism, according to the London Report, "will convene (a ministerial meeting) within 48 hours at the request of three member states... (and) in order to improve the capacity of the Ten (members) to react in an emergency, Working Groups are encouraged to analyze areas of potential crisis and to prepare a range of possible reactions by the Ten."[208] Some other important innovations were the agreement that EPC could discuss the political aspects of

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[206] Michael Smith, "The EU as an International Actor," in *European Union. Power and Policy-Making*, ed. Jeremy J. Richardson (New York: Routledge, 1996), 250; Christopher Hill and Karen E. Smith, eds. *European Foreign Policy. Key Documents*. (London:Routledge, 2000).

[207] Hix, 342.

[208] "Second Part, number 13, Report Issued by the Foreign Ministers of the Ten on European Political Cooperation (The London Report), London, 13 October 1981. in Hill 199

security, which had been in negotiation since 1972 in the context of the CSCE. Likewise, it set up an embryonic EPC secretariat in the form of a small team of officials from preceding and succeeding presidencies to help the incumbent foreign ministry.[209]

The Stuttgart Declaration was agreed upon in June 1983. Although in the area of foreign policy this declaration does not represent a significant development per se, it does mark the increasing role of the Commission as a delegated agent to carry out some specific functions. Particularly, it emphasizes "the importance of greater consistency and close coordination at all levels in order to allow global and coherent action." The Commission was acknowledged as a force giving impulse to the process of European integration and was once again fully associated with the work of EPC. Significantly, the Stuttgart Declaration, in paragraph 1.4.2. as well as in the statement of the Commission attached to the Solemn Declaration, broadens the scope of the EPC from political to economic aspects of security.[210]

The formalization of foreign policy in the European treaties came on 1 July 1987 with the Single European Act (SEA), which institutionalized the EPC, confirmed its practices and provided it with a firm legal basis. Considering the intergovernmental nature of EPC, the SEA is a single document that encompasses two separate activities – EC and EPC—which had developed according to different rules. The headway made by the SEA is quite relevant because "there is a clear attempt not only to bring them (EC and EPC) under a common legal roof but also to coordinate them as far as possible."[211] Thus,

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[209] Christopher Hill and Karen E. Smith (eds.) *European Foreign Policy. Key Documents* (London:Routledge, 2000), 114.

[210] Lak, 46.

[211] Rosa María Alonso Terme, "From the Draft Treaty of 1984 to the Intergovermental Conference of 1991," in Rummel, *Toward Political Union*, 276.

by providing legal status to the EPC, member states acknowledged common practices in foreign policy making.

Despite ambitious references to European Union Foreign Policy in the SEA, the only commitment the member states made was to consult with one another prior to the adoption of a national position on "any foreign policy matters of general interest" (article 30.2a). In technical terms, Alonso Terme states that "the absence of a precise definition of 'general interest' is perhaps advantageous because it respects the flexible nature of EPC and it recognizes the near impossibility of pinpointing exactly which areas should be subject to cooperation."[212] In that regard, the SEA maintained the strategy of pragmatism practiced and stated in the previous documents on foreign policy.

In addition to the legal status of the EPC, other community agents increased their participation in the foreign policy making. In the SEA, the European Parliament was associated with the foreign policy process and was given more powers to scrutinize the actions of national officials. Having as precedents the informal demands for a secretariat in the 1970s and the London Report that provided a small staff to the EPC activities in 1981, the SEA formally created the EPC secretariat and established it in Brussels to assist the country that temporary held the EPC Presidency.

Since the Luxemburg Report, a framework of actors that participate in foreign policy making gradually developed. In this regard, Article 30.10 of the SEA described the organization of EPC. It is important to note that at the European level, several institutional bodies were interacting in different phases of the foreign policy making process. These agents are the following:

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[212] Alonso Terme, 277.

1. The Presidency of EPC (and also the Council of Ministers), which manages the organization and acts as the representative of the member states with respect to EPC affairs;

2. The Political Committee, a group of Political Directors who meet regularly to prepare the Foreign Ministers' meetings;

3. The European Correspondents Group, who monitors the implementation of EPC decisions;

4. Working groups under the direction of the Political Committee;

5. The provision of a permanent Secretariat, which was the main innovation of the SEA.[213]

As it can be observed in the various documents of the EU foreign policy, the development of institutions has been built by informal contacts and pragmatic approaches of the member states. The area of external political relations has also followed a gradual path of delegating some functions to community actors and enhancing the agenda of themes susceptible to collective decision making.

4.2. EU Foreign Economic Policy

Numerous analyses of EU foreign policy commonly neglect the external economic impact of the EU. It would seem that EU foreign policy is constrained to or is the exclusive product of the CFSP pillar. As a matter of fact, such neglect might

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[213] Alonso Terme, 279.

involuntarily disrupt the comprehensive analysis of EU foreign policy because the economic area of the external relations of the EU is the most developed in terms of common practices, institutions and instruments. This is the area that comes closest to the metaphor of the European external "single voice."

Several elements have converged to produce this outcome. The European Commission has been endowed by the treaties with competences to conduct external economic relations, particularly in trade. In this area, the consensus policy and decision-making rules differ from the controversial intergovernmental second and third pillars. Under the first pillar, the decision making is based on a weighted system, meaning that "states could be outvoted since qualified majority voting can often be used."[214] Likewise, many activities of consensus and policy making are delegated to regional agencies, primarily the Commission and to a lesser extent the Parliament.

From its inception, the EC assumed four specific external relations functions. The first was the task of developing and implementing the Common Commercial Policy (CCP). The second was fostered by the French insistence on the recognition of the member states' historical ties with their ex-colonies; the extensive institutionalization of links between the EC and the African, Caribbean and Pacific countries in the four Lomé Treaties (1975, 1979, 1984 and 1989) and the Cotonou agreement. The third external relations responsibility allocated to the EC was the power to negotiate association and preferential trade agreements with third states and international organizations. A fourth competence that had external relations implications was contained in Article 237 of the

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[214] Karen E. Smith, *European Union Foreign Policy in a Changing World* (Cambridge: Polity, 2003), 3.

Treaty of Rome, which entitled for the EC to negotiate the accession of potential new members.[215]

From the economic standpoint, the commercial policy has been one of the most important and powerful instruments, providing consistency to the EU's external relations. As a customs union, there are common rules for imports into the Community. As a result, the Commission has acquired several powers; can negotiate changes to these rules (under article 133), offer trade agreements to third countries, and play a major role in international trade negotiations, as in the case of the Commission's participation, on behalf of the EU members, in the WTO. Thus, the economic logic, by way of incremental steps, involved the creation of a free trade area, a customs union, a common market, and a monetary union.[216] All of these areas have external implications.

The European Commission represents the interest of the EU as a whole in international negotiations, enabling the 25 member states to speak with one voice in trade policy in international forums such as the WTO. It is also the driving force within the EU's institutional system: proposes legislation, policies and programs of action and is responsible for enforcing (implementation is responsibility of member states) the decisions of the Parliament and the Council.[217] Under the Treaty of the EU, the Commission has the "right of initiative." If it finds that a EU country is not applying an EU law, the Commission takes steps to make the situation right. First, it launches a legal process called the "infringement procedure." This involves sending the government an

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[215] Hazel Smith, *European Union Foreign Policy and Central America* (New York: St. Martin Press, 1995), 24-25.

[216] Hazel Smith, 24.

[217] The present Commission's term of office runs until 31 October 2004. Romano Prodi, current President of the Commission, will be substituted by Joao Durao Barroso from November 1, 2004 to 2009.

official letter, saying why the Commission considers this country is infringing EU law and setting a deadline for sending the Commission a detailed reply. If this procedure fails to put things right, the Commission must then refer the matter to the Court of Justice, which has the power to impose penalties, including fines since 1992. The Court's judgments are binding on the member states and the EU institutions.[218]

The economic power of the EU has been strengthened by an institutional structure that promotes agreements among the member states. Although the Council of Ministers is responsible for making the final decisions, the Commission plays an active role at every stage of the policy making process: it generates policy initiatives, is responsible for investigating and taking action against unfair practices, and makes suggestions to the Council of Ministers when it thinks that agreements need to be negotiated with other countries or international organizations. "So if anyone were to ask whom they should speak to in Europe regarding trade matters, the answer would be clear."[219] Most importantly, once the member states have agreed on a position among themselves, they leave it to the Commission to negotiate almost all external trade agreements on behalf of them.

Nevertheless, the analysis of the first pillar and the role of the Commission must be cautiously explained due to the transformations of the EU and the inter-institutional problems throughout the integration project. With regard to the evolution of the economic area, problems and contradictions were not absent in the early years of the common

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[218] European Commission, *The European Commission* (http://europea.eu.int/institutions/comm./print_index_en.htm)

[219] John McCormick, *Understanding the European Union. A Concise Introduction* (New York: Palgrave, 2002), 206.

market. It should not be ignored that the Treaty of Rome envisioned the creation of the common market by the end of a twelve year period. The Common External Tariff was established in July 1968, 18 months ahead of schedule; by then, the customs union, to which member states had derogated part of their economic sovereignty, became a reality. Prior to 1968, the Commission had experienced a decade of coordinating member-state interests in international commercial affairs. Following that transitional period the Commission assumed the responsibility of initiating and negotiating commercial policy. This meant the abolition of intra-EEC barriers to trade and the establishment of a common external tariff.

The period between 1958 and 1968 was characterized by the joint practices of member states and the European Commission to agree on terms of trade. Two elements were crucial in the consolidation of the European Commission in the trade area: article 113 (currently 133), which laid the foundations for the emergence of the Community as an important international actor; and the role of GATT negotiations, which was fairly relevant for the development of the international presence of the integration process. As Hazel Smith remarks, the GATT Kennedy Round (1963-1967) was important for three reasons. First, it compelled EEC member states to produce common policies on which they could then negotiate within GATT. It would not be an exaggeration to argue that the Common Agricultural Policy (CAP), for instance, evolved as a product of negotiations between member states in relation to their negotiating position with the United States in the GATT. By way of this process, the EEC became a more cohesive regional or "domestic" actor. Second, as a result of the embryonic regional cohesion, the negotiations of the Kennedy Round also helped the Commission, acting on behalf of the Community,

to become a highly visible actor in international affairs. A significant example of this visibility was the 1966 formation of a Nordic trade delegation within GATT, which was designed to defend Nordic interests with respect to their trading relationship with the Community. Third, the Kennedy Round made possible the incipient definition of the emergent European Community as an international actor in opposition to the United States.[220]

In the absence of formal amendments to the Treaty, judicial interpretation has played an important role in adapting the EC's institutional structure to the changing demands of the international political economy. This mutation occurred along two dimensions: "broadening of the scope of the common commercial policy itself; and establishing parallelism between internal development of the EC and its exclusive external competence through the doctrine of implied powers."[221] When the EEC Treaty was negotiated, international trade was primarily trade in goods. By the time GATT members were negotiating the Uruguay Round (1986-1994), the agenda had expanded to include trade in services, intellectual property, and investment. What was remarkable in this period was the innovative and growing role of the Commission as a delegated agent to carry out some functions in the area of external economic relations of the European Community.

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[220] Hazel Smith, 52-54.

[221] Alasdair R. Young, 63.

4.3. EU Defense/Security Foreign Policy

EU foreign policy related to security is the least developed area in terms of common practices, institutions, and non-state agents. Whereas in the economic dimension some functions were delegated to the Commission and in the diplomatic area there was an impressive development of practices in the early decades of the EU, the security/defense domain remained rooted in the state dimension as a result of three elements. The first is the prevailing French unwillingness to pool sovereignty in military competences as well as its distrust of German rearmament in the 1950s and 1960s. The second, derived from the first, is that despite the success of the Coal and Steel Community in making war materially impossible, military power remained as a tool of a regional balance of power, and control over Germany. The third is that the presence of the United States and NATO fill the vacuum to preserve regional balances. These three elements practically paralyzed any attempt to create community military practices and institutions.

On at least two occasions, the member states failed to make progress in building common mechanisms for security foreign policy based on concrete proposals. The European Defense Community (EDC) and the Plan Fouchet (I and II) shared comprehensive objectives but lacked support from the member states. In fact, it was not until the late 1990s and the Constitutional Treaty, signed in Rome on October 29, 2004, that member states favorably accepted military structures as part of the EU.

With regard to the EDC, Ralph Dietl has said that the underlying reason for proposing it was controlling German rearmament. Based on such a premise, the development of common practices or institutions could hardly be expected. However, in this light, after the outbreak of the Korean War, Great Britain and the United States deemed a German defense contribution indispensable to bolster Western European defenses. The threat of unilateral rearmament of the Federal Republic at the hands of the United States led the French to produce the so-called Pleven Plan for the European Defense Community in 1950;[222] according to which, West Germany's rearmament should take place within a supranational European army.[223]

In 1952, the rhetoric of the EDC foresaw idealistic objectives in a region with a fresh memory of the World Wars. Article 1 of the EDC Treaty stated: "The High Contracting Parts, by the Present Treaty, set up among themselves a European Defense Community, supranational in character, comprising common institutions, common armed forces, and a common budget."[224] Initially, however, the project set up a common defense system backed by foreign policy coordination among the then-six members and subsequently negotiations would aim at, *inter alia*, providing for a European army alongside common defense institutions.

The rationale behind the EDC pursued a dual objective. In the short term, the goal was attainment of a West German contribution to European security under acceptable safeguards. In the long term, it was the hope that the EDC might combine with the

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[222] Ralph Dietl, "Une Déception Amoureuse? Great Britain, the Continent and European Nuclear Cooperation, 1953-57," *Cold War History* 3, no. 1 (October 2002): 29.

[223] Kevin Ruane, *The Rise and Fall of the European Defence Community. Anglo-American Relations and the Crisis of European Defence, 1950-55* (London: MacMillan, 2000), 4. The so-called Plan Pleven was proposed on October 24, 1950.

[224] "The European Defence Community Treaty," Paris, May 27, 1952, in Hill and Smith, 16.

Schuman Plan to underpin a European Political Community. This speculation, developed

by Ruane, is based on article 38 of the EDC Treaty that actually gave the EDC Assembly

the task of working out a statute for such a Community, a new form of federal or

confederal political structure for European unity based on the separation of powers and a

two-chamber system of representation, to which both the Coal and Steel Community and

the Defense Community would be responsible.[225]

The EDC was not actually welcomed in most sectors of French society because to

some extent it represented surrender of sovereignty. However, at the same time, once

France realized it could not prevent German recovery due to American support, France

tried to use the European unity movement as a means of maintaining control over that

process. Paraphrasing Ruane, while the ECSC contained something France wanted, -a

degree of control over West Germany's principal war-making industries,- the EDC did

not and also represented sacrificing the French army in order to rearm its traditional

enemy.[226]

On August 30, 1954, the French National Assembly voted against the EDC

Treaty. The rejection was due primarily to opposition to the supranational nature of the

Treaty. Secondly, and equally important, the Second World War was still deeply

imprinted on the collective European memory; consequently, "the thought of placing

French troops under foreign command or the rearming of Germany faced too much

opposition in the French Parliament."[227] On the other hand, internally, the incoming

government of Rene Meyer was supportive but doubtful about the ratification of the

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[225] Ruane, 17-18.

[226] Ruane, 176.

[227] Kjell A. Eliassen, "Introduction: The New European Foreign Policy" in *Foreign and Security Policy in the European Union*, ed. Kjell A. Eliassen (London: Sage, 1998), 3.

EDC; likewise, the anti-EDC Gaullist Party entered into government for the first time on the condition that new EDC negotiations be called in order to protect the national character of the French army and the unity of the French Union; what initially was a project to control German rearmament, became a debate about the future of France as an independent global actor.[228] In other words, France was victim of its own words and proposal.

At the European level, several elements explain the failure of the EDC. The first is that the sense of community was still weak within the Europe of the Six. The concerns, particularly those of the French, were focused on controlling any possible German rearmament rather than strengthening Europe to the "external world." The second failure was the national unwillingness to pay the price of "pooling" sovereignty under supranational institutions. The third element was that, unlike the economic logic, in which sharing production was not really perceived as a threat, the case of military and political issues demanded the creation of common perceptions, trust and practices.

After France's rejection, the United Kingdom, with the Foreign Secretary Anthony Eden at the fore, first proposed an intergovernmental alternative to the EDC, under the already existing Western European Union (WEU), which was created in 1948. At the end of September 1954, the UK secured the consent of all ex-EDC powers, plus the United States and Canada, for supporting the WEU as an alternative for the EDC.[229]

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[228] Renat Dwan, "Jean Monnet and the European Defence Community, 1950-54," *Cold War History* 1, no. 1 (August 2000): 141-160.

[229] Ruane, 5.

The second attempt to create a European security foreign policy was the Plan Fouchet. In comparison with the aftermath of the Second World War, the Plan Fouchet was embedded in a different context at the end of the 1950s, in which Western European economies had recovered from their war losses. Having given priority to their economic recovery, the security of Western European countries remained entirely dependent on NATO. Despite disagreements with U.S. approaches to deal with regional crises, Western European countries did not develop any significant military or security institutions to propose an alternative policy to U.S. actions and such disputes did no go beyond the diplomatic sphere. Thus, for instance, the Suez crisis made clear that European countries did not share U.S. views; likewise, when Khrushchev questioned the rights and the presence of Western powers in West Berlin in 1958, the allies disagreed over whether or not to open negotiations with the Soviet Union.

Nonetheless, the EC member states agreed that some form of closer political cooperation among European countries was needed and they agreed to start discussions. At the first meeting of the Heads of State in February 1961 in Paris, a committee of representatives of the six governments, chaired by the French Ambassador to Denmark, Christian Fouchet, was asked to elaborate concrete proposals to deepen security cooperation. The meeting of the so-called Fouchet Committee and the negotiations in general were soon dominated by three major questions: the relationship of the emerging political union within the European Communities, the participation of the United Kingdom in the political union; and the union's links with the Atlantic Alliance.[230]

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[230] Vanhoonacker, 67.

