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# Advancing U.S. Interests with the European Union

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The Atlantic Council  
of the United States

Monograph  
January 2007



# THE ATLANTIC COUNCIL

## OF THE UNITED STATES

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# **Advancing U.S. Interests with the European Union**

*by*

**Leslie S. Lebl • Senior Fellow,  
The Atlantic Council  
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# Foreword

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The remarkable evolution of the European Union after the Cold War raises crucial questions for the United States. What role will the EU play, and how will its actions affect U.S. interests? Some observers think the EU is becoming a superpower that will dominate the United States. Others say the EU has already reached its zenith; that economic and demographic trends will cause it to fall behind the United States, China and India in the coming decades.

But whether the EU grows stronger or weaker, it already occupies a very important position in U.S. foreign policy. It is by far our largest bilateral trade and investment partner. It represents the region of the world that shares with us common goals such as the pursuit of democracy, free markets, the rule of law, and civil and human rights. The U.S.-EU relationship is also highly competitive: the EU is strong enough economically to challenge the United States and does not hesitate to do so in accordance with its interests. Its developing military capability, if not done in cooperation with NATO, could undercut both organizations. The sense of commonality and spirit of competition are both strongly present, so that EU can be seen either as the ideal global partner of the United States – or as its nemesis.

To manage this huge, complex relationship, the United States needs a strategy that balances cooperative and competitive elements, while keeping overall relations from being eroded by whatever the latest dispute happens to be. Our strategy must meet the following three criteria: (1) it must involve the active participation of more than a few federal agencies of the U.S. government; (2) it must be flexible and forward-looking; and (3) it must take into account the unique characteristics of the EU's decision-making institutions.

The present study examines in detail why this new strategy is needed; it proposes concrete policies and procedures designed to help the United States achieve its objectives in dealing with the European Union.

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# Executive Summary and Recommendations

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**W**ith the fall of the Berlin Wall, the face of Europe has been transformed. Most Americans have focused on the geopolitical and security dimensions of these changes, overlooking another significant aspect: the evolution and expansion of the European Union. Europe today is a unique construction, comprised neither of individual, sovereign states, nor of a single unitary state, but something in between. This construction has its imperfections, but it is durable. Even after the French and Dutch electorates rejected the EU's proposed Constitutional Treaty in 2005, the EU remains the central political institution in Europe.

U.S.-EU relations, which reached a nadir with the invasion of Iraq, began to improve with President Bush's visit to the EU in February 2005. After the June 2006 U.S.-EU summit in Vienna, Bush described his hopes for the future: "[W]hen America and the EU work together, we can accomplish big deeds." And indeed, despite the many ties that bind the United States to other continents and countries, Europe remains the region most likely to share U.S. goals of democracy, market economics and rule of law. It also offers the most potential for effective global partnership with the United States. At the same time, however, the EU can be a formidable opponent. It can either enhance U.S. policy significantly – or thwart it.

Unfortunately, the U.S. government is not organized to support the positive vision laid out by President Bush. Nor does it have a coherent approach toward the EU that synthesizes both the cooperative and competitive aspects of the U.S.-EU relationship. Today, most federal agencies in Washington still see Europe as a continent of independent countries, in which the large countries, such as the United Kingdom, France or Germany, along with NATO, are the key players.

U.S. officials often lack the expertise to understand and interpret EU policies and actions. They know too little about EU institutions, or about the shifting power relationships among them. Nor do they understand the complex links between the central authorities and national governments. Finally, the U.S. government as a whole lacks the senior-level attention to EU matters as well as the interdisciplinary flexibility required to deal successfully with the EU.

This study reviews briefly the ways in which the EU has evolved over the past decade and a half and identifies the ways in which it already influences U.S. policies and actions. It then sets out guidelines the United States should use to advance its interests with the EU.

## **Guidelines**

### **Guideline 1: Acknowledge the EU's central role**

Today's emphasis on ties with NATO and key bilateral partners is not enough. Such an approach ignores a key institution in Europe and undervalues its potential to exert regional and global influence.

### **Guideline 2: Get in on the ground floor**

It is vital to be proactive, rather than reactive, in dealing with the European Union. The United States must get in at the start of EU policymaking – and that in turn requires medium to long-term planning. Frequently, using a horizon of only days or weeks simply does not work.

Getting in early is a necessary, but not always sufficient step. Sometimes EU central authorities and bilateral governments refuse to discuss a potential problem until the EU has reached internal consensus on it. Once that happens, the EU and its member states are ready to talk – but not to negotiate any changes, since the policy is fixed. The United States must convince the EU that greater flexibility will be in its interest as well.

### **Guideline 3: Understand internal EU linkages**

For long-term, deep engagement with the EU, U.S. officials will need a more nuanced understanding of how the European Union's internal deliberations and decision-making processes work, and how to interpret the conflicting messages they receive from Brussels or national capitals. To do this, the United States needs to adopt a systematic rather than an *ad hoc* approach to working with the EU.

### **Guideline 4: Encourage a responsible and effective EU role**

The EU can be a reliable partner in addressing regional and global problems. The EU and the United States have been working closely on the Balkans, the Israeli-Palestinian conflict, Iran, regulatory policy and a range of counter-terrorist measures. In all these cases, one critical element has been close U.S. engagement with the EU. Often, the United States should take the lead in proposing substantive discussions and potential cooperation with the EU. Alternatively, it needs to be ready to respond to EU initiatives.

### **Guideline 5: Beware of EU claims to the "moral high ground"**

The prospect of close U.S.-EU collaboration requires some words of caution. Some Americans dispute the vision of common transatlantic values. That view is even more widespread in Europe, where many see values themselves as a measure of transatlantic differences. Talking about "the West" or "Western values" can be counterproductive; often, U.S. policymakers are better served emphasizing common interests, an approach that responds to the strong European desire for cooperation.

**Guideline 6: Address anti-Americanism**

In recent polls, Europeans repeatedly cite the United States as a primary threat to world peace, as well as a place of violence, economic inequality and injustice. This public opposition comes at a time when the United States and the EU are working together more closely than ever before. For this cooperation to endure the United States must do a better job, on an EU-wide basis, of explaining the motives and logic behind its policies and actions.

## Case Studies

The EU is a large and diverse institution, and these guidelines must be adapted to different policy and institutional environments. This study presents four case studies in sectors of particular interest to the United States: defense, foreign policy, counter-terrorism, and trade and regulatory policy.

**Defense:** Whether it is a question of threat perceptions, political will or capabilities, key decisions affecting European defense policies are now being made at the EU as well as at NATO. In fact, European allies sometimes delay a decision in NATO until a common position has been reached at the EU – thus introducing a *de facto* EU caucus into NATO deliberations. U.S. policymakers should acknowledge the EU’s expanding role, and use these insights to develop a more cooperative NATO-EU relationship.

The EU’s approach differs from that of NATO in several important ways. First, it does not aspire to undertake combat-intensive operations, but focuses on tasks such as peacekeeping. Second, for most of its existence the EU has been a purely civilian institution, and is still reluctant to be seen as “militaristic.” Third, it tends to be inward-looking; the outside world matters less here than it does at NATO. Fourth, the EU includes a number of neutral countries whose policies help to shape EU positions.

Institutional factors, though, are just part of the story. European views vary widely, and it would be wrong to base policy on just part of the spectrum. Some countries may stress European autonomy, but many dual members (the 19 countries that belong to both institutions) want to maintain a strong link to the United States, and to avoid any costly duplication of requirements or standards. In addition, representatives of the same government may say one thing at NATO, another in the EU, and yet another in talking to U.S. diplomats in their national capital. Interpreting these signals is key to assessing European political will or future military capabilities.

One fertile area for U.S.-European security and defense cooperation is the conduct of complex operations for peacekeeping or stabilization and reconstruction. Since the mid-1990s, both NATO and the EU have gained experience in this area. In addition, the EU is intent on developing civilian crisis management capabilities, as well as a European Gendarmerie Force, that could be deployed simultaneously with NATO or U.S. military missions. However, for this to work properly, the relations between NATO and the EU will have to improve.

**Foreign Policy:** While the EU cannot reach agreement on the most difficult issues, like the dispute over the Iraq war, today between 70% and 95% of European foreign policies are commonly held. In developing these common policies, a minority of Europeans want the EU to be an adversary or “counterweight” to the United States, often with a connotation of hostility. Others want it to be either a partner or a competitor. In practice, many EU policies parallel U.S. positions.

The United States' advantage lies in maximizing cooperation and partnership with the EU while counteracting any negative trends. As a first step toward this goal, U.S. officials need to be more familiar with the mechanics of how the EU reaches its common policies, so that they can interact more effectively.

This study will explore several aspects of EU policy toward the greater Middle East. There, despite a historical role as competitor or adversary, the EU has become more of a partner. Yet the United States is far from reaping the proper rewards from this improved relationship. Although European publics are likely to continue to oppose the Iraq war and criticize Israel, and to react strongly to allegations of torture, renditions of terror suspects, etc., the United States must continue to seek common ground with EU governments, and to get out its side of the story.

Multilateralism *per se* is a defining aspect of the “moral high ground” of the international community – and something the EU values highly. In this arena, competitive or adversarial elements can outweigh those of partnership. The United States must rebut charges of unilateralism or isolationism, while challenging the EU to make the multilateral system work properly.

**Counter-terrorism:** Europe is both the most important commercial partner of the United States and a potential avenue of entry for terrorist threats. For the foreseeable future, transatlantic counter-terrorism cooperation will be predominantly with national capitals, which have primary authority. But as long as illegal immigrants, criminals and terrorists can exploit the porous external border, the freedom of movement inside the EU and the conveniences of a single internal market, individual member states will be unable to solve these problems alone. There must be a collective response, and the EU offers the only real choice. And as the EU role grows, so will U.S. interest in cooperating with it.

Lack of internal EU consensus on how to handle these issues complicates U.S.-EU counter-terrorist cooperation. Recently, for example, the European Court of Justice voided the U.S.-EU airline passenger agreement because its substance was essentially law enforcement rather than commerce, and law enforcement was an area in which the Commission and Council lacked the legal authority to sign. In such a fluid situation, compartmentalization is a handicap. Rather, the United States must remain flexible, using an interdisciplinary approach to engage relevant agencies as needed.

Yet significant problems can arise along the way. One current example is a proposed rule that, while designed to enhance intra-EU law enforcement cooperation, would limit the transfer of personal data in criminal investigations from European governments to the United States, thereby greatly damaging existing cooperation. The question of data privacy is extremely sensitive in Europe, making it all the more imperative to find an acceptable compromise. Unfortunately, EU institutional inflexibility has blocked these necessary consultations.