The Fouchet Plan contained several themes in the area of foreign policy and was certainly surrounded by a myriad of motivations and objectives. De Gaulle sought an intergovernmental organization to weaken existing integrative institutions and to take France into a position of European leadership; he suggested integrating the EC into the overarching structure of the intergovernmental Political Union, a proposal that was seen as a threat to the position of the European Commission and the smaller states, like Belgium and the Netherlands, for whom the supranational institutions constituted a guarantee against domination by the larger states. The rationale behind de Gaulle's initiative is explained by Vanhoonaker as follows:

> Being rebuffed in his attempt to become one of the three major Western powers on equal footing with the United States and United Kingdom, de Gaulle turned to Europe to realize his global power ambitions. If France itself no longer had the necessary resources to claim the status of Great Power, it could perhaps do so if it was able to speak on behalf of Europe.[231]

Even though most member states supported the idea of closer political cooperation among the Six, they did not want it to be to the detriment of NATO. Not only the smaller states but also Germany and Italy questioned de Gaulle's intentions towards the alliance and it was only after they agreed that the Union would not interfere with NATO competencies that German Chancellor Adenauer decided to support the French proposal.[232] The Dutch came to insist on British membership as a counterweight to French ambitions. According to Joseph Luns, the Dutch foreign minister, "any form of

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[231] Vanhoonacker, 66.

[232] Vanhoonacker, 68-69.

political formation would endanger NATO, it was best to keep any European talks within the WEU"[233]

Due to the opposition, de Gaulle himself reissued the Fouchet Plan in January 1962. The new version varied only slightly from the previous one, but several of the changes proposed were highly provocative. "With this move, the general overplayed his actually weak hand as the impression of unilateralism scandalized France's partners."[234] Despite two versions of Fouchet Plans, the Dutch vetoed the Fouchet proposal for a political union in June 1962.[235]

The idea of common military capabilities was practically frozen for two decades. In 1986, Article 30.6 of the SEA included the political and economic aspects of security as a subject for EPC consideration (economic sanctions, for instance). However, with regard to hard security, the article was clear enough when it stated that closer cooperation within NATO or WEU would not be implemented by ECP.[236] Ireland, as a neutral country, was one of the strongest voices that sought to ensure that neither WEU nor NATO–related matters would be included within the EPC framework. The end of the Cold War and the instability in the Balkans would contribute to a reconsideration of the military role of the EU.

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[233] Jeffrey W. Vanke, "An Impossible Union: Dutch Objections to the Fouchet Plan, 1959-1962," *Cold War History* 2, no. 1 (October 2001), 96-97.

[234] Vanke, 104-108.

[235] Kenneth Glarbo, "Reconstructing a Common European Foreign Policy," in *The Social Construction of Europe*, ed. Thomas Christiansen, Knud Erik Jorgensen, Antje Wiener (London: Sage, 2001), 145.

[236] Alonso Terme, 280.

Conclusions

The analysis of the three sectors of the EU foreign policy in the period prior to the Maastricht Treaty reveals that each one of them followed different patterns. In the case of the political area, the enhancement of the EU foreign policy led to develop institutions, involve new agents as such the Commission and to a lesser extent the Parliament in the policy making process, and create the Secretariat. These developments were supported by informal practices among the ministries of foreign relations through the so-called reflex consultation and more and better means of direct communication.

The case of the trade area is quite different. The functions delegated to the European Commission catalyzed the international presence of the EC. The creation of the customs union was a period in which the Commission and the member states learned how to get accustomed to the commitments made by the external representation of the EC. Once the Commission reached the status of "external voice" of the EC, it also accumulated power through the several areas indirectly connected with the single market and the jurisprudence of the European Court of Justice.

As to the military area, providing security is one of the most important tasks of the state. In international relations, states are cautious and sensitive to cooperation in this area. In the European case, in an environment of distrust derived from the experience of two wars in less than half a century and with the presence of the United States and NATO, there were no incentives to pursue a European army.

Chapter 5

Contemporary Trends in EU Foreign Policy

The previous chapter presented a panorama of the development of the agents, institutions, and practices involved in the EU's external relations from the 1970s to the early 1990s. This chapter explains how the EU foreign policy has expanded its action in the three previously analyzed areas: political, economic, and security. The underlying argument is that the context of uncertainty in the 1990s accelerated the institutionalization and evolution of the EU foreign policy. However, these transformations were based upon practices, instruments and organizational setting forged during the period before Maastricht. In fact, the important innovations established by the Maastricht and Amsterdam treaties in order to create new agents (High Representative) and modify the organizational setting (role of the Commission in external affairs) were to some extent the result of the practices of previous decades.

From the early 1990s forward, EU foreign policy has followed a threefold process. On the one hand, the formalization and strengthening of the political and institutional side of the EU foreign policy started to take place (CFSP). On the other, the economic area enhanced its sphere of action (policies under the first pillar) and the community method was consolidated in certain areas such as trade. Finally, whereas the challenges of hard security knocked on the European door, the EU became a space of

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collective negotiation in the area of hard (military) and soft (information sharing and police cooperation) security.

5.1. The Common Foreign and Security Policy

In 1992, the Treaty of the European Union established the intergovernmental second pillar as the Common Foreign and Security Policy.[237] The expression "common foreign policy" found no place in the original treaties of the EU. Certainly, throughout its history, several documents have made specific references to EU's external relations, particularly the SEA. However, it was not until the Treaty of Maastricht when the objective of a "foreign policy" was included. Thus, the CFSP was brought into legal existence by Title V of the TEU. Its objectives, as stated in Article 11, include safeguarding the common values, fundamental interests and independence of the Union; strengthening the security of the Union and its member states in all ways; and promoting international cooperation.

The 1990s witnessed the growing role of collective agents in EU foreign policy. As explained in Chapter Four, the Commission was originally excluded from the operation of EPC, except insofar as it was invited to offer its views. Its role was only slowly formalized until 1981, when the London Report codified the Commission's working association with EPC at all committee levels (ministers, political directors and working groups). This was not given legal force, however, until the SEA allowed the Commission to be fully associated with the proceedings of the EPC.

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[237] Articles 11 to 28 of the Traty of the EU. See also Christopher Piening, *Global Europe: The European Union in World Affairs* (Boulder: Lynne Rienner Publishers, 1997), 31-37.

As a result of the Maastricht Treaty, the Commission enhanced its role in policy deliberations and through the Amsterdam Treaty it was integrated more fully into CFSP structures and given a joint right of initiative alongside the member states. The Commission is "fully associated" with the work of the CFSP (Article 27) and in many ways acts like a "26th member state." Like any member it may refer to the Council any question related to the CFSP and request the Presidency to convene an extraordinary Council meeting. The Commission also works with the Council to ensure the overall consistency of EU external activities.

Chapter 3 explained the increasing role of the Commission in the making of EU foreign policy throughout the first three decades of the integration process. Table 6 indicates how widely spread external policy responsibilities at the Commission became since the mid-1980s. The Santer Commission (1995) clearly expanded the portfolios devoted to external relations and President Santer himself was directly involved in CFSP matters. President Prodi (1999), on the other hand, assumed no explicit external relations responsibility himself and simplified the portfolios of RELEX commissioners. Prodi, thus, sought to promote coordination between RELEX Commissioners by giving one of them – Chris Patten — a coordinating brief in addition to CFSP portfolio.[238] Thus, four Commissioners, in charge of six external relations services, shared the responsibility in the area of external relations.[239] These were the Commissioners of Trade, External Relations, Enlargement, and Development and Humanitarian Aid.

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[238] Neill Nugent, *The European Commission* (New York: Palgrave, 2001), 301.

[239] European Commission, *The Role of the Delegations* (http://europa.eu.int/comm/external_relations/delegations/intro/role.htm, acceded October 3, 2004)

The Barroso Commission (2004) has also made some small but important changes to the responsibilities of the commissioners overseeing external relations. The most relevant change is that Barroso himself will chair the group of external relations commissioners. With regard to the commissioners, Benita Ferrero-Waldner took over from Christopher Patten as External Relations commissioner with the added responsibility for relations with countries such as Ukraine and Morocco which border the EU but have no immediate prospect of membership. On the other hand, Olli Rehn, the Finish Commissioner, is the incoming Commissioner for Enlargement, in which the issue of Turkish EU membership is set to dominate his agenda. Louis Michel, the former Belgian minister and critic of US policy in Iraq, becomes Development and Humanitarian Aid Commissioner and Peter Mandelson, the former British trade and Northern Ireland secretary, will be seeking to get the Doha talks back on track as Trade Commissioner. [240]

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[240] Alasdair Murray, "Barroso's Galacticos? The New European Commission" (Briefing note, Centre for European Reform, London, August, 2004): 3.

Table 6
Principal External Policy Portfolios of Commissioners (1985-2004)

Delors I (1985)	
Jacques Delors (President)	External representative role on major occasions
Willy de Clerq	External relations and trade policy
Claude Cheysson	Mediterranean policy. North-South relations
Lorenzo Natali	Cooperation and development
Santer (1995)	
Jacques Santer (President)	CFSP and human rights (with Hans van den Broek)
Hans van den Broek	External relations with the countries of Central and Eastern Europe, the former Soviet Union, Mongolia, Turkey, Cyprus, Malta and other European Countries. External missions.
Sir Leon Brittan	External relations with North America, Australia, New Zealand, Japan, Korea, Hong Kong, Macao and Taiwan. Common commercial policy. Relations with OECD and WTO.
Manuel Marín	External relations with southern Mediterranean countries, the Middle East, Latin America and Asia, including development aid.
Joao de Deus Pinheiro	External relations with ACP countries and South Africa, including development aid. The Lomé Convention.
Emma Bonino	European Community Humanitarian Office
Prodi (1999)	
Chris Patten	External relations
Günter Verheugen	Enlargement
Poul Nielson	Development and Humanitarian Aid
Pascal Lamy	Trade
Barroso (2004)	
Barroso (Chair) Benita Ferrero-Waldner	External Relations and Neighborhood Policy
Olli Rehn	Enlargement
Louis Michel	Development and Humanitarian Aid
Peter Mandelson	Trade

Source: Adapted and updated from Neill Nugent, *The European Commission* (New York: Palgrave, 2001), 300.

The Commission has sharpened its tools in external affairs to reinforce its role as a full participant in CFSP deliberations. In various missions and third parties encounters, the external affairs Commissioner coordinates and acts as a representative using the voice of the Union in parallel with the Secretary General/High Representative (SG/HR). Moreover, in most cases the execution of joint actions and other Council decisions is carried out by the Commission bodies responsible for trade, development assistance, and humanitarian issues among others.[241]

With its pool of experts and more than 130 delegations stationed abroad, the Commission is a major resource for early warning, analysis and planning in the EU policymaking. The delegations of the External Service, although hierarchically part of the Commission, in practice serve EU interests as a whole in 123 countries worldwide, and at five centers (Geneva, New York, Paris, Rome and Vienna) of international organizations (OECD, OSCE, UN and WTO) with a staff of more than 5,000. Internally, the Prodi Commission undertook a fundamental restructuring of the European Commission's Services. In December 2002 there was a decision to reform the Service under a single management structure, the External Service Directorate. This decision meant that performance assessments of EU officials are no longer made in the different directorates-general at Brussels. The ultimate challenge for the external service is the creation of a joint European External Actions Service, as proposed by the Constitutional Treaty for Europe.[242]

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[241] Karl Mottöla, "Consequences of the ESDP for Transatlantic Relations" (Paper presented at the ISA Annual Convention, Portland, Oregon, February 25-March 1, 2003), 6.

[242] European Commission, *Taking Europe to the World. 50 Years of the European Commission's*

The role of the European Parliament in the field of CFSP remains marginal. The EP can make its own initiatives in addition to being regularly consulted by the HR and the External Affairs Commissioner. The Parliament's supervision has been consolidated through its power to approve the Community budget; however, its role is more limited over the CFSP budget.[243]

As mentioned in Chapter Four, the establishment of a Secretariat has been controversial almost since the beginning of EPC. While there was broad agreement that the Presidency needed some administrative support and logistical coherence, several member states were against the development of a permanent secretariat. These divisions meant that EPC worked without a formal secretariat for 17 years. In very concrete terms, the lack of a permanent secretariat meant that, as Ben Tonra states, "Every six months the limited support staff underpinning EPC moved house and changed in companion with the entire archive of EPC... to the next presidency capital."[244] In order to respond to this demand, the Treaty of Amsterdam created the new post of High Representative (HR).

The HR is at the same time the Secretary General of the Council. According to Article 18 of the Amsterdam Treaty, the HR will assist the Presidency in the external representation of the EU and in the implementation of decisions in CFSP matters. The HR also has the task of assisting the Council, in particular through "contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate

External Service (Italy: Office for Official Publications of the European Communities, 2004).

[243] Karl Mottöla, 7.

[244] Ben Tonra, "Committees in Common. Committee Governance and CFSP," *in Committee Governance in the European Union*, ed. Thomas Christiansen and Emil Kirchner (Manchester: Manchester University Press, 2000), 153.

acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third countries," states Article 26 of the Treaty. The former NATO Secretary-General, Javier Solana, was the first and only person to hold the HR position.

As Simon Duke argued in 1999, it was difficult to imagine the HR having significant influence in one of the presidencies of the major members.[245] In fact, the HR post was created to give more continuity from one Presidency to another and to give a face to the CFSP. However, the performance of the HR has succeed the expectancies, in spite of its authority depends largely upon how the rotating Presidency interprets the HR's ability to assist them.

On reviewing the first five years of the HR tenure, Karen Smith asserted that, "Solana has generally been perceived to be a success, contributing to the Middle East peace process and a peaceful solution to conflict in the Former Yugoslav Republic of Macedonia, and he has certainly provided a face for EU foreign policy."[246] However, the HR suffers from both lack of financial resources and personnel.

The HR has its own structure. The Policy Planning and Early Warning Unit (Policy Unit), established by the Amsterdam Treaty and staffed by the WEU, national and Commission officials, monitors developments of relevance to the CFSP, provides early warnings of crisis, and produces policy option papers. The Political and Security Committee consists of Permanent Representatives (ambassadors) from member states,

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[245] Simon Duke, "From Amsterdam to Kosovo: Lessons for the Future of CFSP." (EIPA Working Paper, 1999, http://www.eipa.nl/Eipascope/99/folder_scop99_2/scop99_2_1.pdf, accessed 1 October 2004), 8-9.

[246] Karen E. Smith, *European Union Foreign Policy in a Changing World* (Cambridge: Polity, 2003), 238.

who reside permanently in Brussels and meet at least twice a week. It effectively replaces the Political Committee, as explained in Chapter Four. It helps formulate and implement common external policies, coordinates CFSP working groups, and gives political direction to the development of EU capabilities. It also includes drafting, upon the Council's request or on its own initiative, policy options which may contain recommendations and strategies for presentation to the Council. Therefore, it is an important institutional step forward for the EU. It provides the EU with another means by which to bring together its member states' interests.[247]

One of the areas of major debate is how the decision making process is carried out. Although the CFSP has provisions for limited qualified majority voting, it has been clear that most second-pillar actions require unanimity. Thus, "the EU system of foreign policy-making (in both its second and third pillar manifestations) mostly operates on the basis of consensus."[248] The consensus and unanimity formulas have raised criticisms due to the trend of "lowest common denominator" outcomes, whereby the positions of the most conservative countries seek to maintain the status quo.[249]

There are, however, three circumstances where the unanimity rule is abandoned and QMV is used. First, the European Council agrees on Common Strategies by unanimity in areas where the member states have interests in common; in such cases, any instruments being used to implement a common strategy are decided by a qualified

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[247] Louise Gibbs, "Is the European Union Becoming a Great Power?" (ACDIS, Occasional Paper, Program in Arms Control, Disarmament, and International Security –ACDIS-, University of Illinois at Urbana-Champaign, September 2000).

[248] John Peterson and Michael E. Smith, "The EU as a Global Actor," in *The European Union. How Does It Work?*, ed. Elizabeth Bomberg and Alexander Stubb. (New York: Oxford University Press, 2003) 208.

[249] Gibbs.

majority of the Council. Second, in the Treaty of Nice, which entered into force on February 1, 2003, the scope of qualified majority voting is applied to the implementation of joint actions and common positions as such and when implementing common strategies (and on personnel matters).[250] Third, since the Treaty of Nice entered into force, QMV is also used to appoint the High Representative. A member state can oppose the use of QMV for reasons of important national interest. In such a situation, the Council can, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

Dinan has reservations about the latest reform efforts on the part of the EU, arguing that "these reformed decision-making procedures are more complicated than the original ones without necessarily being an improvement on them."[251] In this regard, the QMV has rarely been used in practice. In light of the current voting practices, the principle of consensus building is still the cornerstone of the CFSP, despite the important developments in the past decade. Particularly, as a result of the Amsterdam Treaty, the QMV system is controversial to the extent that such reforms can truly contribute to the effectiveness of the CFSP.

In order to dilute the inefficiencies surrounding the unanimity rule, the Amsterdam Treaty introduced the mechanism of "constructive abstention,"[252] which allows a decision to proceed when not all EU members want to be involved. If member

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[250] Articles 12 to 15 of the Treaty of the EU. Joint Actions address specific situations where operational action by the EU is considered to be required. Common Positions define the approach to a particular matter of geographical or thematic nature.

[251] Desmond Dinan, *Ever Closer Union: An Introduction to European Integration* (London: Macmillan Press, 1999), 523.

[252] Article 23 of the Treaty of Nice.

states abstain, they are not obliged to apply EU decisions; but they must accept, in a spirit

of solidarity, that the decision commits the Union as a whole and they must not adopt any

national policy that might conflict with the Union's decision. However, the constructive

abstention has been criticized because it "could become a legitimate excuse for the

absence of such a common policy, since, in effect, nation states would be acting for

reasons of national interest rather than European interest."[253] Thus, this mechanism will

not apply if the members abstaining account for more than one-third of the Council

votes.[254]

Stavridis has argued that, "diverging national interests have to be considered not

as an impediment for the emergence of a common European international stance, but

instead as the starting point from which such a development might occur."[255] The CFSP

has transformed the conceptions and mechanisms related to the EU foreign policy. What

remains to be seen is the emergence of a process that encourages member states to

identify with broader European interests in order to have a more consolidated voice as in

the case of economic external relations.

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[253] Martin Walker, "The Future of Europe's Foreign Policy," in *Europe in the New Century. Visions of an Emerging Superpower*, ed. Robert Guttman (Boulder: Lynne Rienner, 2001), 74. See also Louise Gibbs, "Is the European Union Becoming a Great Power?" (ACDIS, Occasional Paper, Program in Arms Control, Disarmament, and International Security –ACDIS-, University of Illinois at Urbana-Champaign, September 2000).

[254] Article J. 13 (1) and (2) of the Treaty of Amsterdam.

[255] Stelios Stavridis, "The Common Foreign and Security Policy of the European Union: Why Institutional Arrangements Are Not Enough," in *New Challenges to the European Union: Policies and Policy Making*, ed. Stelios Stavridis (Aldershot: Dartmouth Publishing, 1997), 87.

5.2. Economic Foreign Policy

In the trade area, the Commission has a relevant role to play. In addition to the delegated functions that the Commission has had since the inception of the European Community in the 1950s, it has also increased its policy-making competencies.

With regard to the new competencies of the Commission, it was agreed in the Amsterdam Treaty that the Council could decide unanimously that the Commission can negotiate agreements on services and intellectual property. The Treaty of Nice extends the scope of the common commercial policy to encompass all trade in services, with a few notable exceptions, as well as all trade-related aspects of intellectual property rights. Audio/visual, education, health care and social services were a number of particularly sensitive service sectors explicitly identified as being of mixed competence, whereas foreign direct investment in non-service sectors was not incorporated in the revised common commercial policy (CCP).[256]

In order to provide credibility and visibility to any policy, the effectiveness of instruments is crucial. From the non-members' perspective, the EU is not a powerful actor in the sense of being able to provide hard security or to use the "stick" to face violent conflicts. However, from the economic standpoint, the "carrot" offered through economic stimuli or retaliation has made the EU a credible international actor in the trade area. Two of the EU's most powerful foreign economic policy instruments fall under the remit of the European Community: the capacity to enter into international agreements and the provisions for financial assistance to third countries. Therefore, the Community can

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[256] Karen Smith, 35.

wield quite influential economic instruments both positive and negative, for example trade agreements/embargo and ban of exports; cooperation agreements/boycott or ban on imports; association agreements/delay of agreements; tariff reduction/increase; quota increase/decrease; inclusion/exclusion in Generalized System of Preferences; providing/suspending aid; and extending/delaying loans. It should be noted that several economic instruments are not controlled exclusively by the Commission. Member states can grant credits, promote investment and conclude agreements as long as they do not violate the CCP.[257]

With the purpose of assessing the existing confrontations and tensions that countries and community institutions face in reaching decisions connected with the CCP, one has to look at the powers and the relations between and within the EU institutions. Based on Neill Nugent's enumeration of conflicting areas in this regard,[258] one might speculate about five contentious intersections among EU institutions.

The first, which is present in most of the EU policies, is the power balance between the Council and the Commission. This tension is singularized by the eventual opposing attitudes of both institutions, "with the Council trying to ensure that the Commission remains under its control and the Commission wanting and needing enough maneuverability to enable it to be an effective negotiator."[259] For instance, only two Community institutions are responsible for negotiating and concluding international agreements, the Commission and the Council, whereas the European Parliament has a

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[257] Articles 131 to 134 of the Treaty of the EU. See also Karen Smith, 59.

[258] Neill Nugent, *The Government and Politics of the European Union* (Durham: Duke University Press, 2003), 413.

[259] Neill Nugent, 413-414.

role in the process only with respect to cooperation and association agreements.[260] Thus, member states remain present in international negotiations because the Council is responsible for ratifying agreements involving EC competences; in consequence, "the negotiator (the Commission) is more aware of the parameters of acceptable outcomes, which should reduce the risk of ratification failure"[261] because the member states have the final word. Important to bear in mind that in the cases of the European Commission's exclusive competences, such as WTO agreements, no ratification at national level is needed.

The second has to do with the seemingly harmonious politics within the first pillar lead by the European Commission. As has been emphasized in the present dissertation, national interests remain central to the dynamic of European integration. However, the assertion that the EU Council houses 25 national interests does not necessarily mean they are opposing. When specific issues are negotiated, countries tend to group their national interests in alliances. Two prevailing worldviews have been present in the making of the CCP. Jess Pilegaard has reiterated the well known trend in the economic behavior of EU member countries. On the one hand, some countries tend to favor a measure of protectionism and "Embedded Liberalism" (liberalism with a human face), advocated most vehemently by France, Belgium, Spain, and Greece. On the other hand, some countries led by Germany, Netherlands, and the UK tend more towards trade liberalism and the "Washington Consensus" policy paradigm, which distills the essence of free-

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[260] Karen Smith, 53.

[261] Alasdair R. Young, "What Game? By Which Rules? Adaptation and Flexibility in the EC's Foreign Economic Policy," in *Understanding the European Union's External Relations*, ed. Michele Knodt and Sebastiaan Princen (London; New York: Routledge, 2003), 68.

trade principles. Consequently, beneath the apparent unity of the Commission vis-à-vis the United States in the WTO, important differences of trade policies are concealed among the EU member states. At the end of the day, one policy line is carried forward by the EU's international interlocutor, but more often than not the agreed line is a compromise between divergent national interests and ideas. "Whatever the European Union does or says in the international trade regime is the result of intense bargaining between different material interest and different policy ideas,"[262] a realist approach would state.

As part of such diversity of interests, there are also significant differences in terms of geographic orientation of trade. Whereas British, Irish and Dutch' exports to the United States are higher than the EU average, a similar situation exists between Germany and Austria *vis-à-vis* Central and Eastern Europe. Likewise, in terms of the product orientation of trade, Portugal and Greece are similar to developing countries, whereas Germany accounts for almost 30 percent of EU exports in manufactured goods, and the UK is the main EU exporter of financial services.[263]

The third source of friction arises within the Commission itself. These are the disputes between Commissioners and between DGs about where policy responsibilities lie and who has a legitimate interest in particular external trade policies and agreements. Throughout its history and development, the Commission has sought to position itself at the center of a unified foreign policy. In order to so, it has transformed its internal

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[262] Jess Pilegaard, "Relations between Trade, Development and the CFSP: Analyzing Incoherence in EU External Policies" (Working Paper prepared for the FORNET Seminar, London, 7-8 November, 2003), 14.

[263] Simon Hix, *The Political System of the European Union* (New York: St. Martin Press, 1999), 336.

organization. The 1993 Commission handled CFSP, for example, mirrored the division in many national foreign ministries between political and economic affairs, a division which the Commission had long insisted (in its criticism of the EPC/Community divide) was illogical. The 1995 move under Commission President Santer to sub-divide "foreign policy" among four Commissioners on the basis of four regional portfolios went some way towards reintegrating political and economic issues, but at the potential expense of coordination. To compensate for this, President Prodi created the Relex-Group, which brought together the four Commissioners and supporting senior officials whose policy responsibilities were relevant to some aspects of foreign policy.[264] The Barroso Commission has practically continued the Prodi structure as it is explained in table three.

The fourth point is related to the so-called democratic deficit. The European Parliament is the regional institution directly-elected by EU citizens and helps guarantee the democratic legitimacy of European law. However, in certain areas such as common foreign and security policy and judicial co-operation, as well as on some issues of common interest such as asylum and immigration policy, the prerogative of the Parliament is limited to be informed by Council.

This is the reason why European Parliamentarians have insisted that their role is insufficient in supervising the performance of the Council and the Commission in the EU foreign policy. Despite these limitations in this field, the Parliament and the Council

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[264] Ben Tonra, "Committees in Common: Committee Governance and CFSP," in *Committee Governance in the European Union*, ed. Thomas Christiansen and Emil Kirchner (Manchester; New York: St. Martin's Press, 2000), 157.

share legislative power in the "assent procedure" to international agreements negotiated by the Commission and in the case of enlargement.[265]

The debate about the EU Foreign Economic Policy, particularly confined to the trade area, reflects a twofold process in which integrative trends are moving beyond the parameters of the Westphalia state. In light of the qualified majority system and the role of the Commission, Michael Smith says that,

> ... (First) there is a notion of a 'European FEP' pursued at the collective level through the agency of the EU, and embodying a set of assumptions about the institutions, the resources and the style of operation of the EU. Second, there is a notion of the Europeanization of national FEP, embodying powerful arguments about the ways in which national structures have been restructured and reoriented by the forces operating in the new Europe.[266]

Regardless of the EU's limitations in comparison to the assumed coherence and harmony of interests within the current Westphalia state, European institutions exercise some trade functions and competencies theoretically controlled by the states, such as provisions of regulations and safeguards of property rights, promotion of economic welfare, provisions of competitive advantage and contribution to collective security and autonomy.[267] However, such competency distribution has brought about rifts among the participant actors at the state and community levels.

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[265] Neill Nugent, *The Government and Politics of the European Union* (Durham: Duke University Press, 2003), 413.

[266] Michael Smith, "Foreign Economic Policy," in *Contemporary European Foreign Policy*, ed. Walter Carlsnaes, Helene Sjursen and Brian White (London: Sage, 2004), 83.

[267] Smith, 79.

One of the numerous examples in that regard is the open disagreement between President Jacques Chirac and Trade Commissioner Pascal Lamy about the EU position in the WTO Doha Round in mid-2004. Despite France's predominant position in trade negotiations, particularly due to the 2 million strong French farming lobby, it is clear that the Commission pursues a more liberal economic policy and that France has reluctantly accepted a slow reform of the agriculture sector. The underlying argument is that France's agricultural policy is not exclusively determined by domestic forces, but has to be negotiated with other states and with the European institutions. In this particular case, although the Commission needs the support of the member states for an agreement, individual governments have no veto power. In the absence of firm support from other capitals, France alone poses limited threat to the Union's negotiating positions.[268]

In this regard, four characteristics may be identified with regard to EU economic policy. First, the EU provides a highly-developed institutional framework at the regional level. Second, it has the capacity to act in place of state economic functions and is underpinned by a well-developed set of policy instruments. Third, the EU policy making influences member states' foreign economic policies through the internalization of major areas of activity and provides incentives to economic agents to shape their actions within the European context. Fourth, there is recognition from other international actors that the EU is a capable and valid strategic partner.[269]

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[268] Tobias Buck, "Chirac Attacks Doha Draft," *Financial Times*, July 21, 2004.

[269] Smith, 83.

5.3. Security/Military Foreign Policy

The area of military security has remained dominated by state oriented approaches. Until the end of the 1980s, the discussion about developing mechanisms of military cooperation was kept low profile. In the context of the uncertainties of the 1990s, Article 14 of the TEU states that, the CFSP "shall include all questions related to the security of the Union, including the eventual framing of a common defense policy, which might in time lead to a common defense."[270] The "eventual framing" asserted in Article 14 remained pending on the EU agenda throughout the 1990s. Due to several deficiencies in the capabilities of the EU to act in the Balkans, EU ministers addressed the issues of hard security in 1998 and the result was the St. Malo initiative.

The UK was a key actor in this initiative, above all because, as Anne Deighton asserts, it was a dramatic change for the culture of the Union "that Britain, NATO's most publicly assiduous ally in Europe, was suggesting that the EU should extend its reach into hitherto unthinkable arena of hard, military power, even if still within the context of NATO."[271] Scholars have explained from different standpoints the shift in the British position as to its participation in a European military project. First, crisis management in the Balkans was a higher priority than self-defense and NATO Article 5 missions. Second, US intervention in these types of crises had become uncertain, such as in the debates within the NATO structure in the Bosnian and Kosovo crises.[272] Third, "as a

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[270] Treaty of the European Union, Article 14.

[271] Anne Deighton, "The European Security and Defense Policy," in *Integration in an Expanding European Union. Reassessing the Fundamentals*, eds. J.H.H. Weiler, Iain Begg and John Peterson (Malden, MA: Blackwell, 2003), 282.

[272] Nicole Gnesotto, "New World, New ESDP: A Comment on Deighton," in Weiler, 297.

move to preempt the loss of American interest in the Alliance given the more pressing

areas of military concern for the United States in Asia or the Middle East,"[273] Britain felt

that Europe had to develop a real military capacity to keep the United States interested in

NATO.

In such conditions, the European Security and Defense Policy (ESDP) emerged as

a substantive move forward in the development of a more European "say and do" in

military affairs. Four reasons converged in that regard.

> First, the three major Western European powers appear to agree on
> it. Second, regardless of the debate on the EU's political destiny,
> few question that ESDP currently is one of the EU's decisive
> missions alongside enlargement and the implementation of the
> Euro... Third, the United States supports the 'autonomous capacity
> project' and is committed to explore means whereby it can
> function effectively with NATO... Fourth, since 2000 the EU has
> been taking concrete steps toward welcoming the participation of
> non-EU European NATO allies.[274]

In addition to the military convergence at the regional level, some other

transformations have been operating since the end of the 1990s. The first is that the

economic logic has led to conclude that smaller and more agile professional armed forces

are the way to face current challenges; consequently, "large standings armies are not only

ill suited to Europe's current military needs but economically counterproductive."[275] The

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[273] Alexander Moens, "ESDP, the United States and the Atlantic Alliance," in *Defending Europe: The EU, NATO and the Quest for European Autonomy*, eds. Jolyon Howorth and John T.S. Keeler (New York: Palgrave, 2003), 26.

[274] Moens, 30-31.

[275] Richard Medley, "Europe's Next Big Idea. Strategy and Economics Point to a European Military," *Foreign Affairs* 78, no. 5 (September –October, 1999): 21.

second is about how the military budgets are effectively spent. And, on that criterion, Europe does seem to be making slow but steady progress. For instance,

> As of 2002, France will have an all-professional army. Spain and Italy have begun to abolish conscription... Sweden has restructured its armed forces, reducing from 29 to eight the number of brigades focused on territorial defense, while increasing the forces available for peacekeeping.[276]

Germany, a key country in the military transformations of the region, launched a reform in January 2004. The changes foresee the creation of a 35,000 strong intervention force to cooperate with NATO and the EU and the shutting down of 100 bases. The future conscription programs, which accounts for 55,000 troops, have led to tension within the ruling coalition. Whereas the Greens have called for its abolition, the Secretary of Defense has argued that it is highly expensive to replace conscripts with an additional 30, 000-40,000 professional troops.[277]

With pending state reforms in the agenda, from the St. Malo initiative onwards, the number and functions of new agents has grown in the military area at the EU level. The Commission already has a key role in the delivery of security policies, but no decision-making function in the ESDP. The Commission's aims are to ensure a single and coherent EU position through non-military means and a more cohesive institutional structure that reflects acquired European solidarities. Commissioner Patten consistently proposed an expansive view of the scope of the Commission to contribute ideas and

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[276] Charles Grant, Kori Schake and Dmitry Danilov, "The EU's Rapid Reaction Capability" (Working Paper no. 4, Centre for European Policy Studies, Brussels, and International Institute for Strategic Studies, United Kingdom, October 2001), 8.

[277] Hugh Williamson, "Germany Plans to Refocus Priorities in Defense Overhaul," *The Financial Times*, January 14, 2004, 8.

proposals, whether or not it has the exclusive right of initiative. Currently, such contributions include police officers, a database of civilian contributions capabilities of member states, and the involvement in civilian aspects of crisis management.[278]

With regard to the Council of the EU, following the guidelines set up by the Cologne European Council (June 1999), the Helsinki European Council (December 1999) specifically decided to create a non-military management mechanism to coordinate and put to more effective use the various civilian means and resources in parallel with military resources. Since then, three bodies have been put in place. The first is the Political and Security Committee (PSC); it was made permanent on January 22, 2001, and is responsible for all CFSP issues, including the ESDP. Under the Council authority, the PSC is responsible for political monitoring and strategic management of crisis management operations. The second is the Committee for Civilian Aspects of Crisis Management (CIVCOM), which was created by the decision of May 22, 2000, and is responsible for providing information, making recommendations and giving its opinion to the PSC on civilian aspects of crisis management. The third is the Policy Unit. It was created by the Nice European Council (December 2000) and is attached to the Council Secretariat. This unit enables the EU to plan and carry out policing operations (including integrated planning coordination, assessment of a situation, preparatory exercises and definition of regulatory and legal frameworks).

The Nice European Council also approved the creation of three new permanent political and military bodies.[279] In addition to its civilian functions, the PSC sends

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[278] Deighton, 285.

[279] Antonio Missiroli, "ESDP Bodies" (Institute for Security Studies. http://www.iss-eu.org/esdp/08-bodies.pdf, accessed September 24, 2004).

guidelines to the Military Committee and receives its opinions and recommendations. Furthermore, under the auspices of the Council, the PSC takes responsibility for the political direction of the development of military capabilities. In the event of crisis, the PSC is the Council body which deals with crisis situations and examines all the options that might be considered as the Union's response within the single institutional framework.

The European Union Military Committee (EUMC) is the second military body. It is the highest military body established within the Council. It is composed of the Chiefs of Defense (CHODs) represented by their military representatives in Brussels. It presents the military options in crisis management situations. Following Council decisions, it authorizes the Operation Commander to engage in initial operation planning. During an operation, the EUMC monitors the proper execution of military operations.

Finally, the European Union Military Staff provides military expertise and support to the ESDP, including the conduct of EU-led military crisis operations. It assures the link between the EUMC, on the one hand, and the military resources available to the EU, on the other. It is composed of some 70 officials seconded from the member states or contracted *ad hoc*.

In the same military area, under the Joint Council action in July 2001, the EU also decided to transfer two agencies from the WEU to EU structures, namely the Satellite Centre and the Institute of Security Studies, in order to support the Union in the context of CFSP and in particular the ESDP. Thus, "the three-way incongruity of WEU, EU and European NATO memberships has been simplified to an ostensibly two-way mismatch

(EU versus European NATO membership)."[280] Likewise, in terms of generating common capabilities from the pool of national defense establishments and industries, two mechanisms have been institutionalized: the European Capability Action Plan (ECAP), which was introduced in 2001, and the Capability Development Mechanism (CDM), which has been under preparation as a review tool throughout most of the time-span of the ESDP process. The ECAP is a method designed to rectify the remaining shortcomings and deficiencies identified in the common progress reports in military capabilities that would be needed to meet the goals set in Helsinki for EU-led-management operations within the Petersberg tasks.[281]

In the medium and long term, the creation of the European Defense Agency is of the utmost relevance. Sparked by tensions over the Iraq war, which threatened to destabilize the CFSP, the European Defense Agency was created in November 2003, and funded in June 2004, several years earlier than originally planned. The agency's annual budget is a relatively minimal $30.7 million, compared with the $195 billion European countries spent on defense in 2003, or the more than $400 billion spent by the United States.[282] The aims of the agency have been explained by Javier Solana as follows:

[280] Richard Youngs, "The European Security and Defense Policy: What Impact on the EU's Approach to Security Challenges?" *European Security* 11, no. 2 (Summer 2002): 101-102.

[281] These tasks were established in June 1992 at the Ministerial Council of the Western European Union (WEU). The WEU Member States declared their readiness to make available military units from the whole spectrum of their conventional armed forces for military tasks conducted under the authority of the WEU. The different types of military tasks which the WEU could undertake were defined: apart from contributing to the collective defense in accordance with Article 5 of the Washington Treaty and Article V of the modified Brussels Treaty, military units of WEU Member States might be employed for: humanitarian and rescue tasks; peace-keeping tasks; tasks of combat forces in crisis management, including peacemaking. These tasks are today expressly included in Article 17 of the Treaty on European Union and form an integral part of the European Security and Defense Policy (ESPD).