In another key area, the Europeans are pushing for, while the United States is slow to release, more sharing of intelligence connected to counter-terrorism (as well as foreign policy). U.S. officials continue to favor established bilateral relationships with key European countries or NATO channels, and to worry about the risks of unauthorized disclosure if intelligence is shared with the EU as a whole. Yet the United States would benefit by providing analysis to explain potential threats more fully, as this would build consensus for future actions.

Beyond these technical issues of cooperation, there are broader political and social problems linked to Islamist ideology and terrorist activities. The United States should seek ways to expand its dialogue with the European Union on these questions, although its engagement will have to overcome European mistrust of American motives and actions.

***Trade and Regulatory Policy:*** The economy is the bedrock of the transatlantic relationship, with joint output equivalent to 60% of world GDP (gross domestic product), and transatlantic trade and investment flows valued at roughly \$3 trillion and expected to grow. When the EU and the United States agree on international economic issues they set the global agenda. Whether promoting free markets around the globe, restoring stability in the Balkans, or enhancing the security of container shipping, the United States needs the support of the European Union.

The positive dimension of the relationship is obvious, yet the perception of U.S.-EU economic relations is often quite different. Because of the dense ties and the high stakes involved, transatlantic disputes are serious and high-profile. Moreover, the United States and the EU offer competing approaches to global economic issues.

In the economic area in particular, the United States needs a vision of co-competition – how to compete and cooperate with the EU at the same time. U.S. policymakers should integrate the activities of all the U.S. agencies engaged in economic relations with the EU, while keeping the overall relationship from being framed by the latest dispute. This study will look at the mechanics of how issues concerning food and food safety are handled, and suggest ways to improve the U.S. approach, both in Washington and at European posts. It will emphasize the domestic nature of many of these disputes, and the corresponding requirement for U.S. officials to reach out to nongovernmental as well as governmental players in Europe, and engage in a public discussion of U.S. interests and the reasons behind them.

Regulatory and standards policy, another sector with potential for both cooperation and competition, offers examples of ways that the United States can engage with the EU in the design phase in the role of problem solver, rather than later as “enforcer” of international laws or agreements.

## Recommendations

Organizational changes will be needed to support the proposed policy changes emerging from this discussion of guidelines as applied in the areas of defense, foreign policy, counter-terrorism and trade and regulatory policy. This monograph proposes a series of interlocking measures: more senior-level direction of U.S.-EU policies, improved coordination both interagency as well as within departments and agencies, more effective use of U.S. embassies in Europe, and enhanced expertise on EU issues. In addition, it emphasizes long-term planning and more focused public diplomacy.

- **Recommendation 1:** The National Security Council should create a senior-level position responsible for all aspects of EU policy, political and economic. This position should be separate from the one dealing with NATO.

The senior director for EU affairs at the National Security Council would provide for greater interagency coordination and/or deeper engagement of the White House on EU issues. This individual should ensure that the U.S. government as a whole is better prepared to deal with the EU. S/he should work closely with the proposed Assistant Secretary of State for EU affairs, and oversee interagency coordination at the U.S. mission to the EU in Brussels.

- **Recommendation 2:** The State Department and other federal agencies should create positions, at the Assistant Secretary level or above, to manage U.S. policy toward the EU. These senior officials should not be in charge of “coordinating policy” but should have real authority.
- **Recommendation 3:** EU expertise must also be developed below the senior-most levels, whether in agencies such as the Federal Bureau of Investigation and U.S. Immigration and Customs Enforcement, or in bureaus within departments.

Senior-level leadership and oversight, in relevant foreign affairs agencies, would create more opportunities to influence and shape EU proposals, and to encourage the EU to consult and negotiate in advance of legislative decisions. Further, it would help to keep issues from “slipping between the cracks.” This is particularly critical when EU actions can force the United States to change its legislation or policies. For senior officials to be effective, departments and agencies need to develop EU expertise in key technical or mid-level positions.

- **Recommendation 4:** The State Department should establish a new Under Secretary position for dealing with the EU, and combine that function with the post of Ambassador to the EU in Brussels.



- **Recommendation 5:** To support this senior-level official, the State Department should establish a Bureau for European Union Affairs. This bureau would share authority with a Bureau for European Bilateral and NATO Affairs.

The State Department plays a critical role in developing U.S. policy toward the EU. By overseeing political relations, it helps to determine the context in which the other agencies operate. It also plays a key role in interagency coordination. Overseas, its ambassadors ensure that all agencies and departments represented in their embassies operate in a coordinated fashion. Finally, the State Department has a substantial number of diplomats assigned to European embassies.

To fulfill its leadership role, the State Department should combine a proposed post of Under Secretary for EU affairs with the existing one of Ambassador to the EU, and create a new Bureau of European Union Affairs, headed by an Assistant Secretary, in Washington. This approach would parallel, to some degree, the relationship between the U.S. ambassador to the United Nations, who has cabinet or sub-cabinet rank, and the Assistant Secretary for International Organization Affairs, the head of the bureau responsible for UN affairs.

The Under Secretary would provide overall U.S. policy direction toward the European Union, working with the National Security Council or other departments as necessary but focusing on developments in Europe. The bulk of the domestic coordination, both interagency and in the Department, would be done by the Assistant Secretary.

- **Recommendation 6:** The Under Secretary for EU Affairs/U.S. to ambassador the EU should have authority over other European posts where EU policy is concerned, and the role of the U.S. mission to the EU should be enhanced.

EU institutions have close links with member state governments and partial authority over them; the relationship between the U.S. Mission to the EU (USEU) and the other U.S. posts in Europe should be organized in similar fashion. The Under Secretary should engage the ambassadors and embassies in national capitals much more intensively, involving them in all aspects of U.S. policy that affect their host country.

- **Recommendation 7:** Officials in the relevant U.S. government agencies should be encouraged to develop expertise on the EU.

Raising the profile of EU issues is an important first step toward remedying current shortcomings in U.S. government expertise in that area. U.S. foreign affairs agencies need to develop a cadre of experts who understand the EU's institutional and political dimensions. This is a long-term goal, but an essential one.



- **Recommendation 8:** Officials at the National Security Council, the State Department and elsewhere should incorporate systematic long-term planning into their formulation of EU policy.

If senior officials focus on the EU, they will be more aware of the EU's multiyear decision-making process and its capacity to reinforce or obstruct future U.S. policy choices. The Assistant Secretary for EU Affairs and other senior U.S. officials should develop the necessary long-term planning capabilities to allow them to influence that process.

- **Recommendation 9:** The National Security Council, State Department and other agencies should develop a public diplomacy strategy tailored to the EU environment.

The proposed reorganization will provide a better platform for developing and implementing U.S. public diplomacy initiatives. The State Department's new Bureau of EU Affairs should have its own public diplomacy office, and USEU should become a regional public diplomacy center.

# Guidelines for Success

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Since the end of the Cold War, the face of Europe has been transformed, and a good portion of this change has consisted in the evolution and expansion of the European Union. The EU today performs functions that would have been unimaginable 20 years ago. It has an emerging single market,<sup>1</sup> few internal borders, and a single currency adopted by most members. It has expanded to 25 (and soon more) members, in the process extending into previously remote regions such as Eastern Europe and the Balkans.

In foreign policy, the EU increasingly acts as a unified force, deploying military forces in the Balkans and Africa, and acquiring global as well as regional interests. And in areas of domestic security, long considered among the most sensitive for national governments, the EU is gradually coordinating such issues as immigration policy, law enforcement, and border and transport security.

To accomplish these goals, the EU member states have pooled substantial portions of their state sovereignty. Europe no longer consists of individual, sovereign states, but neither does it comprise a unitary state. Rather, it is something in between. Even after the French and Dutch electorates rejected the proposed Constitutional Treaty with its elements to strengthen EU leadership, the EU remains the central political institution in Europe.

U.S.-EU relations, which suffered greatly during the dispute over the Iraq war, began to improve with the visit of President Bush to the EU in February 2005. After the June 2006 U.S.-EU summit, Bush identified the EU as a key strategic partner for the United States in advancing its global interests: “[W]hen America and the EU work together, we can accomplish big deeds.”<sup>2</sup> Unfortunately, the U.S. government is not organized to support this policy direction, nor does it have a coherent approach to dealing with the EU.

Today, most federal agencies in Washington continue to view Europe as comprised of independent nation states, or they see it through the prism of key allies and NATO. Some policymakers still think of the EU as merely a common market. They overlook the EU’s new mandates and fail to appreciate the political, economic, military and security assets that the EU increasingly controls or coordinates. They also overlook the EU’s role in determining, according to some estimates, more than half of the legislation of its member states.

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1 Trade in services, which amounts to more than trade in goods, has not yet been liberalized.

2 See “President Bush and EU Leaders Hold Post-Summit Press Conference.”

Understanding the EU's complex institutional structure and learning how to decipher its mixed signals are tasks requiring expertise that cannot be built up overnight. A major investment along these lines is essential: Europe remains the region most likely to share U.S. goals of democracy, market economics, and rule of law. At the same time, the EU competes with the United States and, in some areas, can block U.S. policy. It can either enhance U.S. policy significantly – or thwart it. The guidelines below suggest ways in which the United States can develop this expertise and achieve its own objectives more consistently.

The EU's central institutions (see box) share executive, legislative and judicial functions, and their power relationships and authorities are fluid. Cross-cutting issues are the rule rather than the exception in U.S.-EU relations. Quite often, an issue is commercial as well as military, like the Galileo satellite navigational system;<sup>3</sup> political as well as economic, like the imports of genetically modified organisms; or political as well as counter-terrorist, like the use of the death penalty or renditions of alleged terrorists. If the issues are interwoven, so are the levels of decision-making, as central authorities and member state governments share sovereignty within a complex institutional structure.

Today's *ad hoc*, uncoordinated approach to EU relations between and within U.S. federal agencies and between U.S. posts in Europe is a handicap. The United States needs a more holistic approach, one that emphasizes a multidisciplinary approach, enhanced interagency cooperation, and a high degree of flexibility. And to achieve that, there must be more senior-level leadership. Today, no U.S. agency has a senior official whose primary focus is the European Union. Instead, senior policymakers tend to see only the individual issues on which they are interacting with the EU, not the big picture, and while they work these issues, many non-EU-related matters compete for their attention.