[282] Heather Timmons, "Fledgling European Defense Agency faces a tough battle," *International Herald Tribune*, Thursday, July 22, 2004.

> The project of establishing an Agency offers a great opportunity to facilitate and further impulse of capability development... The Agency should bring added value as a tool to advocate higher and better coordinated defense investment by EU member states; as well as to promote stronger and better coordinated European research and technology efforts in the security and defense fields. It should also promote steps to make European defense industry more competitive and efficient, notably through the establishment of European defense markets.[283]

Whereas the EU has finally created specific agents in the EU military sector in order to initiate a process of military convergence, some moderate steps have been taken with regard to military operations, which are at the end of the day the most important outcomes in providing the efficiency of regional military cooperation. One of the initial assessments states that, "the missions remain very limited in scope and depend heavily on the leadership and commitment of the major member states; are not complex operationally; the financing is limited and they have involved the participation of third states."[284] Certainly, the first operations are quite modest, but they constitute concrete actions which would have been unthinkable a few years ago.

The European Union Police Mission in Bosnia and Herzegovina was launched in January 2003 and represents the EU's first ever civilian crisis management operation under ESDP. The EU took over from the UN-led police mission in Bosnia Herzegovina, whose mandate was to monitor, mentor and inspect the local police force. The EUPM has a mandate for 3 years (until December 2005), with an annual budget of €38 million, of

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[283] Javier Solana, "Summary of the Intervention by the EU High Representative for CFSP, on Military Implications of the European Security Strategy and the Intergovernmental Conference," Brussels, 5 November 2003, s0223/03.

[284] Dov Lynch and Antonio Missiroli, "ESDP Operations", (Institute for Security Studies, http://www.iss-eu.org/esdp/09-dvl-am.pdf, acceded October 5, 2004): 2.

which €20 million are financed by the Community.[285] Four hundred forty two EU police officers participate in this mission.

Operation Concordia was launched on 31 March 2003 and was the first-ever military operation, in which the EU-NATO relations proved to work well together. This operation was held in the former Republic of Macedonia, in which the EU used NATO assets and capabilities and where the EU Operation Commander was Deputy Supreme Allied Commander Europe. In the context of the EU-NATO relations, it is important also to add the CME-CMX03, which was a joint EU-NATO crisis managements exercise (19-25 November 2003); such exercises provide further experience assisting the consolidation of EU-NATO relations in crisis management.

The Concordia operation, requested by the FYROM and backed by United Nations Security Council resolution 1371, was expected to last six months. Its initial budget was €6.2 million, 13 EU member states (all except Ireland and Denmark) and 14 non-member states contributed forces to the mission, totaling 350 armed personnel (308 from the EU). EUPOL Proxima in Macedonia succeeded Concordia in December 2003. The total cost of the mission amounts to €15 million for the first year.

Another important operation was Artemis. This was an operation carried out in the Democratic Republic of Congo, in which NATO was regularly and timely informed of the EU's intentions, in full respect of the spirit and of the letter of the Crisis Consultation Arrangements (12 June-1 September 2003). In accordance with the mandate set out in UN Security Council Resolution 1484 (May 30, 2003), this operation sought to

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[285] Lynch and Missiroli.

contribute to the stabilization of security conditions and the improvement of the humanitarian situation in Bunia, the Ituri capital.

As part of the continuing coordination with NATO, at the end of 2004 the EU will take over the NATO-led mission in Bosnia and Herzegovina. Its purpose will be creating a viable, peaceful and multiethnic Bosnia and Herzegovina with a long-term prospect of EU membership. In practice, this will mean that the EU and NATO will have to work very closely together. The European Union will not run the mission by themselves but will instead have access to NATO's assets and planning, which will be conducted by the deputy head of the military division of NATO. This will give the US an overview of the operation, of which it was initially highly suspicious due to the possible intentions of some EU member states to run an independent mission in Bosnia once the EU took it over from NATO.[286]

5.4. The Constitutional Treaty: New Trends for EU Foreign Policy

The Constitutional Treaty is one of the major steps in the history of European integration. Although the creation of a "Constitutional" entity beyond the state formation is unacceptable for the Westphalian mindset, the impetus of the integration process has motivated European agents and structures to apply the term "Constitution" to this non-state entity, the EU, as a response to several inadequacies of the current organizational setting: recurrent reforms of the original treaties, limitations in the decision-making process; insufficiency of the institutional system; failures to respond to international

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[286] Judy Dempsey, "EU Given Green Light for Bosnia Mission," *Financial Times*, April 27, 2004, 8.

challenges; enlargement; attainment of the Economic Monetary Union; and lack of political legitimacy as perceived by the citizens.

On October 29, 2004, heads of state and government and foreign ministers of the EU signed the Treaty and Final Act establishing a Constitution for Europe.[287] The Constitution formally establishes the European Union as a single legal entity while providing for a clearer and more powerful external voice; adapts EU institutions to the enlarged Union and simplifies EU law; clarifies Union and national policy jurisdiction; and makes the Union's institutions more transparent and democratic as it formally enshrines the fundamental rights of citizens. Although it is clear that there will be a lengthy ratification process in 2005 and 2006 -- all 25 member states have to ratify it either via their parliaments or via referendum, it is expected that the Constitution will succeed as other EU legal documents did in the past and will enter into force on November 1, 2006.[288]

The idea of a Constitutional Treaty has been in the European debate for several years. According to Francisco Aldecoa, the current Treaty of Nice is to some extent the end of the Union model as it emerged from the Maastricht Treaty and the beginning of

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[287] One of the most visible symbols of the new ambiance towards the Constitution was the speech of Germany's Foreign Minister, Joschka Fischer, on May 12, 2000, in which he presented his own view on the future of Europe. Few months later, at the European Summit in Nice in December 2000, a deeper debate about the future of the EU was called for. The debate reached another phase with the establishment of a Convention on the future of Europe by the Leaken Declaration of December 2001. The Convention, which held its inaugural session on February 28, 2002, comprised 105 members as follows: The Presidium, 15 representatives of heads of State, 30 members of the national parliaments, 16 members of the European Parliament, 2 Commission representatives, 13 representatives of the candidate countries.

[288] Lithuania was the first country to ratify the European Constitution on November 11, 2004. It was via its parliament with 84 votes in favor, four against and three abstentions. Until the end of 2004, eleven countries have planned to ratify it by referendum; the first country set to do so is Spain on 20 February 2005.

the constitutional stage.[289] Under a different perspective, the "constitutionalization" of the EU began with the jurisprudence of European Court of Justice several decades ago.[290] With regard to the results, the interpretation of the final document of the European Convention can be seen from at least two different perspectives. On the one side, the skeptical view that questions the substance and the meaning of the Constitution. Under this position Andrew Moravcsik stated that, "Despite its highly charged rhetoric, the constitutional convention (...) is unlikely to achieve much more (than the treaties of Amsterdam and Nice)."[291] Others consider that the end result of the Constitution is quite significant and represents a qualitative leap in the formal organization of Europe.[292]

In the area of foreign policy, the Constitution will introduce practical modifications. One of the most relevant innovations is the post of Union Minister of Foreign Affairs, which will merge the current role of External Relations Commissioner Benita Ferrero-Waldner and the High Representative Javier Solana. The creation of this post was a result of the consensus that the existing duality impeded progress toward the coherence demanded by EU's ambitions for international presence. Although it represents a step forward in a more efficient EU foreign policy process, the duality problem seems to remain as part of the intrinsic institutional setting of the EU: Council

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[289] Francisco Aldecoa Luzarraga, "The First Outcome of the Debate on the Future of Europe: Between Deepening and Revision (2000-2002) (Jean Monnet/Robert Schuman Paper Series, vol. 2, no. 2, Miami European Union Center, February 2003, 10-13. http://www.miami.edu/EUCenter/luzarragafinal.pdf)

[290] Aimee Kanner, "La Convención Europea: Una Constitución para Europa," in *La Unión Europea y el TLCAN: Integración Regional Comparada y Relaciones Mutuas*, eds. Joaquín Roy, Alejandor Chanona, Roberto Domínguez (UNAM-Miami European Union Center, 2004).

[291] Andrew Moravcsik, "The EU Ain't Broke," *Prospect*, February 20, 2003, 38-40.

[292] Paul Magnette, "Coping with Constitutional Incompatibilities. Bargains and Rhetoric in the Convention of the Future of Europe" (Jean Monnet Working Paper 14/03, NYU School of Law, 2003).

and Commission acting on external relations. In that regard, Youri Devuyst states that, "The status of the Union Minister is therefore somewhat ambiguous. It seems that he is in the first instance an agent of the Council. It is the Council that can end his or her tenure at any moment."[293] In addition, this reasoning is also based on the fact that the Union Minister will be at the same time one of the Vice-Presidents of the Commission; however, only for the responsibilities within the Commission, the Union Minister will be bound by Commission procedures whereas will carry out CFSP's objectives as mandated by the Council of Ministers. In other words, according to this constitutional arrangement, the Union Minister might have two personalities in one person rather than the current system of two personalities in two people.

Despite its limitations, the initial balance of the creation of the future Union Minister is positive. It is expected that a single person for EU external relations will provide more coherence to the EU international presence; unify the EU diplomatic service to consolidate EU international performance; and formalize the EU as a single legal personality providing clearer international position for implementing policies and conducting negotiations. Likewise, the three-pillar structure was to be abolished and replaced by a single European Union that would have the ability to conclude binding agreements with other countries and international negotiations.[294]

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[293] Youri Devuyst, "EU Decision-Making after the Treaty Establishing a Constitution for Europe" (Policy Paper 9, Center for West European Studies, University of Pittsburg, July 2004): 17-18.

[294] John Van Oudenaren, *Uniting Europe. An Introduction to the European Union* (New York: Rowman & Littlefield, 2005), 67.

In addition to the Union Minister, of major interest in the area of defense is the new "capabilities agency" to coordinate defense technology research, encourage harmonization of arms procurement procedures and ensure that national defense equipment is compatible throughout the EU. The Constitution mandates a new European Armaments, Research, and Military Capabilities Agency to reduce duplication and redundancy among the individual Member States' military programs and help the Council evaluate the progress of the efforts to improve military capabilities. Also in the area of security, the Constitution proposes that the EU adopt a "solidarity clause," which will guarantee mutual assistance –including military aid - in case of natural disaster or a terrorist attack on EU territory.[295]

In the same area of defense, the establishement of "structured cooperation within the Union framework" has concerned some observers.[296] The Constitution proposes that an avant-garde group of states with higher-level capabilities and a willingness to carry out the most demanding tasks should be able to collaborate more closely using EU institutions. Thus, structured cooperation could allow Belgium, France, Germany and Luxemburg to go ahead with their 'European Defense Union' proposals of 29 April, 2003, whereby they could commit to defending one another from external attack, set up a European military headquarters, and pool some of their military resources within the European Union framework

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[295] Steven Everts and Daniel Keohane, "The European Convention and EU Foreign Policy: Learning from Failure," *Survival* 45, no. 3 (Autumn 2003): 171-172.

[296] Everts and Keohane, 173.

Conclusion

The EU foreign policy has undergone impressive transformations during the last ten years. In comparison with the development of this policy since the inception of the integration process to the beginning of the 1990s, the panorama of the EU foreign policy dramatically changed due to the multiple uncertainties provoked by the end of the Cold War.

Despite the EU has developed a more assertive attitude in international affairs in the past decade, the general assessment indicates that the EU still remains reactive rather than proactive. The belated response of the EU in foreign policy matters, however, has enhanced the mechanisms and instruments it has in this area. The most important achievement is the TEU, which legalized the foreign policy and created the CFSP. The particular case of the diplomatic foreign policy reflects continuity with the practices of the EPC. An example of this is the creation of the HR, who has helped articulate coherence in policies and the external presence, despite the limited resources; likewise, the transformation of the external service represents a concrete mechanism of foreign policy as well as the more active involvement of the EU.

With regard to the EU economic policy, the Commission has enhanced its sphere of competences. Likewise, it has readjusted its internal organization in order to respond to the delegated demands of the Council of the EU. It is important to note that the Commission has been able to create consensus in order to portray the voice of the EU in economic fora. Behind the voice of the Commission, there are competing state interests that have to negotiate because they have accepted to pool sovereignty.

As a result of the instability in the Balkans and the hesitation of the United States to intervene in the area, demands for the creation of EU military capabilities arose. As a matter of fact, the military theme became part of the foreign policy agenda and the developments have been satisfactory, although slow and modest. Transformations at the state level are already taking place and numerous political and military bodies have been created within the Council, which have stepped up the development of military capabilities at the European level. The best example of this is the modest military operations that have taken place over the past three years.

Chapter 6

Transatlantic Case Studies:
Networks in the EU Foreign Policy Making

The present chapter analyzes the preference formation of the EU foreign policy in six negotiations with the United States. Following this dissertation's approach, the negotiations portray how different agents interact within the EU policy making depending on the issue at hand. As a result of the identification of common interests, agents (states, community institutions, and interest groups) form networks that can be permanent or temporal. In the medium term, these networks may also aggregate preferences to reach specific non-biding agreements or transform the preferences by negotiating and accepting legally binding instruments.

Likewise, the cases show that the United States is not a unitary actor, but an entity composed of a variety of domestic actors that defend their own interests, have deep disagreements, and form temporary alliances; this is particularly relevant in the relationship between the U.S. executive and legislative branches as well as in the participation of interest groups in the foreign policy-making process. In addition, some of the domestic groups in the U.S. sometimes create alliances and transcontinental networks with European counterparts, as was the case of the International Criminal Court.

Although the analyzed negotiations took place during the presidency of George W. Bush, characterized by unilateral tendencies, some of them began during Bill Clinton's administration. The first section focuses on two cases related to international

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politics: the International Criminal Court and the Kyoto Protocol. The second part of this chapter describes two economic cases: the Foreign Sales Corporation Act and the U.S. tariff on steel imports. The third section explains negotiations linked to two soft security cases: the Passenger Name Record and the Galileo Project.

6.1 Political Cases

Unlike the United States, the EU has been an active advocate of the International Criminal Court and the Kyoto Protocol. Both negotiations are global; however, the participation of the United States and the European Union is decisive for the future of both international conventions. At first sight the EU had a common front in both negotiations; however, the analysis shows that a myriad of competing interests had to reach a consensus before the EU acted as one in these two negotiations. In this regard, forming networks among NGOs, interest groups, states, and community institutions were crucial to presenting a common voice in international fora.

6.1.1. International Criminal Court

The idea for the creation of an international criminal court has been on the international agenda for a long time. However, the boost in establishing the Court was given by the precedents of *the ad hoc* war tribunals on Rwanda and the Former Yugoslavia in the 1990s.

The first step toward reaching a decision regarding the International Criminal Court among the EU members was the convergence of the national preferences surrounding this issue. Broadly speaking, there were at least two positions among the member states. Germany, in line with its post World War II multilateral foreign policy,[297] was the most enthusiastic proponent of a court with broad powers, overriding, if need be, the traditional prerogatives of national sovereignty. Germany's position led a group of states (EU members and third countries) in this direction. On the other hand, other states headed by France supported the ICC project as a whole, but were reluctant to grant substantial powers to the Court.[298]

In this regard, having in mind the risk of derailing the negotiations, governments negotiated transitional article 124, which gives participant states the right to opt out of the jurisdiction of the court for an initial period of seven years. Once article 124 was agreed upon, France ratified the statute of the court and declared that, "it did not recognize its jurisdiction over war crimes – except when alleged to have been committed by non-French citizens or non-French territories."[299] In other words, parties to the Rome Statute have used Article 124 to exempt their nationals for a period of seven years from the Court's war crimes jurisdiction, yet there has been no suggestion that triggering these treaty provisions will undermine the Court. France has already invoked that exemption in order to protect its citizens from persecution for war crimes.

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[297] Rainer Baumann, "The Transformation of German Multilateralism. Changes in the Foreign Policy Discourse since Unification," *German Politics and Society* 20, no. 4 (Winter 2002).

[298] John Rosenthal, "A Lawless Global Court," *Policy Review* 123 (2004).

[299] Ibid.

Also, the negotiations of the Rome Statute represented the active participation of other influential actors. Since 1995, the European Commission channeled around $16 million to a wide range of activities in support of the ICC through the European Initiative for Democracy and Human Rights.[300] For instance, the EIDHR supported the work of the Coalition for the International Criminal Court.[301] Likewise, in the context of the ratification of the Rome Statute, the European Commission supported the 1998 International Campaign for the establishment of an International Criminal Court with a grant of $430,000 awarded to the non-governmental organization "No Peace without Justice". In addition, the Commission also supported the World Federalist Movement with a grant of some $577,500 for a project that will ensure the effective participation of NGOs from developing countries in the Rome Conference.[302]

The European Parliament is almost absent in the EU policy-making process on the ICC. Within the EP, a group of like-minded MEPs puts the ICC issue on the agenda through a number of resolutions on the ICC or ICC related issues. Likewise, the EP has closely followed the commitments of the EU within the ICC, particularly through daily activities and reports such as the Annual Report on Human Rights in the World and the European Commissions' policy on that matter.[303]

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[300] European Commission, *EU welcomes inauguration of the ICC*, March 11, 2003.

[301] The Coalition for the International Court is a network of over 2,000 civil society organizations in approximately 150 countries, supported through regional coordinators. The coalition started work in 1995.

[302] European Commission, *European Commission Supports Establishment of Permanent International Criminal Court*, Press Release, no. 40/98, May 12, 1998.

[303] Coalition for the International Criminal Court, "European Parliament Urges EU Member States to Stand Firm and United on ICC," *European Newsletter* 39, June, 2004, 7.

As a region, the EU's commitment to the ICC is reflected in its Common Position and Action Plan of 2002. On August 16, 2002, US Secretary of State Powell sent EU foreign ministers a letter asking them to conclude bilateral treaties based on Article 98, paragraph 2 of the Rome Statute. At the General Affairs and External Relations Council of September 30, 2002, the EU foreign ministers reached an agreement on a set of principles that would restrict the scope of concluding bilateral agreements with the United States to exclude U.S. nationals from the jurisdiction of the ICC. Likewise, the Council of the European Union approved in February 2004 a new Action Plan, implementing the 2003 reinforced common position on the ICC. The new Action Plan focuses on the initial period of the effective functioning of the ICC in three sections: a) the coordination of activities of the EU, b) the universality and integrity of the Rome Statute, and c) the independence and effective functioning of the ICC.

Despite the fact that the EU has succeeded in supporting the ICC, the question about the scope and the relevance of the Court without the participation of the United States remains. Even though President Clinton signed the Rome Statute on the last day of his administration, it is uncertain whether a different outcome of the electoral process in the United States in 2000 would have changed the current U.S. rejection of the Rome Statute. Had it been presented for ratification in the U.S. Congress, it is most likely that it would have been rejected. However, during the presidential election campaign in 2000, George W. Bush clearly opposed the ICC arguing that the problems inherent in the ICC "are matters that touch directly on the US national interests and security, and therefore also affect the security of our friends and allies worldwide." As a result, the United

States is engaged in a global campaign to conclude bilateral agreements that will ensure that U.S. citizens are not subject to the ICC's jurisdiction.

Rejecting the ICC was one of the first acts of the Bush Administration when it came to power in 2001. It withdrew America's signature from the Rome Statute, one of Bill Clinton's final acts as U.S. President. For the United States, the rejection was "natural" in view of its primacy in the international system.

U.S. State Department Under Secretary Bolton explained that this rejection of the Court was because, among other reasons, a) it is not controlled by the U.N. Security Council; the U.S. has the highest standards of accountability of any nation on the face of the earth; b) the unaccountable Prosecutor and its unchecked judicial power is clearly inconsistent with American standards of constitutionalism; c) U.S. military forces and civilian personnel and private citizens are currently active in peacekeeping and humanitarian missions in almost 100 countries at any given time.[304]

The current debate in the EU-US relations centers on the crucial Article 98 which allows for exemptions from ICC jurisdiction. The EU is not opposed in principle to Article 98, but to the scope of its application. It objects to US attempts to secure exemption from the Court for all U.S. citizens and not just officials.[305] What is interesting is that these Article 98 agreements play an important role in U.S. bilateral relationships regardless of whether a state is a party to the Rome Statute. Of importance here is the US Congress' decision to ensure that these agreements are a foundation for military cooperation relationships around the world. The American Service Members Protection

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[304] John R. Bolton, "American Justice and the International Criminal Court" (Remarks at the American Enterprise Institute, Washington, DC, November 3, 2003).

[305] Ibid.

Act, which was enacted with strong bipartisan support by both houses of the Congress, prohibits military assistance to countries that have ratified the Rome Statute but have not entered into Article 98 agreements with the United States.

For the time being there is no evidence pointing to a shift in the US position with regard to the ICC. On the contrary, scholars have defended "the correctness of President Bush's decision to withdraw from the International Criminal Court, which sees its independent mandate as reviewing the use of force in international politics and does not even consider itself bound by decisions of the Security Council."[306] Despite the unilateral trend of the Bush Administration, the particular case of the ICC seems to respond to the ingrained conduct of the US foreign policy in cases where international law is concerned. The precedent for this position is the U.S. rejection of International Court of Justice decisions, such as the one in 2004 with regard to 51 Mexican citizens sentenced to death in US prisons, and the 1985 ICJ decision in favor of Nicaragua against the United States. Thus, based on the hegemonic U.S. position, the problem with the International Criminal Court, and to some extent with the International Court of Justice, is that it seeks to prove itself as an independent force in world politics by opposing US interests.

From the European perspective, particularly based on the history of war and destruction in the XX Century, the ICC represents the consensus of governments, community institutions, and interest groups to ratify the practices of regional mutual self control since the end of the Second World War as well as an instrument to legitimize actions in events of genocide close to the EU borders or in regions in which the EU has particular interest. By accepting the legal binding commitments of the Rome Statute, EU

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[306] Eric Posner and John C. Yoo, "International Court Hubris," *Wall Street Journal*, April 7, 2004.

member states have transformed their previous preferences into a collective one with regard to the issues covered by the ICC.

6.1.2 Kyoto Protocol

The Kyoto Protocol has become one of the most debated issues on the international agenda in the past few years. Certainly, the Protocol goes beyond the exclusive interest of the EU-U.S. relationship since it involves all UN member states. However, the participation of the industrialized countries remains central to the Kyoto Protocol because they are the main sources of emissions. The EU and its member states ratified this Protocol, which is part of the UN Framework Convention on Climate Change (UNFCCC), on May 31, 2002, whereas the Bush administration rejected U.S. participation.

The Protocol has a particular mechanism in order to come into effect. First, it enters into force 90 days after it has been ratified by at least 55 parties to the UNFCCC. Second, these ratifying parties must include industrialized countries representing at least 55 percent of total 1990 carbon dioxide emissions.[307] Despite the fact that it has not come into effect, the EU has already included it as part of the mandatory Community law whereas the Bush administration has not acknowledged the Protocol.

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[307] "The report of the Kyoto Conference sets out baseline percentages of CO2 emissions: 24.2 percent for the European Union, 8.5 percent for Japan, 17.4 percent for the Russian Federation, and 36.1 percent for the United States." Lucas Assuncao, "Turning Its Back to the World? The United States and Climate Change Policy," in *Unilateralism and US Foreign Policy. International Perspectives*, ed. David M. Malone and Yuen Foong Khong (Boulder: Lynne Rienner, 2003), 304.

The interaction of several actors at the different stages of the EU policy making process has made it possible to reach agreements on the Kyoto Protocol. The creation of formal regulations at the EU level has required the adaptation and convergence of member states practices. More importantly, the basis of the agreements at the EU level has been the steady negotiations to address the uneven levels of environmental development among EU member states. In effect, there is a three-tier division among them. At the forefront are the "leader" states (Austria, Denmark, Finland, Germany, Netherlands and Sweden), who have faced strong national environmental pressures and have subsequently been active in implementing stricter environmental standards. The 'laggard' states, by contrast, oppose stricter environmental legislation for economic or ideological reasons. These member states are Ireland, Italy, Greece, Portugal, and Spain. Between these two positions, one can identify the remaining 'ambivalent' states (Belgium, France, Luxembourg, and the UK).[308]

In order to support the environmental project in the EU, green parties and NGOs have played an important role in influencing environmental policy making in the EU. The role of civil society in this area is reflected in organizations such as the European Environmental Bureau, which is a federation of 143 environmental citizens' organizations based in all EU Member States and most Accession countries. In the context of the Kyoto Protocol negotiations, European car makers were also mobilized and responded more subtly than their "Big Three" U.S. counterparts. Louis Schweitzer,

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[308] Jon Burchell and Simon Lightfoot, *The Greening of the European Union. Examining the EU's Environmental Credentials* (Sheffield: Sheffield Academic Press, 2001), 27-28.

President of the European Automobile Makers' Association said that, "The problem of global warming is a global problem. Europe must do its part."[309]

Likewise, at the European level in the area of the environment, the Commission has had a relevant role. In fact, the need for a Community policy on climate change was first raised in a Commission research policy statement in 1985, and was the subject of a European Parliament Resolution in 1988. In June 1990, the European Council in Dublin made a call for the adoption of strategies and targets to reduce greenhouse gas emissions.[310]

The performance of the EU is vital to provide credibility to the Kyoto Protocol in the international arena. Under the terms of the protocol, the EU committed itself to reducing its greenhouse gas emissions by 8 percent between 1990 and 2008-2012. As part of this effort, the EU approved an emission trading scheme, which will begin in 2005.[311] However, living up to the Kyoto standards has demanded redoubled efforts from the EU. For instance, the Commission released a report which showed that in most of the EU members, greenhouse gas emissions increased between 1990 and 2001. The European Environmental Agency registered a mild improvement in 2002, dropping the emissions by 0.5 percent between 2001 and 2002 due to warmer weather in Europe, which reduced the use of carbon dioxide-producing fossil fuel to heat homes and offices as well as a slower economic growth registered in manufacturing industries. Only

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[309] *Financial Times*, "Haig Simonian talks with the Reanult chairman ahead of the Kyoto environmental conference," December 4, 1997, 2.

[310] John McCormick, *Environmental Policy in the European Union* (New York: Palgrave, 2001), 281.

[311] Don C. Smith, *EU Environmental Law: From Absence (1957) to Sustainable Development (1992) to Corporate Social Responsibility (2004)* (Paper presented at the Seminar European Union: Legal Developments, University of Miami, February 20-21, 2004).

France, Germany, Sweden and the UK are on track to comply with the national targets set in the Protocol.[312]

Of particular significance is the poor performance of some economies, which receive the greatest amounts of financial assistance from Brussels in the form of structural funds: Greek emissions increased by nearly 10 percent, whilst in Portugal, Spain and Ireland 20 percent increases were recorded.[313] In these cases, a shift in this trend is expected in the coming years.

An argument that should be considered is that once the EU has accepted a policy, it is feasible to expect that some new developments will be triggered. When the Kyoto Protocol was negotiated in 1997, the proposed 5 percent reduction by 2012 in carbon emissions from 1990 levels in industrial countries seemed like an ambitious goal. By 2003, some EU countries considered accelerating some of the original goals. This is the case of the British government plans to reduce carbon emissions by 60 percent by 2050, the amount that scientists deem necessary to stabilize atmospheric carbon dioxide levels. Building on this, Prime Minister Tony Blair and Sweden's Prime Minister Goran Persson are jointly urging the European Union to adopt the 60 percent goal.[314]

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[312] European Environment Agency, *EU15 Greenhouse Gas Emissions Decline After Two Years of Increases*, Press Release, Copenhagen, July 15, 2004.

[313] Stephen Gardner, "EU's hot air over Kyoto exposes policy contradictions," *Euobserver*, December 8, 2003.

[314] Lester R. Brown, *Plan B. Rescuing a Planet under Stress and a Civilization in Trouble* (New York: W.W. Norton, 2003), 151. See also Tony Blair and Goran Persson, *Letter to the European Council*, London and Stockholm, February 25, 2003. (http://www.sweden.gov.se/)

Collective EU ratification in June 2002 boosted the prospects for the protocol in general.[315] Despite the EU's insistence that it stands behind its Kyoto Protocol greenhouse gas emissions reduction target, Commissioner Loyola de Palacio speculated that the EU may need an "alternative plan" regarding the reduction targets if Kyoto does not ultimately come into effect.[316] Fortunately, on March 10, 2004, all the provisions of the Kyoto Protocol came into effect for the 25 members of the EU as a strategic move to make effective the Protocol in the international arena.

The Kyoto Protocol in the US foreign policy mirrors the complex network of interests involved in the policy making within the state and, likewise, the assumption that states have coherent and indivisible positions in international negotiations. As a matter of fact, U.S. unilateralism in climate change is better understood by considering several competing interests and changing factors over a period of time. Essentially, four elements remain central to the explanation: The intention by some sectors in the United States to protect their trade interests as well as consumption and production patterns; the ability of business groups to organize and effectively limit U.S. participation in the Kyoto Protocol; the failure of the Clinton administration to convince the Senate to raise public awareness about climate change; and the neglect on the part of the George W. Bush's administration of global equality and sustainability concerns.[317]

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[315] David Allen and Michael Smith, "External Policy Developments," *Journal of Common Market Studies*, Annual Review, 41 (2003).

[316] Joshua Levitt and George Parker, "EU Commissioner under Attack on Kyoto," *Financial Times*, February 17, 2004.

[317] Lucas Assuncao, 298.

The United States has been constantly hesitant about the feasibility of the Kyoto Protocol. During the negotiations, although then President Clinton and Vice President Al Gore were active promoters of the environment on the global agenda, their administration at some point showed a degree of skepticism by stating that realistic targets and timetables for cutting greenhouse gas emissions should be put off for 20 years. On the other hand, US corporations were well organized and participated actively as a pressure group. The largest lobby group was the Global Climate Coalition that comprised 50 US trade associations and private companies. General Motors, Ford, and Chrysler alone spent about $13 million lobbying in Washington during the negotiations on the Kyoto Protocol. Other fronts included the Information Council on the Environment and the Heritage Foundation.[318]

Another actor in the making of the unilateral trend in US policy toward climate change has been the US Senate. The first notorious position against the Kyoto Protocol was sponsored by Senators Robert Byrd and Charles Hagel in 1997. Approved by 95 votes in favor on July 25, 1997, the US Senate Resolution 105-98 resolved that the United States should not be a signatory to any protocol of the United Nations Framework Convention on Climate Change, arguing that "the exemption for Developing Country Parties is inconsistent with the need for global action on climate change and is environmentally flawed (and) could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs."[319]

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[318] Sharon Beder, "Who Killed Kyoto?" *The Guardian*, October 29, 1997.

[319] American Petroleum Institute, *US Senate Speaks Out on Climate Negotiations*, June 1997 (http://www.api.org/globalclimate/congpers.htm).

The second stage of increasing skepticism in the participation of the United States in the Kyoto Protocol was also encouraged by the Senate. On March 6, 2001, Senators Charles Hagel, Jesse Helms, and Larry Craig requested clarification of the Bush administration's position regarding the Kyoto Protocol. In the written response, President George W. Bush reiterated the 1997 argument that the Kyoto Protocol was unfair and harmful to U.S. consumers and implied that countries such as China, India, Indonesia, and Brazil should show meaningful participation in greenhouse gas reduction targets.[320]

The United States remains party to the United Nations Framework Convention on Climate Change, which has the ultimate goal of stabilizing greenhouse gas concentrations in the atmosphere at a level that prevents dangerous human interference with the climate system. The opt out of the Kyoto Protocol has been explained by U.S. officials as follows:

> This (stabilization of greenhouse concentrations) can be accomplished in one of two ways – through the short term excessive regulations like those that would be required for US compliance with the Kyoto Protocol, or through the development of new low – or zero emissions energy technologies that will allow us to make larger long term reductions in the emissions while maintaining economic growth. The Bush Administration will spend approximately 4 billion during the fiscal year 2004 on climate change science and technology.[321]

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[320] Lucas Assuncao, 297-308. The response of President Bush was dated March 13, 2001.

[321] US Department of Energy, *Statement of Energy Secretary Spencer Abraham Regarding United States Leadership on Climate Change*, February 13, 2004.

The fact that the United States has rejected the Kyoto Protocol in its current terms does not mean that environmental groups (including some members of the Senate and business people) agree with the current position of the Bush administration. In fact, there is a steady trend to indirectly counteract the existing position of the United States. In that regard, the perception of the Kyoto Protocol in the US Senate has been slowly shifting from a cautious, skeptical, and defensive position to one that is more open and environmentally oriented. The most important initiative in this regard is the Climate Stewardship Act sponsored by Senators Joseph Lieberman and John McCain.

A Massachusetts Institute of Technology study estimated that the McCain-Lieberman bill as amended would cost approximately $20 per household per year and analysts predicted that the impact on U.S. GDP would be no more than 0.01 percent. Another study by the Tellis Institute estimated that the Climate Stewardship Act would save approximately $48 billion by the year 2020 because of reduced energy demand.[322] These numbers, however, pale in comparison to the costs of inaction. According to a UN study, every ton of greenhouse gas emitted into the atmosphere costs each American up to $160 per year -- and billions of tons are currently being emitted each year.[323]

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[322] Joseph I. Lieberman, *US Climate Policy: Toward a Sensible Center* (Presentation at the Conference US Climate Policy: Toward a Sensible Center, the Brookings Institution and the Pew Center on Global Climate Change, Washington, D.C., June 24, 2004).

[323] John McCain, "Fight Global Warming for $20 a year," *Wall Street Journal*, October 30, 2003. "Add to this the potential economic benefits from tackling global warming. Two major corporations have found tackling global warming to be cost-effective: Dupont decided to reduce its emissions to 65 percent below its 1990 level and British Petroleum committed to reducing its emissions to 10 percent below its 1990 level. Both companies have reported cost savings as a result of their actions, with Dupont reaping $1.5 billion and BP $650 million as a result of their environment-friendly moves."

The Senate rejected the Lieberman-McCain proposal by a margin of 55 to 43 on October 30, 2003; however, the support of 43 senators contrasts with the 1997 Senate's position. Both Senators have insisted that they will continue presenting their proposal every year until it is approved.

Public opinion is closer to the position that the United States should have a more active role in the Kyoto Protocol. Accordingly, Geoffrey Lean states that "opinion polls now (2003) show consistently that 70-80 percent of Americans regard global warming as a serious problem and want their country to take the lead on that,"[324] whereas in 2001, an ABC news poll showed that 61 percent of Americans thought the United States should sign the protocol.

Aside from the debate in the legislative and executive branches of the US political system, there is an interesting trend at local levels to comply with international standards on greenhouse gases emissions. Of particular relevance is the Chicago Climate Exchange, which started its activities in December 2003. This is a pilot program to reduce emissions and offset projects in the United States, Canada, and Mexico. This project is essentially a self-regulatory, rule based exchange designed and governed by the participants; 19 North American entities that have agreed to reduce their emissions by one percent per year over four years.

With a similar approach, some U.S. states are taking a different perspective than the federal government. For example, Massachusetts, New York, and New Hampshire have adopted rules and voluntary systems for measuring emissions.[325] In May 2004,

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[324] Geoffrey Lean, "Kyoto Prospects 2: America," *New Statesman*, May 17, 2004, 31.

[325] John Browne, "Beyond Kyoto," *Foreign Affairs* (July-August, 2004): 29.

Massachusetts approved actions to cut emissions of greenhouse gases, "making Mitt Rommey the third Republican governor of an important state (after George Pataki of New York and Arnold Schwarzenegger of California) to depart from the White House line."[326] Although some other states have now either adopted such measures or promised to do so, the states responsible for most of the U.S. emissions—mainly in the Midwest and South — unfortunately remain unmoved. However, the shift towards an environmental international order is taking place at the local level within the United States.

Business groups also play a crucial role in the environmental transformation demanded by the Kyoto Protocol. Indeed, the Climate Stewardship Act is based on free market principles that match the logic of the business groups.[327] Thus, several large US and international businesses in a growing number of sectors have understood that it makes economic sense to take climate change seriously, for failing to do so now may be more costly in the future. Many large companies such as Shell, BP, Ford, Daimler/Chrysler, General Motors, Dow Chemical, and Texaco have already started to work on the tremendous opportunities for market expansion in this sector.[328]

As it was previously mentioned, the Kyoto Protocol can take effect once it is adopted by enough countries to account for 55 percent of emissions by industrialized countries. In this context, the participation of Russia has become decisive for the future of this international agreement. In December 2003, President Vladimir Putin raised

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[326] Lean, 31.

[327] Joseph I. Lieberman, 2-3.