More senior-level focus would also address two additional problems. First, it would correct the difficulty the United States has in responding to long-term EU initiatives because it lacks long-term planning capabilities. Second, it would help to focus U.S. public diplomacy assets on EU-wide issues at a time when European attitudes toward the United States are a key constraining factor in the U.S.-EU relationship.

To evaluate the prospects of the U.S.-EU relationship, this paper will look at the global capabilities the EU has today, and where it may go in the next five to ten years. That discussion will set the framework for developing guidelines for success – policy and procedural changes to give the United States a greater chance of succeeding in its aims.

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3 See “GPS and the EU's Galileo Program.”

## EU Institutions

**The European Council:** Comprised of the presidents and prime ministers of the 25 EU member states and the President of the European Commission, and headed by the member state in the six-month rotating Presidency, it meets at least four times per year to set the EU's main policies. It also resolves issues that could not be agreed at the level of the Council of the European Union (ministers).

**The Council of the European Union:** Comprised of member state ministers,<sup>4</sup> the Council is the EU's main decision-making body. It meets frequently to propose and implement EU policies and to adopt EU legislation. Its Secretary-General, Javier Solana, is also the High Representative for the Common Foreign and Security Policy. The Council Secretariat contains Solana's Policy Planning staff, the EU Military Committee and Military Staff, and other new foreign and security policy institutions. The Council's agenda and meetings are set by the rotating Presidency.

**The European Commission:** Headed by the Commission President, now José Manuel Barroso, its College is comprised of one Commissioner per member state, who preside over the permanent body of EU officials charged with preparing draft EU legislation; carrying out Council decisions and monitoring their implementation; and preserving the EU basic treaties. It is designed to uphold EU interests as a whole.

**The European Parliament:** With 732 delegates directly elected every five years, the Parliament's limited powers are expanding. It is influential in European politics, serving as the EU's primary debating chamber. The Council must increasingly share its legislative and budgetary powers with the Parliament. The latter's role on economic and environmental issues is substantial; its role on foreign policy, defense and homeland security is more limited.

**The Court of Justice:** Comprised of one judge from each EU country, appointed for a renewable six-year term, the Court is located in Luxembourg. It ensures that the treaties establishing the EU are correctly interpreted and applied. It can also rule on whether the European Parliament, the Council or the Commission is failing to act as required.<sup>5</sup>

The EU's unique sharing of sovereignty among states has given rise to unique institutions. Executive and legislative authority are not divided according to traditional patterns. While the Commission is the primary executive body, the Council of the European Union retains some executive functions. And while the Council of the European Union and Parliament are the main legislative bodies, only the Commission can initiate legislation.

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4 Depending on the subject, these can be agriculture, transport, finance ministers, etc.

5 For more details, see "How does the Union work?"

Subsequent chapters will examine sectors of particular interest to the United States: defense, foreign policy, counter-terrorism, and trade and regulatory policy. The purpose of this monograph is not to provide an encyclopedic survey of U.S.-EU relations, but rather to show how the guidelines apply in different policy and institutional environments. The final chapter will recommend organizational and procedural changes to boost the effectiveness of U.S. interactions with the European Union.

## The EU in the World

The relative importance of the EU in U.S. policy depends, of course, on expectations of its future role. Several experts argue that Europe's role in general is already diminishing, that its economy and society are stagnant or in decline.<sup>6</sup> They predict that any real opportunities, competition or threats will come either from rising stars such as China and India, or from Islamist sources. In contrast, other observers argue that the EU will soon be a superpower – though an unconventional one – and will out-perform the United States in key sectors.<sup>7</sup>

- **Economic influence.** By many measures, the EU enjoys rough parity with the United States. A powerful trade actor, its recently launched euro is beginning to rival the dollar as a reserve currency worldwide. Enlargement has given it new growth prospects and a larger internal market than that of the United States, while the prospect of EU benefits or membership exerts a powerful influence on neighboring states. Obtaining EU agreement is essential to achieving U.S. objectives in virtually all multilateral forums where U.S. interests are engaged.
- **Regulatory reach.** The EU already issues regulations with global import in many sectors, regardless of its perceived weaknesses, its recurring inability to implement those same regulations internally, or any doubts about the future of the EU itself.
- **Ideological or intellectual impact.** The EU has already demonstrated its ability to influence the global agenda, particularly in areas such as human rights, food safety and the environment. It represents the “postmodern world” where transnational interests, represented by political élites and nongovernmental organizations, set the agenda. Its intellectual leadership in the developing world is significant.
- **Foreign policy aspirations.** The EU's progress remains constrained by policy differences among member states, and by limited military capabilities. The overt attempt by France and Germany during the Iraq crisis to set up the EU as a counterweight to the United States succeeded only in damaging bilateral relations and obstructing NATO-EU ties. Since then, the EU has adopted a common security strategy and worked more closely with the United States in the greater Middle East and elsewhere, despite widespread public opposition in Europe to key aspects of U.S. foreign policy. The EU will continue to promote “effective multilateralism” in international organizations, sometimes to the detriment of U.S. interests.

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6 For a less dramatic, but sobering analysis, see Cutter and Stern.

7 See Leonard, Schnabel, Reid and Kupchan.

That is the situation today. This paper also looks briefly at where current trends, despite a wide band of uncertainty, are likely to lead the EU in the next five to ten years. The accompanying box sketches potential developments in five areas: internal governance; the ability to address emerging security threats; economic policies to stimulate growth; demographic decline and unassimilated Muslim minorities; and the EU's relationship to the United States. These projections strongly suggest that the EU will retain an important influence on key U.S. policy interests, whether it is strong or weak. In fact, as the analysis shows, its potential weakness may be more of a threat to U.S. interests than its strength.

Charles Kupchan, in *The End of the American Era*, warns policymakers of the danger that the United States and Europe could become estranged, in much the same way as the eastern and western portions of the Roman Empire did in the fourth century. While historical comparisons are always risky, the pressures to differentiate Europe from the United States, and the sense of competition, are real. Whether the European Union is strong enough to dominate the 21st century<sup>8</sup> or whether China and India leave it in the shade is not the issue. Rather, it is that the United States should not allow a situation to develop in which, rather than working together on a range of global issues (and occasionally agreeing to disagree), the two slip into an acrimonious and adversarial relationship. The guidelines and recommendations proposed in this study will further the goal of effective cooperation.

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8 See Leonard.

## The EU in Five to Ten Years: A Prognosis

**Internal governance:** The EU will still be wrestling with questions of sovereignty and governance, and battling public disaffection. It will have taken in more members (Romania, Bulgaria, Croatia and perhaps Macedonia), but will lack a clear executive power to deal with outsiders or enforce internal EU decisions. Big states like France, Germany and the United Kingdom will try to take the lead, while small states back the Commission. National capitals will remain important players, including on policies where Brussels has the lead.

**Emerging security threats:** The EU will have made significant strides toward integrating its internal security functions. At the same time, its citizens will feel less safe than they do today – they will be more cognizant of the dangers, but not necessarily more confident that either national or EU governments can protect them adequately. They will also worry that new measures, whether undertaken by the EU alone or together with the United States, will undercut their civil liberties and human rights standards.

**Economic policy:** U.S. economic interests in Europe will be greater than they are today. Europe itself will debate its economic philosophy while citizens fear losing their jobs. The formula that worked for 50 years, using European integration to promote economic growth, will offer only a partial solution. The EU will continue to challenge U.S. trade interests and to extend its regulatory powers on a global scale. The EU will aggressively seek commitments from others, in particular the United States, yet be inconsistent and dilatory in implementing its own, such as those made to the World Trade Organization.

**Demography:** Indigenous birth rates will remain low, and only limited progress will have been made in extending active working years. These trends will continue to cast doubt on Europe's ability to maintain its social welfare system, as well as to compete with non-Western powers. Nor will most EU member states have found the right mix of policies toward their growing Muslim minorities. Efforts to integrate the latter into European societies will suffer from the lack of available jobs as well as from the efforts of radical Islamist organizations to keep them apart. Meanwhile, Islam will be the most vibrant religion in Europe. European secularism and multiculturalism will be under challenge, and Europe will likely remain a haven for Islamist terrorists and incubator for spreading radicalization.

**Relationship to the United States:** EU political elites will still measure the EU's performance primarily against that of the United States, exulting when the EU "wins" and plunging into gloom when it "loses." European publics will focus instead on their own well-being, rejecting calls for increased military spending. Despite many instances of positive U.S.-EU cooperation, whether on the Balkans, Iran or counter-terrorism, on political issues the Europeans will be reluctant to accept American leadership. Public hostility toward the United States, rather than concrete policy differences, will be the key limiting factor in U.S.-EU relations.



## Proposed Guidelines

The guidelines below offer a coherent approach that will substantially increase the ability of the United States to achieve its objectives in this new terrain. The EU is a large and diverse institution; the guidelines must be applied differently in different areas, as will be shown in the case studies that follow. Some policymakers are already moving in this direction, but putting them at the center of U.S. policy, rather than applying them piecemeal or inconsistently, will produce a synergistic effect greater than the sum of the parts.

### Guideline 1: Acknowledge the EU's central role

At the moment, relations with NATO and key bilateral partners, while important, obscure U.S. perceptions about the EU in the same way that the headlights of an oncoming car blind a driver to his surroundings. This approach is inadequate, if not inherently unstable, as it undervalues the EU's role.

Many Europeans, particularly younger ones, see the EU as a career and as their future. For them, NATO is merely an insurance policy. While NATO is the premier transatlantic security institution, basing U.S.-European policy on NATO is too limiting. And while the two institutions overlap in some areas, for the most part they have very different missions and internal characteristics. The United States will get better results by developing expertise on the EU rather than by focusing most U.S. transatlantic efforts on NATO.

Moreover, an excessive focus on NATO can mask other important U.S. interests. For example, the United States may think, viewing Europe from a NATO perspective, that greater autonomy among European countries is advantageous. However, stronger central institutions are more in the U.S. interest when it comes to enforcing the EU's international economic commitments.<sup>9</sup> Too much focus on NATO leads U.S. policymakers to give preference to national capitals, even when it is not necessarily in their interest.

Nor should the United States overemphasize its bilateral ties with European countries. Many EU member states cherish their relationship with the United States and tend to downplay the EU when talking to American counterparts. However, the approach appropriate for the rest of the world – dealing with individual states – is not a good fit here, as it does not correspond to reality. If the United States continues to assume that France, Denmark or the United Kingdom are separate from one another, it sets itself up, on the one hand, for constant frustration, and on the other, for great difficulties in discerning the internal linkages described below.

Further, the United States weakens its position by relying on one or more member states to keep it informed of what is going on in the EU and to shape internal EU policy. This tendency is most marked with respect to the United Kingdom, but also exists for other countries. Individual member states may share U.S. perspectives on

<sup>9</sup> Van Oudenaren, "E Pluribus Confusio."



various issues, but they also have their own interests to protect. Contacts with bilateral governments are an important component of U.S. policy toward the EU, but their contribution should not be exaggerated.

Beyond an excessive focus on NATO or bilateral ties, there is a tendency, equally faulty, to believe that the United States should cooperate with the European Union on global issues but that it no longer has business to tend within Europe. This view completely ignores expanding U.S. economic interests in Europe, security issues connected to Islamist terrorism, and the corrosive impact of European anti-Americanism, to mention only the most salient issues. These concerns cannot be allowed to slip out of sight.

One factor behind today's approaches is very understandable: the EU is an unappealing and bureaucratic organization. It is striking how many U.S. officials express considerable frustration and dissatisfaction about dealing with the EU. They feel they are forced to engage in extensive bureaucratic maneuvering which in the end yields them little – that EU officials make commitments they do not subsequently honor. These are accurate perceptions, but they do not tell the whole story. The EU creates new opportunities as well as new challenges for U.S. policymakers. Ignoring the EU usually means forgoing the opportunities while being left with the challenges.

### **Guideline 2: Get in on the ground floor**

Virtually all the senior officials interviewed for this project stated that it was vital to be proactive, rather than reactive, in dealing with the European Union. To be proactive, the United States must get in on the ground floor of EU policymaking – which in turn requires medium- to long-term planning. Frequently, using a horizon of only days or weeks simply does not work, given the nature of the EU. All too often the United States wakes up to a potential problem with EU policy only too late, whether the immediate issue concerns genetically modified food or the International Criminal Court.

A large, ungainly organization, the EU operates either on the basis of unanimity or qualified majority voting preceded by extensive efforts to build consensus. That consensus is usually embodied in long-term plans to achieve a given goal: economic liberalization, a common asylum system, or common border police requirements. While the EU moves very slowly, earning the scorn of American observers for its bureaucratic ineptitude, most of the time it achieves its goals. It may not do so on time and the process may not be pretty, but in the end it gets there.

These EU deliberations may seem designed to harm U.S. interests. That, however, is rarely the case. The EU is very much an internally focused organization. In the past five years it has made huge changes in agriculture, immigration, policing, monetary affairs and membership, which have absorbed most of its energy and attention. Little is left over for contemplating the impact of a proposed policy on third parties such as the United States.

The EU's method may be effective, but the price for it is bureaucratic rigidity. Once decisions have been reached, they are very hard to amend, for the simple reason that if one thing changes, member states will be quick to reopen other issues, and soon the entire edifice will collapse. Hence, it is essential for the United States to know what the EU is planning before key decisions are made.

Yet that may not be enough. Sometimes, if concerns are raised early in the process, EU officials consider them and make the necessary adjustments. But at other times, the United States (like other non-EU countries) finds itself in a “too early/too late” trap. It may object to a proposed measure, only to be told that neither the EU central authorities nor bilateral governments can discuss it until the EU has determined a common policy. Once that happens, the EU is ready to talk – but cannot negotiate any changes, since the policy has already been agreed. The counter-terrorism case study shows how this difficulty is compounded by requirements for consultations with the European Parliament. The United States, as part of its strategy, must persuade the EU that greater flexibility will be in its interest as well.

### **Guideline 3: Understand internal EU linkages**

Achieving long-term, deep engagement with the EU will require more skill in obtaining a clear picture of the European Union's internal deliberations and decision-making. The bureaucratic complexity of the EU invites confusion, if not deliberate obfuscation: a systematic rather than an *ad hoc* approach is necessary to decipher messages, identify decision-making patterns, and anticipate and interpret EU actions.

When the EU agrees with the United States, national officials are glad to so inform their U.S. counterparts. Disagreement is often masked; officials in national capitals deplore the difficulty and blame it on “those people in Brussels.” Or U.S. officials are told that for a given issue authorities at the national or local, rather than EU, level are responsible. Only later does it turn out that this was not the case, perhaps because U.S. engagement spurred the Commission in Brussels to make a bid to extend its competence. Such turf battles have characterized U.S. negotiation of the Open Skies aviation agreements and the post-September 11 Container Security Initiative.

Some of this confusion may be intended to confuse outsiders, but most is not. Europeans engage in these maneuvers among themselves; in fact, it is part of the reason why the EU is so unpopular in Europe.<sup>10</sup> National politicians are quick to take credit for popular policies, and equally quick to blame Brussels for unpopular ones (just as Americans blame Washington for everything).

Similarly, U.S. officials in Washington find that they deal with diplomats from the national embassies most of the time, while the role of the European Commission Delegation is obscured. To some degree this reflects the actual degree to which sovereignty is or is not shared in Europe. But it also reflects the fact that the EU's new

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10 Bounds.

foreign and security policy institutions, connected to the Council of the European Union, are not represented by the Commission, a separate body with different functions. (See earlier box on EU institutions.) The result: considerable freelancing. U.S. officials may believe that they are providing extensive information to the EU, when in fact the Italian, Swedish or British diplomat may be reporting back only to his or her national capital.

The opposite problem also exists. U.S. officials may seek to make common cause with specific member state governments, rather than approaching all of them or the EU in Brussels. More than once, supposedly confidential messages have been circulated, almost instantaneously, throughout the EU – thus losing whatever confidentiality they may have possessed. There are too many habits of internal EU cooperation, and too many individuals in each government who not want the EU to be circumvented. Virtually continuous coordination in Brussels has a direct impact on the behavior of the member states.

These bureaucratic intricacies exist in most sectors. The defense and economic case studies examine the problem in more detail, but this guideline applies equally well in counter-terrorism or foreign policy. U.S. officials everywhere need to probe the assertions of their interlocutors to find out what they really think. Only proactive communication can provide the proper basis for effective U.S. policymaking.

#### **Guideline 4: Encourage a responsible and effective EU role**

The reward for making the investments in time and attention to the European Union described in the first three guidelines is the potential to acquire a long-term partner in combating many global problems. At present, whether the problem at hand is a regional security crisis or an initiative to make an international organization more effective, U.S. policymakers often cannot decide whether EU engagement will contribute to a solution or not. Will the EU fail, as it did in Bosnia in the 1990s? Or will its performance match its (sometimes grandiose) rhetoric and promises?

Experience since the Bosnia crisis suggests that the EU can in fact be a reliable partner and contribute substantially to the solution of various problems. The EU and the United States have been working closely in several areas that previously would have been considered too sensitive for such cooperation: the Balkans, the Israeli-Palestinian conflict and Iran. Similarly, EU military forces have replaced NATO forces in Macedonia and Bosnia-Herzegovina, allowing the United States to focus more sharply on priority areas such as Afghanistan and Iraq. And EU authorities are working on biometrics and other ways to improve the security of travel documents – the latter initiative exceeding that of the United States.

In all these cases, one critical element has been close U.S. engagement with the EU – without that engagement the outcome might have been quite different. Turning a problem over to the EU and forgetting about it does not work. Nor can the United States simply ask the European Commission to fund various humanitarian or recon-

struction tasks; it must engage the EU politically as well to reach general agreement on common goals, threat assessments, and actions to be taken. This approach may be labor-intensive, but it is the only approach that works.

The EU's seasoning has been a second critical element. Whether conducting military operations or joint talks on homeland security, the EU tends to emerge stronger and demonstrate more assurance in taking on additional responsibilities. The EU's new foreign policy structures, for example, which include Javier Solana's post and a Political and Security Committee in Brussels, provide greater discipline and support for common positions, and in turn enhance their authority by overseeing out-of-area military and civilian operations. These structures are in their early stages and have not been subjected to severe strains (such as an EU military mission gone awry), so their impact should not be exaggerated. Nevertheless, they are already changing the nature of the EU's external engagements.

When the EU signals a desire to become more active, whether the United States interprets this signal as rhetorical or real, it needs to react and often to take the lead in proposing substantive discussions with the EU. For example, the EU is focused now on China in a way that it was not five years ago, although its interests there are still primarily economic. As that interest will not diminish, the United States should seek to engage the Europeans on security and human rights policy toward China as well as other countries in the Far East. The United States should also take the initiative to propose concrete ways in which the EU can become a more constructive player in multilateral institutions. An enhanced EU role will not always be the U.S.-preferred option, but it may be so more often than many Americans expect.

### **Guideline 5: Beware of EU claims to the “moral high ground”**

The prospect of close U.S.-EU collaboration, while real, does require some words of caution. In many ways, Europe is more closely aligned to the United States than are most other regions in the world. In addition to the ties developed during 50 years of a military and security alliance, these countries are all democracies; they adhere to market economics; and they respect the rule of law and civil and human rights.

Some Americans dispute this vision of common values, though, arguing that the differences are significant. That perspective is even more widespread in Europe. While Europeans like German Chancellor Angela Merkel emphasize the importance of common values, others find certain divergences in values as the very measure of transatlantic differences.

The urge to differentiate is quite understandable, and the EU plays an important role in this process. It offers a “European identity,” and enough combined economic and political weight to make such an alternative feasible. It also offers a focal point for those, in a highly secularized Europe, who pursue “values” with something akin to religious fervor. Certainly, this claim to the “moral high ground” has been successful.

The EU has positioned itself internationally as the “moral” power while the United States figures consistently as one of the biggest threats to world peace, according to European opinion polls.

Without denying the genuine convictions of many who support “European” over “American” values, this approach also has a very practical political benefit because it transforms some of the EU’s more critical weaknesses into strengths, particularly in the areas of environmental safety and consumer protection.

As the EU created a single internal market, it extended its regulatory powers significantly. Yet the regulatory system in Europe functions quite differently from that in the United States. Once the EU central institutions have agreed on a new regulation, it is up to the national authorities to implement it. The central authorities have only a very limited capability to ensure that implementation is done quickly and properly. In reality, it often takes years and is very uneven. In the case of regulations affecting food safety or data privacy, the average EU citizen is perfectly justified in being skeptical that the promised protections actually exist.