[328] Lucas, 311.

questions about whether Russia stood to benefit from ratification, above all without the participation of the United States and without mandatory limits on developing countries such as China. The Russian position was crystallized in the widely publicized statement of Putin's economic advisor, Andrei Illarionov, who claimed that "the Kyoto Protocol is an 'economic Auschwitz for Russia'... Ratifying this protocol would transform Russia into an economic dwarf or baby whereas at present it is just beginning to grow into adulthood."[329] Thus, once the US participation was withdrawn, Russia essentially held a veto over its enactment.[330]

In spite of the current state of lethargy of the Kyoto Protocol, the initial Russian position has gradually changed and by the mid-2004 Russia was showing some positive signs towards adoption. In the context of the bilateral relations with the EU, particularly with the European Commission President, Romano Prodi, President Vladimir Putin distanced himself from early Illarionov's statements and suggested that the EU should make the ratification of Kyoto politically attractive to him, which "entails building the right linkages between climate negotiations over Russian accession to the WTO."[331] As part of this shift in the Russian position, on September 30, 2004, the Russian cabinet endorsed the Kyoto Protocol; such move opens the way for likely ratification by the Duma.[332]

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[329] Rosbalt Agency News, "Andrei Illarianov: Kyoto Protocol is economic 'Auschwitz' for Russia," *Russian Journal Daily,* February 24, 2004.

[330] Steven Lee Myers and Andrew C. Revkin, "Putin aide says Russia will reject Kyoto pact," *New York Times,* December 3, 2003.

[331] Tom Burke, "Kyoto Prospects 1: Russia," *New Statesman,* May 17, 2004, 30.

[332] Peter Finn and Julliet Eilperin, "Russian Cabinet Backs Kyoto Pact," *Washington Post,* October 1, 2004, A22.

The future of the Kyoto Protocol is uncertain without the participation of the United States and Russia. In that regard, the EU, along with other countries worldwide, continues with the implementation of the provisions of the Protocol within the Community.[333] In this context, the role of the EU as forerunner of a new environmental international order and its active promoter will remain crucial. On the other hand, as John Browne has stated, there are five factors that should be considered in the development of the international environmental order in general, and the entry into force of the Kyoto Protocol in particular:

> First, it has become obvious that Kyoto was simply the starting point of a very long endeavor... Second, we have improved, if still imperfect, knowledge of the challenges and uncertainties that climate change presents, as well as better understanding of the time scales involved. Third, many countries and companies have had the experience of reducing emissions and have proved that such reductions can be achieved without destroying competitiveness or jobs. Fourth, science and technology have advanced on multiple fronts. And finally, public awareness of the issue has grown – not just in the developed world but all around the globe.[334]

The Kyoto Protocol represents another step towards the aspiration of sustainable development and reinforces the international environmental consciousness that has recently found a place on the international agenda. Keeping in mind the limited resources, fresh memory about the oil crisis in the 1970s, and a recent history of integration, the EU has been able to create consensus about the feasibility of paying the price of a clean environment. The question in Europe is not about whether or not the

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[333] Council of the EU, *2566 Council Meeting. Environment*, Brussels, March 2, 2004, 8.

[334] John Browne, 20.

Kyoto Protocol should be implemented, it is about how to evenly fulfill the Protocol's objectives among the member states. On the other hand, unlike the definitive rejection of the United States of the ICC, in the case of Kyoto there are signs within the United States that some local governments, business groups, and Senate members are trying to get closer to Kyoto's objectives due to the political pressures of NGOs and the growing role of the environmental theme politics.

6.2 Economic Cases

International economic relations can be described by different international regimes. Unlike the security/military area, where the perception of self-determination is high and the creation and functioning of international regimes is weak, in the economic area the role of international institutions such as the WTO or the IMF is widely accepted; the conception of sovereignty is more nuanced in the economic logic than in the political or military reasoning. The foreign sales corporation act and the US tariffs on steel imports are two cases in which the United States and the EU abide by the rules of the WTO, despite technicalities and delays provoked by governments and interest groups.

Many trade conflicts have been settled in the early stages in light of the threat of one of the parties to resort to the WTO. However, the WTO decisions on transatlantic trade have been in favor of the United States twice. The first time the EU was hit with 100 percent duties between 1999 and 2001 was as a result of a dispute over access to the EU's banana market. The sanctions cost the Union $120 million a year. The second sanction began in 1999, when Washington imposed 100 percent tariffs on the EU for its

refusal to import U.S. hormone-treated beef. Those sanctions, which are still in place, have cost the EU about $117 million a year.

6.2.1. Foreign Sales Corporation Tax Scheme

The case of the Foreign Sales Corporation (FSC) tax scheme is particularly relevant because it is the first time the EU imposed trade sanctions against the United States since the creation of the WTO. This tax scheme allows US companies to benefit from tax breaks worth $5 billion a year and provides for an exemption from the general rules established in the US Internal Revenue Code, which results in substantial savings to US companies.[335] Hundreds of US companies, including Boeing, Microsoft, Eastman Kodak, Cisco, Motorola, General Motors, and about 7,000 other firms doing business overseas have saved billions of dollars each year.[336] In the context of transatlantic trade disputes, the FSC damage is considered to be one of the highest in the short life of the WTO since this quantity "is a sum almost 10 times greater than the trade impact of banana, beef hormone, and aircraft hushkit disputes combined."[337]

A brief chronology of the conflict indicates that the EU raised this issue at the WTO in the mid-1990s. The first ruling from the WTO was made on October 8, 1999, when a WTO Panel found that the US-FSC scheme violated Article 3.1 (a) of The Agreement on Subsidies and Countervailing Measures and Article 3.3 of the Agreement

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[335] *New York Times*, "US-European Union Dispute is Growing," May 30, 2000.

[336] Barry James, "US and EU Seek to Cool Trade Fires after Ruling," *International Herald Tribune*, January 16, 2002.

[337] Günter Burghardt, "Prospects for US-US Trade Relations" (Conference at Duke University, February 15, 2001).

on Agriculture. This decision was confirmed by the WTO Appellate Body on February 24, 2000.

On November 15, 2000, the then President Bill Clinton signed into law the FSC Repeal and Extraterritorial Income Act (ETI) of 2000. However, on January 14, 2002, the WTO confirmed that the ETI was still incompatible with the WTO rules.[338] Therefore, the EU has authority to impose trade sanctions of $4 billion a year against U.S. imports in retaliation, unless the United States repeals the FSC/ETI tax breaks.

Due to the fact that the modifications to the FSC Act have not yet eliminated the incompatibilities with the WTO rules, in November 2003, the European Commission decided to impose multi-million-dollar trade sanctions on U.S. exports. The European Commission recommended that the EU member states impose duties on U.S. goods starting from $200 million in March 2004, which are still in place. The EU is considering an increase of by $40 million a month if U.S. authorities do not lift the tax break. Thus, the EU chose to gradually phase in sanctions on products by companies including Revlon, Tiffany and Weyerhaeuser.

The European Commission has had a relevant role in conducting trade negotiations because this issue is considered to be among its first pillar competences. For instance, on the verge of imposing tariffs, Pascal Lamy traveled to Washington to have meetings with members of Congress at the end of February 2004. In his meetings with US administration officials and congressional leaders, he said that, "The name of the game is not retaliation, but compliance," and added that the sanctions would be lifted the

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[338] European Commission, "EU Welcomes Definitive Confirmation that Export Subsidies (Foreign Sales Corporations) are Illegal, and Calls on US to comply with WTO Findings", Press Release, January 14, 2002.

day the US law is repealed.[339] Behind the active role of the Commission, some EU member states have publicly expressed their disagreement. For instance, following the traditional solidarity of the UK, the British trade minister, Mike O'Brien, said that the EU should be more "flexible" in the dispute. The tariffs should be dropped once proposals in Congress to abolish the export-tax credits advance "at a reasonable rate," he said.

There are several aspects in the FSC/ETI case that need to be discussed, particularly due to the nature of the issue. The first is with regard to the harmonization of the tax systems. Claude Barfield, an American Enterprise Institute scholar, argues that "The United States follows the so-called 'world wide system' of taxation, taxing those subject to its jurisdiction regardless of where the income is earned. European countries commonly use the so-called "territorial system," taxing all income within their borders."[340] Aside from the argument of the effects of the tax breaks on international trade, the question that arises is whether the WTO has given itself powers of a world tax court without having the necessary expertise.

The second problem is that U.S. lawmakers and officials also face the domestic effects of this kind of tax breaks. The United States has the highest corporate tax rate in the industrial world, except for Japan. Its 35 percent levy, added to another 5 percent for state taxes, stands in contrast to Ireland's 12.5 percent. *Forbes* has stated that "Our (US) current tax code perversely encourages U.S. companies to reinvest their profits overseas rather than repatriate them. If you bring the money home, you could lose 40 percent of it

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[339] *International Herald Tribune*, "EU begins trade sanctions," March 2, 2004.

[340] US Department of State, *Scholar Testifies to House Committee on WTO, US Tax Policy*, Official Statements for Europe and Eurasia 2940, July 7, 2004.

to the tax collector. Leave it overseas and you will have more left over."[341] When an Irish company makes a profit in the United States, the company renders unto Washington what it is supposed to render and owes no tax in Ireland on those profits. Donald Carlson has said: "The question is, do we want this money invested in equipment and plans in Egypt, or do we want it invested in the United States?"[342]

The U.S. government has encouraged the Congress to modify the FSC/ETI legislation. Treasury Secretary John Snow, then Commerce Secretary Don Evans and U.S. Trade Representative Robert Zoellick wrote an October 27, 2003 letter to the Republican Speaker of the House Dennis Hastert requesting the House pass legislation during 2004 that repeals FSC/ETI and avoids triggering trade sanctions by the European Union.

On May 11, 2004, the Senate voted in favor of the JOBS Act, a bill which repeals the FSC-ETI. The vote was 92-5 and was expected to encourage the House of Representatives to quickly adopt its own tax reform bill. Both the House and the Senate agreed in principle to repeal the FSC, but large differences remain over what to give those companies in return. On the one hand, the piece of legislation that most likely will replace the FSC/ETI was sponsored by Representative Bill Thomas, the chairman of the House Ways and Means Committee, who had complaints about the efforts of Caterpillar, Boeing and Microsoft to obstruct his initiative to reform the FCS/ETI. Most of the big corporations disagree with the proposal because it would reduce corporate income tax rates for manufacturers, domestic and multinational, in phases from 35 percent now to 32

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[341] *Forbes*, "Muscling Up America," April 12, 2004, 38.

[342] Edmund L. Andrews, "Glee for US companies overseas," *International Herald Tribune*, October 3, 2003.

percent in 2008 and thereafter. It would also include a special one-year 5.25 percent income tax rate for companies that repatriate foreign earnings. According to the Congressional Joint Committee on Taxation, over 10 years the Thomas bill would reduce U.S. tax revenue by $128 billion, while repeal of the ETI and various measures to raise revenue would still leave nearly $60 billion in additional budget deficits. [343]

In opposition to this law, some Democrats have rejected the Thomas bill over the increased deficit, at record levels in the fiscal year 2003 and more forecast for years to come. Yet some Republicans also opposed it, arguing that the international tax provisions, by reducing the cost of doing business overseas, will encourage corporations to move more jobs from the United States to China and other countries. Representative Donald Manzullo, Republican chairman of the House Small Business Committee, and 10 other House Republicans distributed a letter urging defeat of the Thomas bill.[344]

On 11 October 2004, nearly four years after the expiration of the deadline established by the WTO, the U.S. Congress finally adopted a Bill repealing the FSC/ETI legislation. The Bill, however, provides that FSC/ETI benefits will still be available to US exporters up to the end of 2006; likewise, it is calculated that the tax break is worth about $76 billion over the next 10 years.[345] In this regard, EU Trade Commissioner Lamy said: "We will now carefully study the details in the final compromise between both chambers, in particular regarding transition periods,

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[343] Bruce Odessey, *Corporate tax package to address adverse WTO rulings divides House Members*, US Department of State Official Statements for Europe and Eurasia 800, October 30, 2003.

[344] Bruce Odessey, *Senate Approves Bill to Repeal WTO-Illegal Tax Breaks*, US Department of State, Official Statements for Europe and Eurasia 670, July 16, 2004.

[345] Edmund L. Andrews, "Negotiators Approve Big Tax Cuts for Business," *New York Times*, October 7, 2004.

grandfathering clauses, as well as all other relevant fiscal provisions."[346] Although a detailed analysis of the bill repealing the FSC/ETI is still pending, all parties have agreed with the ruling of the WTO. The development of this case shows a consensus within the EU practically since the initial stages of this conflict, whereas in the United States the convergence of economic conglomerates, members of Congress, and the executive branch was crucial in reaching an agreement, which at the end was also capitalized by the Bush Administration in the electoral context of 2004.[347]

6.2.2. Steel

Although there were divergences in the steel sector since the 1990s, this issue became a trade dispute in the bilateral relationship in 2002. A brief chronology of this trade conflict can be narrated as follows. The United States adopted safeguard measures on imports of certain steel products in the form of additional tariffs of up to 30 percent which entered into effect on 20 March 2002.[348] The EU, together with Japan, Korea, China, Switzerland, Norway, New Zealand and Brazil, challenged these measures in the WTO. The WTO Panel Report of 11 July 2003 and the Appellate Body Report of 10 November 2003 upheld the complainant's arguments that the US steel safeguards were in violation of WTO rules. On December 4, 2003, the United States announced the full and

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[346] European Commission, *Foreign Sales Corporations (FSC): US to repeal illegal export subsidies as from 2007*, Press Release, Brussels, October 11, 2004.

[347] "In an act of pre-election largess, House and Senate negotiators approved a sprawling corporate tax bill on Wednesday that would shower corporations and farmers in politically sensitive states with about $145 billion worth of new tax cuts." Edmund L. Andrews, "Negotiators Approve Big Tax Cuts for Business," *New York Times*, October 7, 2004.

[348] The safeguard tariffs were not applied to Mexico and Canada, both NAFTA members.

immediate termination of its steel safeguards. On December 12, 2003, the EU Council adopted a Regulation repealing the EU countermeasures adopted in 2002.[349]

Several events explain the decision of the Bush Administration to adopt safeguard measures. Pascal Lamy has underlined that during the 1990s the European steel sector restructuring was not based on direct intervention but instead on a package of measures to encourage capacity reductions. The result was that in the period 1992-1996 this sector underwent a sharp reduction in volume, limited government intervention, and kept the market open.[350] Conversely, the U.S. steel firms faced difficulties during the 1990s, and they decided to postpone the "European style" reform. Thus, by the end of 2001, the International Trade Commission recommended President Bush impose tariffs on foreign steel. From the European perspective, President Bush's decision was making others pay for American steel sector reform.

As soon as the US trade measures were imposed, several European agencies acted to reduce the impact of such tariffs. The Council of the EU had a very active role during the steel conflict. On 14 May 2002, the EU notified the WTO that it reserved its right to re-balance the adverse effect of the US steel safeguards. On 13 June 2002, the Council unanimously adopted a re-balancing regulation, providing for the automatic application, 5 days after the condemnation of the US measures in the WTO, of additional duties on $2,243 million of US exports to the EU. This regulation also established that the Council would decide, based on a proposal from the Commission, the repeal of the re-balancing

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[349] European Council, *EU Repeals Countermeasures After Lifting of Additional steel Duties by the United States*, Press Release 360, 15719/03, Brussels, December 12, 2003.

[350] Pascal Lamy, "US Steel: A Warning about Perverse Signals" (Speech to the UK Steel Association Annual Forum, London, September 13, 2001).

measures once the U.S. steel safeguards were lifted. On the other hand, in order to prevent a flood of steel imports being diverted into the European market as a result of President Bush's decision, the EU established quotas with regard to the 2001 import levels within which steel imports would be treated as normal, and beyond those limits imports would be subject to additional tariffs of 14.9–26 percent.[351]

After nearly two years of litigation, the U.S. decision to abide by its international obligations constituted a victory for the EU and particularly for the EU Trade Commissioner, Pascal Lamy, who said: "EU steel producers and workers will be relieved, as will those in the seven other countries which stood together with the EU in contesting these measures. But more importantly, this is a test case of how important is a rules-based international trading system for all of us."[352] Nevertheless, the lifting of the illegal safeguards did not end the obstacles to European steel exports to the United States. In order to minimize the threat of another flood of cheap imports, the Bush administration planned to require steel importers to obtain licenses in advance through a system that would give the Commerce Department prior notice of any surges. Trade lawyers and EU officials said that license requirements for non-U.S. steel amounted to another illegal restriction on trade. François Renard, a trade lawyer at the law firm Norton Rose in Brussels, said that mandatory registration of import licenses "isn't as bad as tariffs, but it's clearly a barrier to trade, and against WTO rules."[353] Groups representing steel importers

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[351] *The Economist*, "Trade Disputes. Dangerous Activities," May 9, 2002.

[352] European Commission, *US Steel: EU welcomes termination of US steel safeguard measure*, DN: IP/03/1662, Brussels, December 4, 2003.

[353] Neil King Jr. and Carlos Tejada, "Bush Abandons Steel Tariff Plan; EU Lifts Retaliation Threat While Industry and Unions Criticize the Policy Reversal," *Wall Street Journal*, December 5, 2003.

criticized the licensing program but said that they would accept it if the tariffs were dropped because the cost of licensing was relatively minor.

The steel case reflects that the EU, through the representation of the Commission, was able to react timely at two different levels. On the one hand, by resorting to the WTO, the EU forced the legal authority to retaliate and, in a broader context, legitimized the European "multilateralism" in a growing trend of unilateral policies practiced by the Bush Administration. On the other hand, the Commission demonstrated its political instincts and knowledge about the complex decision making process in the United States as well as the best and most effective way to exert pressure on key areas of the American political system, particularly in tailoring its tariffs to punish states of great political importance to Bush's re-election campaign in 2004.[354]

It was clear to the United States that the European Union considered imposing tariffs on a list of export products coming from sensitive electoral districts to President Bush, from textiles (affecting North Carolina) to Tropicana orange juice (hurting Florida). On the other hand, lifting the protections could hurt President Bush in steel-producing states such as Ohio and West Virginia, which he narrowly won in 2000, and Pennsylvania, which he lost to former Vice President Al Gore in 2000. Many lawmakers from those states, both Republicans and Democrats, said they were disappointed by the move. On the other hand, consumers of steel, like auto parts makers in Michigan, another populous state that is up for grabs in 2004, mounted a campaign to roll back the tariffs, saying they were raising costs and leading to job cuts. In the view of some steel importers, the 20-month-old steel tariffs raised the price of imported steel as much as 30

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[354] Brian Knowlton, "Bush Ends Steel Tariff, Averting Trade War," *International Herald Tribune*, December 5, 2003.

percent and have also been blamed for the loss of jobs in American manufacturing companies that use steel. The manufacturing companies say the tariffs have raised their costs, cut their profits and forced them to delay expansion and lay off employees.[355]

The Bush Administration justified the end of the tariffs as having achieved their purpose, and the change in economic circumstances. When the tariffs were imposed (in March 2002), in a context of a weak economy and global overcapacity, steel producers had raised doubts about the ability of any of the old-line steel makers in the United States to survive. The tariffs, President Bush said, "came at a crucial time for the industry, which was suffering from a wave of bankruptcies, and gave the sector time to consolidate and restructure."[356] Perhaps forestalling the probable counterproductive effects of the measures, the administration said that the decision would be re-examined at the halfway point (September 2003), although it was expected that the tariffs would remain in place for three years.