Politically, it is much easier to demand protection from the noxious potential of U.S. genetically modified food than it is to make sure that the slaughterhouse in Italy meets EU standards for preventing the transmission of mad cow disease. People living in countries that lack civil protections as well developed as the U.S. Freedom of Information Act are much more likely to demand extensive assurances that their personal data will not be misused. By positioning itself as the protector of European standards and values, particularly against U.S. pressures, the EU can “build Europe” more effectively. This is powerful politics indeed, and the United States should not underestimate its impact.

Differences over common values complicate the argument that the United States should seek, wherever possible, to work with the EU to set the parameters of global action, particularly before countries like China and India gain enough power to do so themselves. In many cases, cooperating closely with the EU is indeed of great benefit in advancing U.S. objectives. However, this approach does not work all of the time and, given the differing assessments of common values, sometimes it backfires, as in the case of the International Criminal Court.

U.S. policymakers are better served by proceeding, case by case, on the basis of common interests. This approach, already applied to some extent, helps the United States to tap into the strong European desire for cooperation that coexists with the desire for competition. The United States will continue to base its positions on values – no administration would survive long if it failed to do so. But U.S. policymakers will need to be more sensitive about how they implement those policy goals in Europe. Today, talking about “the West” or “Western values” is difficult; it may be even more difficult in the next five to ten years if perceived differences with the Europeans grow.

## **U.S. Policy toward the CEE Countries**

The Central and Eastern European (CEE) countries (Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Lithuania, Latvia, Estonia, Romania and Bulgaria), although poorer and less powerful than the West European countries, already exercise a significant influence in both NATO and EU policy. In dealing with them, U.S. policymakers will be more successful if they focus more on common interests than on common values, for the following reasons.

First, while some of these countries (Poland and the Baltic countries) remain very concerned about Russian encroachment in Europe, that fear is considerably less in the Czech Republic, Hungary or Slovenia, where the territorial threat is less. The CEE countries continue to value NATO's role, and in particular the U.S. security guarantees inherent in NATO. However, "the bloom is off the rose": Poland in particular feels that its sacrifices in Iraq have not produced improved Polish-U.S. relations, and in general, CEE governments must struggle against the widespread unpopularity of their participation in the war in Iraq. They feel they are being taken for granted by the United States, and they resent this.

Second, the CEE countries will increasingly orient themselves toward the European Union, despite their attachment to NATO or the United States. It is the EU that will give them the subsidies they need to clean up the environment or improve agriculture and transportation – not the United States. They already attend countless meetings in Brussels that absorb most of their attention and from which they draw much of their policy-relevant information. Thus, they will increasingly view the world from an EU perspective. They will want the United States, the EU, and NATO to cooperate with each other – they will not want to be forced to take sides. They are more likely to respond positively if the United States presents convincing arguments against an EU policy without belittling the EU as an institution.<sup>11</sup>

Third, CEE influence within the EU is only now emerging. In addition to contributing to a fairly even split over economic philosophy within the 133 Committee on trade policy, it will definitely lead to more focus on Eastern Europe, as happened when Poland and Lithuania persuaded the EU to support the Orange Revolution in Ukraine. Some U.S. experts anticipate that CEE influence will make the EU more pro-American, or more in favor of market liberalization. Yet such outcomes are not certain. For example, Polish dissatisfaction with the United States and the EU is leading Poland to criticize both. CEE influence will more likely occur on a case-by-case basis and will be difficult to predict.<sup>12</sup>

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11 See Michel.

12 See Bugajski, pp. 41-42.



## **Guideline 6: Address anti-Americanism**

Recent polls show that, in addition to viewing the United States as a primary threat to world peace, Europeans see it as a place in which economic inequality and injustice flourish alongside unacceptable levels of violence.<sup>13</sup> These views predominate, even when the actual agreement and cooperation between the United States and the European Union is better than ever before. Whether due to the policies of President Bush or to longer-term trends, public opposition to the United States and its foreign policies constrains U.S. actions in Europe. Nor is its impact limited to Europe, since European attitudes influence world opinion.

The role of the European Union here is mixed. While many of the EU political elite seek closer cooperation with the United States, others, including a number of officials in the European Commission and elsewhere, are clearly anti-American. Moreover, stressing “European values” at the expense of the United States strikes a chord of sympathy in the public at large. As one observer puts it, “[w]hatever their cause, the recurrent health scares and the distrust of technology have become another aspect of European life that tends to build a sense of common belief, common lifestyle, among the citizens of the EU.”<sup>14</sup> The EU offers an institutional frame for these perceptions and concepts.

However, another important source of anti-American sentiment is the sense of relative weakness vis-à-vis the New World giant. The knowledge that European military capabilities are falling ever further behind American ones is a constant source of acrimony that affects political issues in particular. Tensions are lower in sectors, like the economic sphere, where the EU can match the United States.<sup>15</sup> Arguably, increased EU power and influence could reduce anti-American sentiments.

Whether it wanted to or not, the EU would not find it easy to combat anti-Americanism. Despite efforts to overcome its “democratic deficit,” the EU’s design as an institution based on sovereignty pooled by nation states leads it to focus mainly on national governments.<sup>16</sup> As those governments often use “Brussels” as a convenient whipping boy for any unpopular policies, the EU is in a very poor position to reverse negative perceptions of itself or anybody else. Nor do the technocrats in Brussels have the political skills to make their case to the public.

Many studies have highlighted the need for public diplomacy, and this paper will not duplicate that work. Rather, it urges policymakers to think of European audiences in terms of the EU, not in terms of individual countries. This re-conceptualization would yield more coherent and effective results than the current disjointed approach. The United States will inevitably encounter limits to what can be achieved, but it can and must do a better job of explaining the motives and reasoning behind controver-

13 See Cowell for recent UK poll results.

14 Reid, p. 224.

15 Interview with Amb. Thomas Weston.

16 Keohane, p. 760.

sial U.S. foreign and domestic policies. Building more public support for U.S. policies would, in turn, create more space for the EU to engage constructively with the United States. The success of State Department Legal Adviser John Bellinger in building official support for U.S. policies on detentions in Guantanamo and renditions by explaining the motivations behind them should be replicated systematically.<sup>17</sup>

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17 See “Transcript of Legal Adviser Bellinger’s Media Roundtable in Brussels.”



# Defense: Revisiting European Security

When Americans think of Europe, they typically see it through the prism of NATO and the experience of an extraordinary alliance that has endured more than 50 years. Although much has changed since the end of the Cold War, many Americans still give primacy to security issues and consider NATO the anchor of the transatlantic relationship.

European attitudes, however, differ. For most Europeans, NATO is part of the landscape, but not the focus. Governments may appreciate NATO's role in guaranteeing Europe's territorial security, but publics in general do not feel under any conventional military threat. A similar divide prevails with regard to out-of-area operations: governments recognize their necessity, but NATO operations in Afghanistan and Iraq enjoy little popular support. Opinion polls show consistent support for a global military role for the EU, but little enthusiasm for military spending to underpin it. Therefore, the United States may welcome partnership with the EU in addressing military threats beyond Europe, but the core of such cooperation is likely to be in the civil-military rather than the military domain.

Whether it is a question of deciding what constitutes a threat, or developing the political will or capabilities to deal with threats, key decisions affecting European policies are now being made at the EU as well as at NATO. It is absurd to assume, as many Americans do, that the emerging role of the EU reflects merely the ambitions of Eurocrats in Brussels. All of the steps to set up EU institutions and develop EU policies were approved by presidents and prime ministers of EU member states in a consistent, multiyear process. There is nothing these developments can reflect other than a desire to assert EU autonomy vis-à-vis NATO, or more precisely, European autonomy vis-à-vis the United States.

The entrenched bureaucratic interests that have grown up over time around NATO make it particularly difficult to approach in an objective fashion U.S. policy involving that organization, or to determine how the United States should assess the EU role on security issues. And yet it is clear to any outside observer that many things will change in this area; the question is how and when – and how to define key U.S. interests and advance them while change is occurring.

U.S. policy should acknowledge the EU's expanding role in European security discussions; it should factor in the changes in emphasis and content likely when policy is formulated there rather than at NATO. It should provide a realistic appraisal of what the Europeans are likely to do – and what they are unlikely to do – in the coming years.

Making these assessments will not be an easy task: European views cover a wide spectrum, and it would be a mistake to base policy on just part of the spectrum. In addition, determining what those views are can be quite difficult, as representatives of the same government may say one thing at NATO, another in the EU, and yet another in talking to U.S. diplomats in their national capital. The United States will have to become adept at gaining a better understanding of European thinking and positions. It will also have to do a better job of advancing its interests as Europeans formulate their policies.

Because the number of potential crises in troubled regions of the world is large and U.S. and NATO resources are limited, there are advantages to having another organization with capabilities in this area. But U.S. policymakers must have realistic expectations of the functions Europeans are likely to perform, and they must pay more attention to improving NATO-EU ties.

To accomplish these goals, the U.S. government will have to change the way in which it formulates and executes European security policy. The decades of experience with NATO and U.S. membership in NATO mean that NATO receives the lion's share of attention. In this environment, it is virtually impossible to focus adequately on EU military aspirations.

## **A Growing EU Role in European Security Policy**

The European Union's pursuit of common foreign and security policies appeared seriously endangered by the dispute over Iraq that divided the member states. That, however, proved not to be the case, either in terms of policy formulation or of institutional development.

In December 2003 the EU adopted its first-ever European Security Strategy.<sup>18</sup> In terms of substance, this document has much in common with its U.S. counterparts, the National Security Strategies of 2002 and 2006.<sup>19</sup> It recognizes the importance of the threat from terrorism, the proliferation of WMD (weapons of mass destruction) and the nexus between the two. It stops short, however, of endorsing preemptive military action against such threats (passages to that end in the first draft were deleted from the final text). Instead, it urges preventive diplomatic, political, economic or humanitarian policies to combat conditions in a state or region that could prove favorable to terrorists. Since the adoption of the European Security Strategy, the EU has produced policy papers fleshing out these provisions.

The establishment of related institutions has also continued apace. The EU now has a Political and Security Committee that in some ways is the counterpart of the

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18 "A Secure Europe in a Better World: European Security Strategy."

19 "The National Security Strategy of the United States of America," September 2002, and "The National Security Strategy of the United States of America," March 2006.

North Atlantic Council in NATO; a Military Committee that, again, is somewhat like NATO's; and a military staff with many of the functions of NATO's. And the EU has acquired the capability to perform autonomous military missions. Under the European Security and Defense Policy, the EU has already deployed forces to Macedonia, Bosnia-Herzegovina and the Congo.<sup>20</sup>

Aside from the obvious fact that the United States has no place at the EU table, the choice of an EU venue for policy decisions is important for several reasons:

- The EU does not aspire to take on intensive combat missions; it wishes to focus instead on tasks such as peacekeeping.
- The EU for most of its existence has been a purely civilian institution. While many Americans worry about the French role in the EU, here one can feel the direct influence of the Germans. They want the EU, like Germany, to be a "civilian power," even as it expands into out-of-area crisis management operations. Many Europeans share the German distaste for "militarism," distaste more at home in an EU than a NATO context.
- The EU is an inward-looking institution, concentrating on issues such as removing barriers in the internal market, implementing EU legislation, etc. The outside world matters less here than it does in a security organization like NATO.
- The EU's membership includes a number of neutral countries: Austria, Ireland, Finland, Sweden, Malta and Cyprus. While they cooperate to varying degrees with NATO, these countries nevertheless have differing national policies and assessments that, in turn, influence EU positions.

These institutional factors suggest strongly that European security policy, if developed in isolation from NATO at the EU, could evolve along a somewhat different path from that of the transatlantic community. Those differences will be mitigated by the preference of many dual members (the 19 countries that belong to both institutions) to avoid wasteful duplication by spending scarce defense resources on two divergent sets of requirements. This is especially true for the smaller EU members (especially the members from the former Warsaw Pact), who see the United States, rather than France, the United Kingdom and/or Germany as the only power likely to defend vital European interests.

Determining exactly how these factors will affect dual members' policies is not easy, though. Since the EU is a European rather than a transatlantic venue, some argue that Europeans express their views more freely there than at NATO, where the pres-

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<sup>20</sup> The first two missions were done in coordination with NATO.

ence of the United States may be intimidating. Others note that similar constraints also exist at the EU, where one member state may not wish to offend another whose assistance is critical for obtaining such things as regional development or agricultural funds. Certainly, though, to the degree that the dual members are simply placating the United States rather than arguing for a given approach because they agree with it, U.S. officials will find it ever more difficult to identify the real European positions.

One key question is how far European countries are willing to follow the lead of the United States. U.S. policymakers have wrestled with this problem for some time but have chosen not to highlight it. Instead, the current focus appears to be on getting allies to conduct a variety of missions, while constantly pressing them to commit to change. This policy may have reached its natural limit. As one recent study put it, “It is as if the [NATO] members, exhausted after years of mutual recriminations, had decided to promise anything in order to avoid greater political fall-out, knowing all along that they were not going to keep their word.”<sup>21</sup>

Those positions may be tested when the time comes to deploy the NATO Response Force, or NRF. A U.S. initiative agreed to at the Prague summit in 2002, the NRF was to reach operational capability by October 2006 with about 21,000 troops drawn from national forces. It is meant to fill the gap in rapidly deployable expeditionary forces across the full range of allied military operations, from war-fighting to stabilization.

Allied political commitment to deploying NRF expeditionary forces as the first stage of combat intensive operations is still to be tested. Most European countries (20 out of 25 EU member states) have constitutional requirements to obtain the support of the United Nations Security Council before undertaking military operations abroad. While their participation in the air campaign in Kosovo or the Iraq war suggests some degree of flexibility, this flexibility is much more in evidence when it is a question of humanitarian intervention rather than a military operation against terrorists or rogue states.

Even those who are willing to operate without UN Security Council sanction still want to obtain subsequent international legitimacy for their actions – generally defined as support by the majority of European countries. If the EU continues on its path of developing common foreign and security policies, conferring legitimacy is more likely to fall within its domain than NATO’s. Should NATO engage in the debate, European governments will probably be more comfortable if it does so after policy is set first in the EU. This dynamic is already evident; European allies sometimes delay a decision in NATO until a common position has been reached at the EU – thus introducing a *de facto* EU caucus into NATO deliberations.<sup>22</sup>

The United States already conducts *ad hoc* consultations with the EU on security issues such as India-Pakistan tensions, East Asia and the Chinese arms embargo, or counter-proliferation policy, although these consultations are largely obscured by

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21 *NATO: An Alliance for Freedom: How to transform the Atlantic Alliance to effectively defend our Freedom and democracies*, p. 10.

22 A formal caucus is highly unlikely, as it would constrain the freedom of action of EU member states such as France.

ongoing dialogue at NATO. The United States should expand this dialogue into any political-military areas, previously considered the purview of NATO, where the EU is becoming active. In all these cases, it should link U.S.-EU discussions closely to its ongoing dialogue in NATO and in capitals, treating them as a reinforcing strand of the same exchange, not as a separate dialogue.

## The EU and Enhanced Military Capabilities

As with overall security policy, the EU is becoming a player with regard to European military capabilities – and the same ambiguities about European political resolve characterize discussions of future military capabilities. Several years ago, the EU argued that Europeans would be more likely to increase defense expenditures as part of “building Europe” rather than in response to NATO commitments.<sup>23</sup>

In any case, no such increase has occurred. Regardless of whether it is discussed at NATO or the EU, European defense spending is not going up; if anything, it may fall. Therefore, the question of how current levels are spent becomes crucial. Combined annual defense expenditures of EU member states are estimated at over \$200 billion<sup>24</sup> – a substantial amount. European countries need expeditionary as well as territorial defense forces, and their expeditionary forces must be interoperable with each other as well as with the U.S. military.

Most specialists are concerned about the impact of stagnant or decreasing defense expenditures, but the issue attracts little public notice in Europe. “While most senior military officers are deeply concerned about the future of European defense capabilities, there is no comparable sense of urgency among the majority of Europe’s political elites and publics.”<sup>25</sup> The current dynamic within both NATO and the EU only obscures this problem, with subsequent summits of both setting ever more ambitious requirements for expeditionary forces – and no clear indications that members will have the capabilities for such missions.<sup>26</sup>

NATO is likely to continue to provide the impetus for military reform and transformation, as European countries seek to follow the U.S. lead. (See box on NATO and EU tools for enhancing capabilities.) Moreover, with most governments strapped for cash, it is only logical to use a single set of standards, those of NATO. There is also a strong desire to ensure that NATO and EU training is mutually reinforcing, since the two organizations often use the same troops. However, the United States should not assume this dynamic will produce the outcomes it desires. Rather, it needs to track EU decisions and activities closely, as well as assess often conflicting or unclear European intentions, to determine the potential impact on capabilities available to NATO.

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23 The United States might have had more realistic expectations of European defense spending had it focused more on the fact that such spending was limited under the EU’s Stability Pact supporting the euro – yet another example of cross-cutting issues.

24 “EDA’s success in America’s interests, as well as Europe’s, Witney tells Washington.”

25 Flournoy and Smith, p. 17.

26 Flournoy and Smith, p. 16.

<b>Tools to Enhance Military Capabilities</b>	
<b>NATO</b>	<b>EU</b>
<p><b>Allied Command Transformation (ACT)</b>, a new strategic command, is intended to “rewrite our textbooks, our doctrine, test new concepts and help us quickly acquire new technologies.”<sup>27</sup> It should “be made the center of gravity for European transformation efforts...”<sup>28</sup></p> <p><b>The Prague Capabilities Commitment (PCC)</b> pledge from 2002 has done more to strengthen European military capabilities than similar NATO initiatives in the past. “However, progress remains slow and continues to be hindered in some cases by the lack of political will, shrinking defense budgets, and resistance to pooling initiatives.”<sup>29</sup></p> <p><b>The NATO Response Force (NRF)</b> is considered by many to be the “driver” of NATO transformation. It is to be the focal point for building Allied interoperability for new forms of network-centric warfare, and hence the means for passing along that expertise from U.S. and British to other European forces. It is also meant to be the tool for increasing current expeditionary capability.</p>	<p><b>Headline Goal 2010</b> calls for 13 Battle Groups of some 2,500 troops for rapid response to a crisis. EU member states also committed themselves to developing by 2010 the capabilities for a “fully coherent approach to the whole spectrum of crisis management operations.”<sup>30</sup></p> <p><b>The European Defence Agency (EDA)</b>, set up in summer 2004, is to coordinate member states’ efforts to develop new military capabilities.</p> <p><b>The Voluntary Code of Conduct</b>, adopted November 2005, aims to open up defense procurement orders to bids from other EU states.</p> <p><b>Commission funding</b> will include 4-7 billion euros for space and homeland security research and technology for the first time.</p>

The need to improve capabilities, either by new research and development, more joint programs or joint procurement, or by shifting spending from operations to equipment, is now being discussed at the new European Defence Agency (eda), set up to coordinate member states’ efforts to develop new military capabilities. The EU also offers intellectual, political and financial support from the European Commission (the Commission) to open national European defense industry markets to one another and to support research with military implications.

27 Jones, James, p. 3.

28 Flournoy and Smith, p. 10.

29 Flournoy and Smith, p. 44.

30 “Headline Goal 2010,” p. 1.



The EDA, established in summer 2004, has a steering board comprised of EU defense ministers. Some of its decisions are made on the basis of qualified majority voting, rather than unanimity (the general rule for EU decisions on foreign and security policy). Thus, with very little fanfare, European governments have abandoned their veto rights on decisions affecting their defense industries and capabilities – a radical step whose future impact is unclear.

In its first year, the EDA has undertaken several initiatives of interest. These include an upcoming feasibility study on maritime surveillance, particularly the interface between defense capabilities and assets and European security and border control agendas. Maritime security is directly related to the expanding EU role in border security, a sector previously considered as separate from defense. This may be a case where one strand of EU integration acts as a driver for another; certainly, improved maritime security would have counter-terrorist benefits. The EDA has also developed a long-term vision for method, participation, timelines and coordination of Europe's future capability and capacity needs.<sup>31</sup> The European Security Strategy mentioned earlier says little about how to acquire the military capabilities to combat terrorism, or how to help with regional stability and failed states. The long-term vision is a first step toward filling this gap.<sup>32</sup>

In November 2005, EU defense ministers agreed on a voluntary code of conduct to open up many of their defense procurement orders to bids from any other EU state. With more than 30 billion euros worth of annual arms procurements bids estimated to be closed to competition, this measure, if implemented, could have a significant political, economic and military impact.<sup>33</sup> According to the EDA, “[w]hether the Member State concerned also wishes to invite an American, or other third party, player onto the field in any competition will remain, as now, entirely a matter for the individual Member State to decide.”<sup>34</sup>

The legal basis for this code was provided in a Green Paper issued by the Commission in late 2004. Traditionally the Commission had kept its distance from the defense sector. However, its Green Paper applied EU “single market” principles to that sector, proposing that EU member states cut back their use of national security exception clauses to protect defense-related industries. The Commission is working on additional instruments complementary to the code of conduct.<sup>35</sup> Rivalry between EU institutions is a fact of life in Brussels; it remains to be seen whether the Commission and EDA will work together or at cross-purposes to open up defense markets.