General interpretations about the effects of the steel tariffs are diverse. Some industry analysts said the tariffs ultimately did little to advance domestic steel reforms, including several large buyouts and a new contract with the United Steelworkers, the major union for steelworkers. Those changes would have occurred without the tariffs. But others have stated that the protections gave investors confidence to help the industry consolidate. Others have said that President Bush used the protections in part to persuade free-trade skeptics in Congress that he would keep a close watch on trade even as he sought -- and eventually won -- the authority to negotiate large free-trade agreements.

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[355] Elizabeth Becker, "Trade Sanctions against U.S. to be Delayed", *New York Times*, November 29, 2003.

[356] Richard W. Stevenson, "Bush Set to Lift Tariffs on Steel," *New York Times*, December 4, 2003.

"This was not economic policy but political policy," said Gary Hufbauer, a trade expert at the Institute for International Economics. "It was political going in and political coming out."[357]

The compliance of the US administration with WTO rules 15 months before the protections were to expire (in 2005) brought about different reactions in the groups directly involved with steel production. Some U.S. steel companies and their unionized workers vowed to work all the harder to defeat Mr. Bush in the electoral process of 2004. Many other companies and industry groups, however, praised the move, saying the tariffs had hurt the manufacturing sector and cost more jobs than they saved.

Steel-industry executives assumed that the tariffs would remain in place. Nonetheless, in case of a contrary decision, they did not expect the US Administration to abandon their cause altogether. Daniel DiMicco, President of Nucor Steel of Charlotte, North Carolina, wanted President Bush to endorse bills pending in Congress that would require importers to license their products, as effectively happened once the tariffs were lifted. With regard to those licenses, David Phelps, President of the American Institute for International Steel, said that "it's another unnecessary burden on trade. [But] if that's the price to pay for eliminating the tariffs, then I don't see that as a major impediment."[358]

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[357] Neil King Jr. and Carlos Tejada, "Bush Abandons Steel Tariff Plan; EU Lifts Retaliation Threat While Industry and Unions Criticize the Policy Reversal," *Wall Street Journal*, December 5, 2003.

[358] Neil King Jr. and Carlos Tejada, "Leading the News: Bush Is Expected to End Steel Tariffs; Trade-War Fears May Ease, But Move Could Raise Ire Of Manufacturers, Workers," *Wall Street Journal*, December 1, 2003.

Another opposition voice came from Thomas J. Usher, the chairman and chief executive of the United States Steel Corporation, which has its headquarters in Pittsburgh. Mr. Usher, a major fund-raiser for the Republican Party in Pennsylvania, denounced the EU position as "blackmail and intimidation," and complained to Bush about the issue. "To buckle under to the Europeans would be a mistake," he said, "threatening not only steel but the ability to maintain a US manufacturing base."[359] From the perspective of the Senate, President Bush also heard the case against lifting the tariffs from Senator Arlen Specter of Pennsylvania. Specter presented Bush what he called "a whole series of strong reasons" why the tariffs should be left in place.[360]

On the other hand, despite the decline in steel imports in 2002-2003, and steel states such as Ohio, Pennsylvania and Michigan important to the President's re-election bid, the administration gained little steelworker support with the tariffs. The most relevant case is the United Steelworkers of America, the main steel union, which endorsed for President Rep. Richard Gephardt of Missouri during the primaries of the Democratic Party in early 2004. Likewise, Leo Gerard, president of the United Steelworkers of America, said his union had made substantial compromises in contracts with the understanding that these tariffs would stay for three years.[361]

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[359] Brian Knowlton, "Steel tariffs question hangs unanswered," *International Herald Tribune*, December 3, 2003.

[360] Richard W. Stevenson, "Bush Is Urged to Maintain Import Tariffs for Steel", *New York Times*, December 3, 2003.

[361] Elizabeth Becker, "U.S. steel producers want word with Bush," *New York Times*, December 2, 2003.

From a different angle, the tariffs had a negative effect on some sectors of the economy because they raised costs, cut profits and forced businesspeople to delay expansion and lay off employees. Thus, the higher prices of protected steel brought protests from big steel-consuming states like Michigan, Minnesota and Wisconsin. In addition, these states could sway the vote that narrowly favored the Democratic Party in 2000.

In fact, the mobilization of the Consuming Industries Trade Action Coalition (CITAC) played a key role in making sure the voices of those who were most affected were heard. Particularly important was the creation within the CITAC of the Steel Task Force (STF),[362] which comprised more than 200 steel consuming companies with the aim of ending the steel tariffs imposed by the Bush Administration. Thus, members of the CITAC-STF urged President Bush to consider that steel safeguard measures resulted in increased prices and a net loss to U.S. businesses of some $680 million in decreased returns on capital and labor in steel consuming industries. Lewis Leibowitz, Counselor to the CITAC-STF, summarized the decision facing the President: "The President's decision has three major aspects: legal, political and economic. Legally, the President has ample authority to terminate the tariffs if he chooses to do so. Politically, the situation is much different than it was last year, especially for retired steel workers. Economically, the

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[362] CITAC is a coalition of companies and organizations committed to promoting a trade arena where U.S. consuming industries have access to global markets for imports that enhance the international competitiveness of American firms. The STF was originally formed in 2002 to advocate steel consumer interests for the termination of the Section 201 steel tariffs imposed by the Bush Administration. (http://www.citac.info/)

decision is a no-brainer: the tariffs will do much more harm than good if they are continued."[363]

In the same sense, William Gaskin, president of the Precision Metalforming Association, who openly opposed the tariffs, stated that "small and midsize American manufacturing companies that use steel are opposing the steel giants... (that) should be reason enough to lift the tariffs. Gary Hufbauer of the Institute for International Economics said that if Bush believes the steel industry needs further relief, he should persuade Congress to provide relief for steelworkers and not continue the tariffs.[364]

Once the trade tariffs were lifted in December 2003, most of the transatlantic dialogue on structural problems within the steel industry focused on the OECD talks to cut down trade distorting subsidies and global excess steel capacity, which is at the root of the problems of the US steel industry.[365]

The delegation of certain functions to the European Commission has helped make more efficient the response of the EU in the international arena. The practices and institutions in the trade area created since the end of the 1950s have facilitated the consensus of the member states and, consequently, enhanced the role of the Commission as a delegated agent.

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[363] CITAC STF, *President Bush Can Terminate Steel Tariffs; Domestic Steel Industry Paper Arguing Otherwise Uses "Stunningly Illogical Interpretation" of Trade Law*, Press Release, Washington, October 14, 2003.

[364] Elizabeth Becker, "WTO rules U.S. tariffs on steel are illegal", *New York Times*, November 11, 2003

[365] US Department of State, *Steel Subsidy Switch to Consultations. Differences Too Difficult to Overcome in Formal Setting, OECD suggests*, Official Statements for Europe and Eurasia 1200, June 29, 2004.

On the U.S. side, the lifting of trade barriers before the expected timing reveals that the domestic sectors directly affected by them and the slowdown of the US economy made it unfeasible to continue with the barriers. Likewise, in the trade area the threat of possible WTO sanctions is an important ingredient to be assessed in the decisions to be taken by states.

6.3. Security Cases

Security has been at the top of the international agenda since September 11, 2001. Three years after the unexpected attacks, it is clear that the fight against terrorism presents several fronts and interconnections whereas the targets are not exclusively located in the United States. The immediate effect of insecurity and threat provoked by terrorism has obliged governments to redefine their policies of control of weapons of mass destruction, migration, borders, and information, among others. Leaving aside the contradictions of the use of military force in the case of Afghanistan and Iraq, the overall assessment of the fight against terrorism suggests that in addition to the use of military force some other means are extremely important in order to root out the causes of terrorism. In that view, information places a key role in the current security strategies. In the context of this dissertation, the negotiations on the passenger name record and the Galileo project have several ramifications, including among others, the value of information in the policy making related to security.

6.3.1. Passenger Name Record: Limited Margins of Negotiation

One of the recent negotiations with regard to the security of the United States is the case of the Passenger Name Record (PNR). In the aftermath of September 11th, the U.S. Congress passed a law requiring air carriers operating passenger flights to or from the United States to make PNR information available to the then Customs Service. The problem derived from this domestic U.S. law was that EU officials and European airlines faced two possible scenarios. The first was that airlines had to obtain the consent of passengers for release of their personal information; however, by complying with the PNR requirement, the airlines risked being taken to court by their national Data Protection Authorities. The second, less feasible option was not to comply, which would have triggered intrusive extra searches on their passengers and would have resulted in enormous delays, as well as a potentially serious loss of business for EU airlines, which were supplying the data.[366]

After several postponements requested by the European Commission, the CBP (Customs and Border Protection) indicated its intention to start sanctioning airlines that did not comply with this law from March 5, 2003 onwards.[367] Hence, U.S. officials started collecting the required data even though the negotiations with the European Commission were still taking place. As the EU Commissioner for External Affairs, Chris Patten, stated, "All negotiations involve compromises and on this occasion we had to face

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[366] Chris Patten, *Speech at the European Parliament Plenary Session*, Strasburg, April 21, 2004.

[367] The airlines that refuse to hand over the data to U.S. authorities within 15 minutes of a flight departure, may be denied landing rights and assessed fines of up to € 6,000 per passenger.

the fact that the US was already obtaining the data which they wanted".[368] On the other hand, Internal Market Commissioner Frits Bolkestein said that "a negotiated solution is never perfect, especially when you are up against a law adopted by the US Congress in the understandable conviction that it is vital to protect the US against terrorism."[369]

As a result of the U.S. pressure exerted on the EU, Commissioner Patten stated that the existence of adequate data protection in the recipient country was necessary.[370] On May 17, 2004, the European Commission adopted the so-called "adequacy finding" required by the Data Protection Directive (1995). Accordingly, the U.S. Bureau of Customs and Border Protection (CBP) commitments or undertakings provide significant data protection improvements compared to the situation prior to the negotiations. In particular:

a) Less data will be collected and retained by U.S. authorities. A list of 34 categories has been agreed upon (some airlines' PNR contained more than 60 fields).

b) Sensitive data, such as meal order or special passenger requirements, that may reveal race, religion or so on, either will not be transferred or, if transferred, will be filtered and deleted by U.S. CBP.

c) PNR will be used only to combat and prevent terrorism, terrorism-related crimes and serious crimes, instead of a much wider range of law enforcement uses previously

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[368] Patten, April 21, 2004.

[369] European Commission, "Commission secures guarantees for protecting personal data of transatlantic air passengers," Press release, Brussels 17 May, 2004, Ref, ip/04/650

[370] Patten, April 21, 2004.

sought by the United States (originally, the United States wanted to use PNR data also for fighting crime domestically).

d) Most PNR will be deleted after a period of three and a half years (compared with up to fifty years originally proposed by the United States).

e) EU data protection authorities will be able to raise with the Chief Privacy Officer at the Department of Homeland Security the cases of passengers' complaints such as misuse of information. [371]

Finally, on May 28, 2004, the United States and the European Commission signed an agreement that makes possible the transfer of air passenger data to the United States under the conditions listed above.

It can be argued that these negotiations led to two outcomes. On one hand, as a cascading effect of the U.S. measures, the European Union decided that airlines should provide passenger data when entering the EU, but it asked for comparatively less information: nine pieces of data per traveler instead of 34 required by the United States.

EU justice and interior ministers reached an agreement on March 30, 2004 requesting airlines flying into the European Union to provide detailed passenger information to immigration and law enforcement authorities. The agreement highlights the turnaround in the attitude of EU governments towards intelligence data gathering following the Madrid bombings in March. Michael McDowell, Ireland's Justice Minister, said the Madrid bombings had perhaps triggered a more mature judgment by EU governments on the issue of access to personal data. The proposal was initially put

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[371] European Commission, "Commission secures guarantees for protecting personal data of transatlantic air passengers", Reference: IP/04/650, Brussels 17 May, 2004.

forward by the Spanish government in February 2003, as a means of helping to combat illegal immigration but, in the wake of the Madrid bombings, the UK led calls for it to be extended to counter-terrorism. However, the agreement was made possible only after France lifted its demand that passenger records be kept just for 24 hours and be made available only to immigration officials.[372]

The second outcome is the rejection of the agreement by some members of the European Parliament. On March 31, 2004, the European Parliament adopted a resolution promoted by European MPs Johanna Boogerd-Quaak, a Liberal Democrat from the Netherlands, and Daniel Cohn-Bendit, co-president of the Greens, which indicated that the U.S. regulations did not provide adequate protection, and urged the Commission to withdraw the Decision and renegotiate a more substantial agreement with the United States. Boogerd-Quaak said that the main reason for the resolution was that "there is no equality between the U.S. and EU citizens."[373]

The Parliament reserved the right to take the matter to the European Court of Justice if the Commission went ahead with the implementation of the agreement. On April 21, 2004, the Parliament further decided to ask the Court for an opinion on whether the international agreement should not have been put to the Parliament for its assent, on the grounds that it modifies the Data Protection Directive.[374] Parliament has the option to

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[372] Raphael Minder, "EU to require passenger data from airlines", *Financial Times*, March 31, 2004.

[373] Thomas Fuller, "US criticized on visitor's privacy", *International Herald Tribune*, March 31, 2004. The Parliament voted 229 to 202 in favor of the suspension of this arrangement, with 19 abstentions. The resolution is not binding

[374] European Commission, "Commission secures guarantees for protecting personal data of transatlantic air passengers", Reference: IP/04/650, Brussels 17 May, 2004.

seek the annulment of the international agreement, in accordance with article 230 of the EC Treaty.[375]

The PNR is a clear case of the European Union taking a reactive approach to its foreign policy and foreign policy negotiations with the United States. However, albeit with little room to maneuver, the European Union was not only able to renegotiate the agreement with the United States and arrive at a solution closer to the EU's general preferences in terms of privacy and protecting personal information, but the interests of the agencies (predominantly the states in this case) in terms of information-sharing as related to security also made an impact on the structure. While all of the agents do not have the same perception and interest on this issue, as demonstrated by the case of the European Parliament, the trend of a general shift in the EU's foreign policy regarding the necessity of collecting information as a security measure is definitely apparent.

6.3.2. Galileo

The European Union decided to pursue its own satellite navigation system, known as Galileo, in 1998. Conceived as a joint initiative of the European Commission and the European Space Agency, this project is still in its developmental phase and in March 2002 the European Council decided to speed it up in order to initiate its commercial operation. Galileo's infrastructure is being implemented in three phases: development

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[375] Thomas Fuller, "Europe Bows to US on air passenger data", *International Herald Tribune*, Tuesday May 18, 2004. One interesting remark by Commissioner, Frits Bolkestein is that "but the US leadership were finally persuaded of the need for flexibility. I might say here that Parliament's strong pressure has played a very important role." Frits Bolkestein, *Address to European Parliament Committees on Citizens' Freedoms and Rights, Justice and Home Affairs and Legal Affairs and the Internal Market*, Strasbourg, 16 December 2003.

and in orbit validation (2003-2005), deployment (2006-2007) and commercial operations (2008->). This satellite system will provide five types of services: the basic open access service, safety of life service for stringent safety networks, restricted access commercial service, restricted access public regulated service for governmental high continuity applications, and support to search and rescue services.[376]

Several reasons converged to create Galileo. The first is that satellite navigation has become central to many forms of transportation and many other activities as well. For example, power plant management, telecommunications, banking networks synchronization, and oil field exploration are activities strongly linked to satellite navigation.

The second incentive to create Galileo was that, according to EU Commissioner Loyola de Palacio, the U.S. Global Positioning System (GPS) suffers from poor availability in urban areas and northern latitudes. Likewise, the U.S. satellite system is controlled and operated by military authorities and such military operators do not provide sufficient guarantees for the quality and continuity of service to civilian users. As a result, the third motivation is strategic. Due to the increasing dependency on a single satellite navigation system controlled from outside, important questions emerge about the development of a European strategic infrastructure. Finally, it is estimated that putting the satellite navigation infrastructure into place would support around 100,000 jobs by 2020.[377] In sum, Galileo represents global market shares, global competitiveness, better

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[376] Borje Forssell, "GNSS Interoperability: Future of Fantasy?" *GPS World*, December 2003, 12.

[377] Loyola de Palacio, *The Importance of Galileo for Europe* (Speech at the Internationaler Kongress Kommerzielle Anwendung der Satelliten-Navigation, Munich, April 26, 2001).

and novel services for the citizens, mobility, enhancement of the transport policy, and strategic ownership of critical infrastructure.

In addition to the reasons mentioned above, Galileo is innovative because as the commercial value of navigation is widely accepted, the EU decided to break new ground by bringing public and private partnership to satellite navigation, and also opened "its doors to non-European participation already during the definition phase as early as in 1999."[378] With regard to the latter point, the agreements with third countries provide cooperative activities on satellite navigation and support to the European position on standardization and frequency allocation to promote the market for Galileo services. The EU and Israel, for instance, reached an agreement on the participation of Israel in the Galileo program on July 13, 2004.[379] In January 2004 Brazil, one of the most economically and politically influential Latin American countries, agreed to participate in Galileo. Brazil's backing of the project came shortly after India and China committed 280 and 200 million euros respectively for the project. The future participation of other countries such as Ukraine, South Korea, Australia and Mexico is also expected.

The collaboration of the private sector has been crucial for Galileo, particularly in those countries that have developed space industries. In order to provide a focal point for coordinating European space industry involvement for Galileo with the European Commission and the European Space Agency, Galileo Industries was created in May 2000 as a European consortium including Alcatel Space Industries (France), Alenia

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[378] Oliver Onidi, Aero Ailio, and Paul Flament, "GNSS Interoperability: Future of Fantasy?" *GPS World*, December 2003, 16-18.