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31 “An Initial Long-Term Vision for European Defence Capability and Capacity Needs.”

32 “Report by Head of the European Defence Agency Javier Solana to the Council,” page 5, para 14.

33 “EU agrees to open defence market.”

34 “EDA’s success,” para 12.

35 “Questions and Answers on the Intergovernmental Regime to Encourage Competition in the Europeans Defence Equipment Market.”

The Commission entered the fray on commercial projects with military/security dimensions when it promoted the Galileo satellite navigation project. It is now adapting some of its funding for research and technology to address projects with military implications. The Commission's 7th Framework Program (FP7) "for the first time in the program's history will include space and homeland security research and development as significant parts of its portfolio...[M]any see the setting aside of specific funds (currently four to seven billion euros are proposed) for fields such as earth observation and detection of chemical and biological agents as a positive first step in the development of a European-wide security capability."<sup>36</sup> Again, it is the EU, rather than NATO, that brings together military, homeland security and economic interests.

So far, the EU has not yet found the key to upgrading European military capabilities. As EU High Representative Javier Solana noted in his report on the EDA's performance in 2005: "[R]eal success will not come without joint investment. The lack of concrete proposals for ad hoc collaborative projects represents the main area of disappointment to date."<sup>37</sup> And the efforts to boost defense-related research and technology occur against a backdrop of an overall shortfall in European investment in this area; the EU set for itself a target of 3% of gross domestic product by 2010, but progress toward that goal is stalled.<sup>38</sup>

Nevertheless, any impetus for future European improvements in defense capabilities will probably come from the complex interaction of work in EU institutions as well as from NATO. The EDA is becoming the hub linking European defense establishments in a dense web of contacts. NATO, with its three defense ministerials per year and its infrequent summits, cannot compete at this game. Its capabilities committees are primarily for information exchange; they are not leveraged by institutional arrangements with potential links to decision-making at the national level. NATO's Allied Command Transformation (ACT), which has some of the same missions as EDA, maintains informal contacts with it, but the political environment is not conducive to more formal arrangements between the two. Nor does NATO have the interconnections to economic interests and homeland security policies, among others, that the EU does.

To obtain an accurate picture of what is going on, the United States must compensate for the disadvantage of being an outsider to the EU. It can do so by tracking EU developments as closely as possible, and cross-checking its information with what is available at NATO and in national capitals. Without this painstaking work, U.S. officials will find it difficult to anticipate the degree of political will among Europeans to make better use of their defense funds, and the actual potential for future changes.

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36 Flournoy and Smith, p. 78.

37 "Report by Head of the European Defence Agency Javier Solana to the Council," p. 5.

38 Flournoy and Smith, p. 5.



## The EU in Crisis Management

Within these constraints on European military capabilities, the most fertile area for U.S.-European security and defense cooperation lies in the conduct of complex operations for peacekeeping, stabilization and reconstruction. Since the mid-1990s, both NATO and the EU have gained experience in these areas.

In addition, the EU is intent on developing a wide panoply of civilian crisis management capabilities that could be deployed simultaneously with NATO or U.S. military missions. There have already been cases when such cooperation was possible: the best example is that of Macedonia, where the United States, NATO and the EU have worked together closely to avoid a civil war, bringing humanitarian, political, diplomatic and military assets to bear. However, harnessing various resources to support EU crisis management efforts is an ambitious goal; while EU capabilities appear to be substantial, they should not be overestimated. The United States is working hard to coordinate its own civilian assets, and there is little reason to believe that the job will be any easier for the Europeans.

Another area of potential cooperation would involve the newly established European Gendarmerie Force, which aims to fill the difficult gap in maintaining law and order between the end of combat operations and the start of stabilization and reconstruction phases, whether in an EU or a NATO operation. Technically, the force does not belong to the EU, but has its own High Level Inter-Ministry Committee, in this way avoiding the need to obtain unanimous EU agreement for its use. It is intended to be available for other organizations, including the UN, NATO or the Organization for Security and Cooperation in Europe. France, Italy, the Netherlands, Portugal and Spain will contribute to the force.<sup>39</sup>

Although the European Union has made significant strides toward improving its capability to direct crisis management operations, outsiders have and will continue to have trouble interacting with it. There is no clear leader to make decisions or to enforce them. The bureaucratic structure is often impenetrable, and beset with personal and institutional rivalries. The institutional reforms included in the draft Constitutional Treaty would have helped, but at present their adoption appears remote.

## NATO-EU: From Rivalry to Cooperation

For NATO-EU cooperation to work, ways will have to be found to defuse the rivalry between the two institutions. The fact that NATO and the EU have some overlapping crisis management functions has led to disagreements, most notably the public dispute in 2005 over how to support the African Union's Darfur operation. Observers have offered several theories, each plausible, to explain the tension: sibling rivalry between the two organizations; the natural effect of two organizations in one space (Brussels is simply too small for both of them); or strategic rivalry between the United States, via its proxy (NATO), and those Europeans who want the EU to lead.

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39 See Armitage, "The European Gendarmerie Force: An American Perspective," pp. 63-65.

The United States has an obvious interest in using NATO, with its integrated command and years of experience in conducting out-of-area operations. Most U.S. (and many European) experts, if asked, will say that NATO should specialize in the high end of the military spectrum: large, complex operations in difficult environments. While questions regarding war-fighting missions may remain unresolved, for stabilization and reconstruction missions such as the International Security Assistance Force (ISAF) in Afghanistan, NATO rather than the EU is the obvious choice. But for many other missions, the EU may offer the best option.

As a first step, the United States can help NATO and the EU change from rivalry to cooperation by committing to a major revision of the transatlantic security architecture.<sup>40</sup> European leaders will have to do so too but the United States, as the dominant partner, should take the lead. Increased and real consultations at NATO, conducted before U.S. policies are set in stone, would form an important part of this initiative. They could set in motion a positive dynamic that would improve U.S.-EU ties and, indirectly, NATO-EU ties.

Further, U.S. policymakers should consider the following factors when determining what kind of security architecture might be possible or desirable:

- Cooperation between NATO and the EU is essential, since both organizations draw from the same pool of forces. While great difficulties arise at the political level, at staff levels, in military-to-military contacts, and in the field, NATO-EU cooperation works. (In light of that fact, current restrictions on U.S.-EU military-to-military contacts make no sense.)
- NATO-EU friction in itself damages U.S. influence, as it creates uncertainty and tension with some of its strongest allies, such as the Central and East Europeans, who consider their interests best served when the two organizations get on well together.
- Discussions of which organization should have first choice, or statements or actions stressing the “primacy” of NATO, serve no good purpose. Rather, they simply encourage others, particularly the French, to do anything that they can to keep NATO from dominating the EU.
- For most Europeans, NATO involvement means U.S. engagement. Were the United States to decline to participate in a given operation, and if it were small enough and the environment sufficiently permissive, the Europeans would most likely prefer an EU to a NATO initiative.

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40 Burwell et al., pp. 21-23.

- If the EU wants to mount an autonomous operation, it can do so without seeking permission from NATO. The United States should also recognize that, for certain types of operations, such as support for UN operations, the EU needs neither NATO nor the United States. Quite likely the EU will gravitate increasingly toward UN-related missions, as many governments find them easier politically.
- That said, the EU is unlikely to mount a significant operation in the face of U.S. opposition; it lacks the military wherewithal for large missions, and few EU member states wish to find themselves at serious cross-purposes with the United States.
- Military capabilities are only part of the picture. There should be direct links between NATO and the EU institutions handling humanitarian and reconstruction assistance; such links already exist between these institutions and their U.S. counterparts.

It will not be easy to put NATO-EU relations on a better footing. However, if the United States ignores this problem, the situation will only worsen, further eroding both the potential for future cooperation and for improved transatlantic relations.

## Conclusion

U.S. policy must not remain trapped within NATO when fundamental decisions are increasingly being made at the EU. To achieve its objectives, the United States must take into account the growing importance of the EU on security issues. Further, it must learn to decipher European intentions, tracking what European governments say in different venues, whether at the UN, in Washington, or at the EU, and challenging them when necessary in order to reach accurate assessments of European intentions and capabilities. The United States must articulate a more realistic expectation for the future of European military force and the role that the EU can play in regional and global security issues. And it must seek to improve NATO-EU ties, particularly at the political level.

To accomplish these goals, the U.S. government will have to change the way in which it formulates and executes European security policy. At present, the offices in the State Department and the Pentagon that handle NATO affairs also handle EU military issues. The decades of experience with NATO and U.S. membership in NATO mean that NATO receives the lion's share of attention. In fact, this configuration seriously jeopardizes our ability to focus on and understand EU issues. Officials know far more about NATO organizational and bureaucratic characteristics than they do about the EU equivalents. As a result, they find it very difficult to interpret what the EU is doing, to anticipate its actions, or to take the initiative on EU issues.



# Foreign Policy: The EU as Partner, Competitor or Adversary?

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In the early 1990s, the EU set itself the goal of becoming a political as well as an economic union, with common foreign and security policies, or CFSP. Europeans typically say CFSP will give the EU a greater voice in global affairs. But how do they determine which policies to adopt? As British diplomat and senior EU official Robert Cooper notes, the United States is the only power with an independent strategy. “Every other country defines its strategy in relation to the United States.”<sup>41</sup> What the EU usually means, when it talks of common foreign and security policies, is that first and foremost the EU will be able to hold its own with an overwhelmingly powerful and influential United States.

Beyond the desire to influence Washington, visions differ. A minority of Europeans want the EU to be an adversary or “counterweight” to the United States, often with a connotation of hostility. Others want it to be a partner, while arguably the largest group wants the EU to be a competitor. The United States needs to interact with growing EU aspirations and engagement in a manner that realizes the potential for cooperation and partnership while counteracting any trends driving the two apart.

Agreeing on common policies has not been easy, given the differing traditions and interests of the EU member states, the requirement for unanimity in decision-making, and the continuing desire of member states to retain some independence, including in bilateral ties with the United States. In addition, the votes against the constitutional treaty, with its enhanced EU foreign policy apparatus, dealt a blow to the process.