[379] European Commission, *EU and Israel seal their agreement on Galileo*, External Relations, IP/04/900, July 14, 2004.

Spazio (Italy), Astrium GmbH (Denmark), Astrium Ltd. (United Kingdom) and Galileo Sistemas y Servicios (Spain). Thus far, some major developments include France's Starsem and Ariane space organizations' contracts with the European Space Agency to build and launch two experimental Galileo satellites aboard Soyuz launch vehicles from the Baikonour cosmodrome in Kazakhstan by 2006, which would be the first operation of the system.[380] One satellite is currently being manufactured by Surrey Space Technology Limited of the United Kingdom, and the other by Galileo Industries.[381]

Reaching a consensus to launch Galileo took several years. In the formation of the EU preferences, EU member states have made alliances surrounding three groups. One emphasized the relative importance of 'economic-based' preferences such as the need for profitability, low levels of public spending and early private sector commitment; the economics-minded countries were the Netherlands, the UK, Denmark and Germany. France, Italy, Spain, Portugal and Greece, comprising the second group of EU member states, prioritized political or 'security-based' preferences, such as the need for strategic independence and ownership, political considerations, significant public funding and swift development. A third group considered both economics and security priorities as equally relevant in the project; this was the case of Finland and Sweden.[382] Johan Lembke argues that the preferences of the EU member states are influenced by two explanatory factors. The first is the special relationship of certain EU members states to the United States combined with their Atlanticist orientation; the second is the

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[380] *Commercial Motor*, "EU and US pave the way for sat-nav revolution," March 11, 2004, 9.

[381] *GPS World*, "Russia to Launch Galileo Test Sats," April 2004, 50.

[382] Johan Lembke, *Competition for Technological Leadership. EU Policy for High Technology* (Cheltenham, UK: Edward Elgar, 2002), 133.

expectation of domestic political economic returns that benefit the major domestic economic groups combined with the level of investments in the project.[383]

Some other differences arose during the negotiations. During the spring of 2001, France ceded its desire to explore the military potential for Galileo. Together with Italy and Spain, France accepted that the system would be used strictly for civilian purposes under private sector control. Germany softened its demand for a dominant private sector role early on, although the Netherlands in particular continued to call for clearer wording on the role of the private sector.[384]

The Parliament also followed the negotiations on Galileo. Just before the European Council Summit in Laeken, a letter signed by a large number of European Parliament members called on "the European Council to overcome differences in order to launch Galileo infrastructure in a timely manner... in order to strengthen European independence in aeronautics and space policy..."[385] However, from the U.S. perspective, the EU decision to invest $3 billion in the satellite system Galileo "deliberately and needlessly duplicates America's Global Positioning System."[386] In this regard, the United States started launching its 24 GPS satellites in the late 1970s to improve the navigation of its ships, aircraft and missiles. In the 2003 War in Iraq, for instance, an estimated 60 percent of the coalition's bombs were smart ones guided by GPS.[387] Currently, the GPS is

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[383] Lembke, 134.

[384] Lembke, 132

[385] Lembke, 8

[386] *Economist*, "A Moment of Truth," May 2, 2002.

[387] *Economist*, "Space Race," September 22, 2003.

a constellation of 28 satellites and ground support facilities, used for a wide array of economic, scientific, and military applications.

The Galileo project has brought about suspicion and rejection within some sectors of the United States, particularly the military one. According to *The Economist*, some American defense officials are worried that a rival system could be used by an enemy to direct missiles at the United States: "European countries, China and the like might develop weapons that are compatible with Galileo rather than GPS, which would mean American defense firms losing a competitive advantage."[388]

On the other hand, it has been said that, "Galileo has threatened US policy. Galileo is advertised as a civil system that does not intend to be dual-use or compete with the military aspects of GPS, although... the concept of the Galileo Publicly Regulated Service (PRS), as defined by the EU, leaves no doubt those European politicians are planning for a military dimension to Galileo."[389] Other voices have remarked that, "The joint U.S.-NATO Memoranda of Understanding took care of their military needs by giving the NATO military full access to GPS signals. Europe does not need a military satellite navigation system as long as the NATO treaty is in force. [390] This view advocated the position that U.S. government and NATO should exert their influence to control the European Union's aspirations of a satellite system.

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[388] *Economist*, "Space Race," September 22, 2003.

[389] Raymond Swider, "GNSS Interoperability: Future of Fantasy?" *GPS World*, December 2003, 18.

[390] Len Jacobson, "GNSS Interoperability: Future of Fantasy?" *GPS World*, December 2003, 18.

From the point of view of the U.S. Administration, Charles Ries, Principal Deputy Assistant Secretary for the Bureau of European and Eurasian Affairs of the U.S. State Department, stated that "the trouble results from the fact that the two Galileo signal structures have been scheduled for the same area as the Code M of the US system, posing a strong potential for interfering with sensitive military communications."[391]

The M Code is a new facet of the U.S. GPS system with direct and vital National Security implications designed to ensure NATO forces and U.S. forces access to encrypted and secure global positioning in the battlefield while allowing U.S. allied forces to deny access to commercial global-positioning signals to adversaries.

As long as the EU was able to make Galileo feasible, the United States had to accept it and negotiate the disagreements. On June 26, 2004, the United States and the European Union signed the Agreement on the Promotion, Provision, and Use of Galileo and GPS Satellite-Based Navigation Systems and Related Applications. The agreement ensures that Galileo's signals will not harm the navigation warfare capabilities of the United States and the NATO military forces, that both the United States and the European Union can address individual and mutual security concerns, and calls for non-discrimination and open markets in terms of trade in civil satellite navigation-related good and services.[392]

The most important issue is that the agreement ensures compatibility of the future M (military) code of the U.S. system with the closed PRS (Public Regulated Service)

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[391] Scott L. Wheeler, "Europe Attacks U.S. Space System," *Insight on the News*, Feb. 17-Mar 1, 2004, 24.

[392] US Department of State, *Fact Sheet: U.S., EU Reach Agreement on Satellite Navigation Services*, US Department of State, Official Statements for Europe and Eurasia, June 28, 2004.

code that is reserved for the European public sector. It also comprises four technical annexes covering national security, interference, synchronization and methodology.[393]

During the signing ceremony of the Agreement, U.S. Secretary of State Colin Powell stated that such agreement "manages to balance the competition that is inherent in the commercial dimension of satellite navigational technology with the cooperation necessary for the security dimension."[394] This was the final balance from the U.S. perspective.

Galileo is an example of EU foreign policy, negotiated prior and during its development amongst the different agents within the EU until reaching a compromise on all of their interests and arriving at a common position. In this way, the EU foreign policy can be considered as proactive, placing the United States in its relations with the EU in a position to either "react to" or "ignore" this EU policy. Given the competition and security concerns of the United States with regards to the EU's proximate launching of Galileo, the U.S. government attempted to negotiate its special interests as related to this satellite positioning project with the European Union. In this phase of foreign policy negotiation, the EU agencies again organized their own interests to present a common front to the United States in order to come up with a solution acceptable to all of the involved actors.

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[393] Christine Johnson, *U.S.-EU to Sign Landmark GPS-Galileo Agreement*, US Department of State Official Statements for Europe and Eurasia 600, June 24, 2004.

[394] Colin Powell, *Remarks at the Signing of the Galileo Treaty* (Dromoland Castle, Shannon, Ireland, June 26, 2004).

Conclusions

The six cases exemplify the variety of ways the EU foreign policy articulates the interest of states, community institutions, and interest groups depending on the issue and sectors involved. Understanding the EU as a disaggregated system with different levels of integration is likely to overcome the rigid dichotomy of state or supranational institution. Instead, the EU, as an arena of political debate with practices and institutions, makes possible the formation of networks, in which a variety of agents that represent specific interests interact to negotiate their positions.

The EU structure certainly may constrain the autonomy of the states in some sectors. Not all actors, however, are equally important in the policy making. The state remains central. What is relevant in the six cases analyzed is the way the state interacts with the networks formed by community institutions and interest groups. Likewise, the EU is a system that can exponentially increase the leverage of the individual states, either through intergovernmental agreements in the Council or through the mediation of the Commission. In addition, as the EU reaches consensus through networks that also include the interests groups, the legitimization of the European voice grows in the international arena.

The cases reveal three different ways in which the networks interact. The first is surrounding the trade area, as the steel and foreign sales corporation act cases show. Here, as practices are consolidated, institutions tend to react more efficiently to international uncertainty. Consequently, the conflict of interests is less evident than in the area of politics or security. Despite the fact that the Council of the EU decides the

steps to be taken by the Commission in order to represent the Union, the Commission has a leeway to exert its own leverage through the functions the states have delegated to it. In the second type of networks, negotiations at the European level make more evident the disagreements within the EU through the different political positions of the states. These are the cases of the ICC and the Kyoto Protocol; both divided the EU members in different groups; however, the network of leading countries, the Commission, interest groups, and civil society facilitated the sorting out of disagreements in order to accept and promote the ICC and the Kyoto Protocol. The third type is related to the security area; as security is one of the top responsibilities of states, the members of the EU tend to be cautious and reluctant to deepen cooperation. In this regard, among other objectives, the cases of passenger data and Galileo respond to the logic of providing better information for improving the decisions in the area of security.

Another that is highlighted in the case of steel tariffs is that, when it is necessary, the European Commission, business groups and NGOs have understood the strategic relevance of lobbying in the United States. The participation of these three agents was particularly notorious in the ICC and Kyoto negotiations, where European NGOs made alliances with their U.S. counterparts to exert pressure on the U.S. Congress. In the trade cases, more concentrated on the Commission as the most visible actor, the trade Commissioner Lamy was also very active in Washington in several stages of the disputes on steel and foreign sales corporation act.

Final Thoughts on EU Foreign Policy

Throughout history, Europe has seen two expressions of human nature. The first is the instinct that brought about two wars in less than half a century. The second is the impulse of survival through reconciliation and the construction of institutions to root out the likelihood of new ill-fated confrontations. This dissertation has focused on the cooperation of former enemies which has led to the creation of the external component of the integration process in Europe.

"Baptism by fire" is an expression coined by Roy H. Ginsberg to portray the history of the EU in international politics. The institutional development of EU foreign policy is certainly associated not only with wars, conflicts or bloodshed, but also with uncertainties and crises provoked at the regional and global levels. The argument of this dissertation is that EU foreign policy is also "baptism by crises." Sometimes the lack of means to coordinate the positions of the member states generates a lack of credibility in the EU's external relations. Nevertheless, crises by themselves do not create regional institutions or increase the efficiency of the existing ones. The convergence of the interests of the numerous participants in the EU foreign policy-making is a necessity; likewise, it is essential to define common foreign policy goals, reach consensus on the actions to be taken, and provide the means to carry them out. In this regard, the EU, as an expression of visionary political engineering, has undergone impressive transformations in only five decades.

Chapters Four and Five describe the EU foreign policy institutional developments and the interactions among the distinct EU agents, broadly defined as the ability or capacity of an actor to do and represent. The current developments in the field of foreign policy are the result of a long term process in which states have gradually accepted the convenience of delegating specific functions to regional entities.

In the case of the Council, for instance, the Constitutional proposal of creating the post of Union Minister of Foreign Affairs is the subsequent result of the creation of the Secretariat of the EPC in the 1980s and the current High Representative of the CFSP. Likewise, the role of the Commission in external affairs is rooted in the initial meetings of the EPC, and is an area in which the Commission has steadily increased its tasks. Among others, these events have transformed the traditional perception of foreign policy carried out exclusively by states as unitary and rational actors with fixed interests.

The structure of the EU is multifaceted and has varying degrees of integration. The institutional organization reflects different types of decision-making processes depending on the sector of activity. The way issues are negotiated in the internal market (highly integrated) differ enormously from the justice and home affairs area (still largely Westphalian and intergovernmental-oriented). Thus, the challenge for the explanation of EU foreign policy is more complex because even within this policy there are themes decided through distinct procedures. On the other hand, this policy has steadily developed its practices, institutions and instruments as a result of interconnections and negotiations of the interests of the agents that participate in the policy making process.

In this light, this dissertation relied on a combination of innovative approaches to explain the EU according to three levels of generalization. The first seeks to understand the EU as a political entity in constant transformation. The European Political Cooperation, the London Report, the Single European Act, the Treaties of Maastricht, Amsterdam, and Nice as well as the Constitutional Treaty have transformed the organization, instruments, and practices of the EU foreign policy making. Thus, the "mutually transformational" character of "agencies and structures" offers the flexibility needed to capture how the EU works and evolves. In comparison to the lack of interest of the European Community members to act in the case of Rhodesia in the 1960s, nowadays when there is a public disagreement on international issues and failure to act together, such as in the case of the U.S. invasion of Iraq in 2003, there is a political cost for the inflexibility of positions of EU member states. The European variable is currently key ingredient in the foreign policy making of the EU member states.

In such a transformational framework, the second level focuses on interests as the driving forces of integration. Agents (community institutions, states and organized society) are motivated to participate in foreign policy making when they perceive that a situation of uncertainty is threatening their interests. Thus, agents' preferences change over time as a result of permanent discussion and exchange of arguments that collective institutions promote; depending on the issues at stake, states may remain anchored in nonnegotiable positions or can make their interests more community compatible and thus mitigate problems of collective action. As the institutional development of the EU indicates, the tendency points toward more integration, despite the slow process of convergence of preferences.

France and Germany provide examples of states that have gradually changed their preferences, limiting their great power aspirations in order to check one another and perhaps to achieve some extraordinary status together. The French position with regard to EU foreign policy in 2004 is not the same as it was in the 1960s. For instance, the French acceptance of "structured cooperation" in the military area proposed by the Constitutional Treaty, explained in Section 5.4, differs from the rejection of the EDC in the 1950s. Essentially, as Loriaux postulates, France and Germany pursue realist policies based on geo-strategic interests, but both decided that the best way to pursue power politics was through cooperation, or internationalism, thereby denying either or both singular great power status.[395]

The third level of analysis is developed in Chapter Six. The character of the "agency-structure" relationship is motivated by concrete interests and preferences and is articulated through concrete networks. In other words, the interest of agents has a face and a name. Networks provide a valuable environment to exchange ideas, techniques, experiences, and problems, and create the equivalent of a collective memory. Likewise, networks lead to action and promote the harmonization of practices, laws and regulations.

The analysis of EU foreign policy suggests that three different sectors of activity can be identified. In the case of the political area, the enhancement of the EU foreign policy led to the development of institutions, involvement of new agents such as the Commission and to a lesser extent the Parliament in the policy making process, and creation of the Secretariat and subsequently the post of High Representative. These

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[395] Michael Loriaux, "Realism and Reconciliation: France, Germany, and the European Union" in *Unipolar Politcs*, ed. Michael Mastanduno (New York: Colombia University Press, 1999)

developments were supported by informal practices among the ministries of foreign relations through the so-called reflex consultation and more and better means of direct communication in the 1970s and 1980s. In the 1990s, the period of formal institution building began and the CFSP was provided instruments with which to act.

The case of trade is quite different. The functions delegated to the European Commission catalyzed the international presence of the EC. The creation of the customs union was a period in which the Commission and the member states learned how to get accustomed to the commitments made by the external representation of the EC. Once the Commission reached the status of "external voice" of the EC, it also accumulated power through the several areas indirectly connected with the single market and the jurisprudence of the European Court of Justice. Likewise, the Commission has readjusted its internal organization in order to respond to the delegated demands of the Council of the EU. It is important to note that the Commission has been able to create consensus in order to portray the voice of the EU in economic fora. Behind the voice of the Commission, there are competing state interests that have to negotiate because they have accepted to pool sovereignty.

The third sector in which EU foreign policy operates is the security/military area. In international relations, states are cautious and sensitive to cooperation in this area. In the European case, with the presence of the United States and NATO on the continent, there were no incentives to pursue a European army. However, as a result of the instability in the former Yugoslavia and the hesitation of the United States to intervene in the region, demands for the creation of EU military capabilities arose. As a matter of fact, the military theme became part of the foreign policy agenda and the developments

have been satisfactory, although slow and modest. Transformations at the state level are already taking place and numerous political and military EU bodies have been created within the Council, which have stepped up the development of military capabilities at the European level. The best examples of this are the modest military operations that have taken place over the past three years.

Based on the three sectors identified above, the six cases reveal that networks interact in three different ways. The first is surrounding the trade/economic area, as the steel and foreign sales corporation act cases show. Here, as practices are consolidated, institutions tend to react more efficiently to international uncertainty. Consequently, the conflict of interests is less evident than in the area of politics or security. Despite the fact that the Council of the EU decides the steps to be taken by the Commission in order to represent the Union, the Commission has certain leeway to exert its own leverage through the functions the states have delegated to it.

In the second type of networks, political/diplomatic negotiations at the European level make more evident the disagreements within the EU member states. These are the cases of the ICC and the Kyoto Protocol; both divided the EU members in different groups; however, the network of leading countries, the Commission, interest groups, and civil society facilitated the sorting out of disagreements in order to accept and promote the ICC and the Kyoto Protocol.

The third type is related to the security area. As security is one of the top responsibilities of states, the members of the EU tend to be cautious and reluctant to deepen cooperation. In this regard, among other objectives, the passenger data and

Galileo cases respond to the logic of providing better information for improving the decisions in the area of security.

In the three types of interactions, networks play an important role in the articulation of interests. In the making of EU foreign policy, community institutions and interest groups tend to organize around a large number of states and in turn alliances emerge.

The organization of the EU and its functions do not provide evidence that a European super state will be a reality in the next decades. Based on the peculiarities of the EU, this dissertation considers the EU as a Regional System of Integrative Governance, as was explained in section 1.3. In this respect, the neo-Westphalian era has not overcome the state, and probably will not in the near future; however, EU countries have yielded some sovereignty to accept interdependence, mutual vulnerability and a codified mutual interference as part of the integration process. The result is that the European governance has created institutions to negotiate, deliberate, and implement decisions, reached by intergovernmental or community decision-making mechanisms, and across a variety of policy domains.

In line with the reasoning of the present dissertation, it is expected to contribute to a research agenda that attempts to develop frameworks more suitable for the analysis of EU foreign policy, focusing on the interrelated and specific elements of the integration process.

This is why this dissertation has argued in favor of adopting a broad conceptualization of foreign policy that allows the study of entities with a plurality of actors such as the EU. Future research can reinforce the need of comprehensive

approaches to study EU foreign policy and enhance the number of cases in order to

identify the relevance of networks in the short, medium, and long term transformations of

the integration process and its foreign policy.

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