Nevertheless, while the most difficult issues – like the dispute over the Iraq war – cannot be resolved, today between 70% and 95% of European foreign policies are agreed in common among the member states. Mostly EU policies parallel U.S. ones, as in the Balkans, Afghanistan or Iran and when the two sides agree, they frequently set the global agenda. In other cases, the EU has sought to block or change U.S. foreign policy, such as U.S. support for Israel or opposition to the International Criminal Court.

This case study will first detail the mechanics of CFSP to demonstrate why the United States has to engage early, rather than waiting until issues reach the level of EU foreign ministers or higher, if it is to advance its interests effectively.

The study will then examine U.S.-EU relations with regard to the Middle East. Despite a historical role as a competitor or adversary, the EU has become more of a partner to the United States as it has assumed greater political engagement in the Middle East. Yet the United States is far from reaping the proper rewards from this improved relationship. European publics remain highly critical of Israel, oppose the

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41 Robert Cooper, p. 45.

Iraq war, and suspect U.S. actions and motives with regard to allegations of torture, renditions of terror suspects, etc. What is more troubling, criticism of Israel overlaps with growing anti-Semitism, often linked to anti-Americanism. While the United States continues its diplomatic efforts to find common ground with EU governments, its public diplomacy must respond directly to these issues.

From the EU perspective, multilateralism *per se* is a defining aspect of the “moral high ground” of the international community. Here, a number of issues with competitive or adversarial elements tend to outweigh those of partnership. The Europeans are very intent on claiming this high ground, while criticizing the United States for either unilateralism or isolationism. The United States must rebut these charges, while challenging the EU to make the multilateral system work properly.

To make these changes, the United States needs a coherent, EU-wide strategy for public diplomacy and for dealing with the EU in the multilateral arena. It also needs an internal organization that makes better use of personnel in European embassies.

## **CFSP: Getting in on the Ground Floor**

Since agreed EU policies are almost never overturned at higher levels, the United States must engage at the start when common policies are formulated in national capitals and in Brussels. Trying to influence decisions in the formal meetings of EU foreign ministers rarely succeeds – and if it does, may require very senior-level intervention.

The U.S.-EU dispute in 2002 over the International Criminal Court (ICC) provides an excellent example of what to avoid. In that case, the French and British at the UN Security Council suggested that the United States protect its citizens from detention by the ICC by negotiating agreements with other treaty signatories under article 98 of the ICC treaty. They had, however, acted without coordinating sufficiently within the EU. The remaining EU member states emphatically rejected that solution, as they felt it undercut the common position in support of the ICC – that position and its subsequent action plan had already been agreed and therefore represented official EU policy. It took Secretary Powell’s personal intervention to avoid an immediate and very destructive clash, and the dispute over the ICC remains open.

Like most of what the EU does, common foreign and security policies emerge from a complex arrangement designed to generate consensus among the member state governments. In this case, a policy is first discussed among working level officials who travel to Brussels from the 25 national capitals. When possible, agreement is reached at this level. If not, the policy works its way up to the Political and Security Committee (PSC), 25 ambassadors from member states permanently assigned to Brussels. Still-unresolved issues are forwarded to foreign ministers or presidents and prime ministers.

This process has always been cumbersome; with 25 member states, it is even more so, with little hope in sight since the French and Dutch electorates rejected the draft Constitutional Treaty (see box). In the meantime, two different dynamics are responsible for most CFSP successes: “Brusselization” and the use of lead nations or other groupings.

### **The Constitutional Treaty: CFSP Provisions**

The draft constitutional treaty aimed to make the EU more efficient by establishing a Union Foreign Minister, supported by his own external diplomatic service. In addition, it would have replaced the six-month rotating Presidency with more permanent arrangements to provide consistency and continuity. These reforms could be adopted independently of the text of the treaty, but only if sufficient political support exists to do so.

In the gradual “Brusselization” of EU foreign and security policy, whereby decisions are made by national officials in Brussels, not by “Brussels” (e.g., the Commission or Council Secretariat), the PSC plays a key and expanding role, along with Javier Solana and his staff. Frequent PSC meetings engender common perspectives and the habit of working together; this committee now sets the agenda and many member states track it to find out what is going on. Observers report that EU common positions can no longer be predicted simply by adding up the 25 national positions. Instead, the dynamic within the PSC must also be taken into account. The PSC supports the meetings of the EU foreign ministers, which occur at least once a month. These frequent foreign ministers’ meetings also generate an increasing commonality of views within the EU.<sup>42</sup>

Although most EU member states consider their relationship with the United States as their most important bilateral relationship,<sup>43</sup> those ties are nevertheless affected by this EU dynamic, even when an EU policy does not exist. For example, Mark Leonard likens the EU during the Iraq dispute to a “modern-day Hydra” with 25 heads; “[w]hile the U.S. administration was pursuing its policy of divide and rule – and talking separately to each of the Hydra’s heads – the European heads were busy watching each other and adapting their positions accordingly.”<sup>44</sup> He predicts that “other countries will always be able to find someone in the European system who is more sympathetic to their cause, and this will tend to draw them into a process of negotiation from which it is often hard to escape.”<sup>45</sup>

The EU of course has never depended only on this formal process to develop foreign security policies. For years, France was the informal leader in the foreign policy area – as the saying went, Europe was the extension of France by other means. France’s influence is not as great as it used to be now that the EU includes many more countries with very different historical traditions. Nor can the United Kingdom or Germany expect to play that role. The EU must achieve consensus without a clearly acknowledged leader.

42 Interview with former senior U.S. government official.

43 *Review of the Framework for Relations between the European Union and the United States*, p. 15.

44 Leonard, p. 31.

45 Leonard, p. 32.



It is quite likely that in the future individual member states or groups of member states will take the initiative on specific policies, as has already happened with France, Germany, and the United Kingdom on Iran; Poland and Lithuania on Ukraine; and the Czech Republic on Cuba. In those cases, most likely Solana or his successor will be included to represent the interests of the EU as a whole. Last year's votes against the constitutional treaty only heightened the necessity for new, *ad hoc* leadership mechanisms.

In general, U.S. policymakers are aware of changes in how Europeans formulate and execute their foreign policy but have yet to respond adequately. Nor are they helped to do so by the New Transatlantic Agenda, or NTA, the transatlantic mechanism governing U.S.-EU relations (*see box*).

### **Transatlantic Mechanisms**

The New Transatlantic Agenda (NTA), the formal framework for the U.S.-EU relationship, was set up in the 1990s to maintain and broaden contacts at a time when the EU was focused on the internal integration agreed in the Maastricht Treaty. The NTA framework consists of links from the working level up to an annual summit between the U.S. president and EU leaders.

All too often, unfortunately, the NTA simply processes a laundry list of issues: it does not produce a clear set of priorities, nor is there any clear connection between the U.S.-EU initiatives in the NTA and the activities of the embassies in national capitals. In addition, vertical coordination up or down the chain is lacking. The NTA in general is criticized for achieving too little, and being too lost in process to focus on substance. Certainly it is not an adequate mechanism to focus and prioritize U.S. interests, nor to identify issues in advance in a systematic fashion.<sup>46</sup>

The NTA process is complemented by “troikas” (periodic meetings of EU officials from the Commission, the Council Secretariat and the Presidency, and their U.S. counterparts). The troikas also vary greatly in quality and often have only tenuous links to other related U.S.-EU exchanges. On balance, U.S. officials appear to find them useful and are in fact reluctant to discontinue them,<sup>47</sup> but they could be more beneficial if they were more tightly linked to U.S.-EU exchanges in other settings.

These shortcomings were for years exacerbated by the poor quality of U.S.-EU summits, with both Presidents Clinton and Bush hating to attend U.S.-EU summits because of their lack of substance. In recent years, that situation has improved.

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46 For an excellent discussion of the NTA, see *Review of the Framework*.

47 *Review of the Framework*, pp. 42-43.



As a first step, the United States needs to engage more intensively in capitals at the working level, before officials leave for the meeting in Brussels – a job that falls primarily to the U.S. embassy in that country. This process is most intense in the embassy to the member state that occupies the six-month rotating Presidency of the Council, as it is the Presidency that sets the agenda, chairs the meetings and in general shapes the work. Not surprisingly, the EU's constant rotation makes it much more difficult to work consistently or to develop relationships. Moreover, without clear priorities and advance planning, it is very difficult for the United States to track more than a few issues, as in any six-month period there are some 1,600 working-level meetings covering both domestic and foreign affairs. (See the appendix for additional suggestions for engaging bilateral embassies on specific EU issues.)

This bilateral work in capitals is supplemented by periodic meetings, primarily in Brussels, of “troikas” of EU representatives and U.S. officials from Washington. When issues reach the PSC, the United States supplements the regular communications from the U.S. mission with informal briefings, usually involving a senior policymaker from Washington. Finally, at a senior level, Secretary Rice meets informally with her EU counterparts to discuss key issues.

While the United States already interacts with the EU at every level, it could be much more effective if it did so systematically, rather than on an *ad hoc* basis, and if it focused more on interacting with the EU at the right time and place. For example, State still sends cables in advance of the formal meetings of the foreign ministers, detailing U.S. positions on the issues under discussion and urging the EU to adopt similar positions. EU officials complain that these messages do more harm than good: they arrive too late to change any minds, and by appearing to give orders, they raise European hackles. (In one instance, the French representative reportedly placed a copy of the U.S. position paper on the chair of each foreign minister, commenting that now they all had their instructions.)

## **U.S.-EU Cooperation in the Middle East and Anti-Americanism**

Three years ago most European experts cited differences over the Middle East as the key stumbling block in U.S.-EU foreign policy relations. Today, despite its historical role as a competitor or adversary, the EU has become much more of a partner to the United States, and is actively engaged in a number of critical areas. Yet the United States is far from reaping the corresponding rewards from this improved relationship in the public sphere.

For many years, the Middle East was the source of some of the bitterest transatlantic disputes: it is a region where major European powers have longstanding ties and important commercial interests that conflict with those of the United States. It is also an area where the EU has pursued common policies for more than a generation, particularly with respect to the Israeli-Palestinian dispute. This is not merely of academic

interest: "It was primarily over policy towards the Middle East region, both towards the Arab-Israeli conflict and the 'axis of evil' states of Iraq and Iran, that U.S.-European relations deteriorated after the surge of transatlantic sympathy and solidarity that followed 9/11."<sup>48</sup>

However, the situation has changed considerably. Increasingly, the EU is emerging as a player, either directly or through lead member states. Now involved in political and security issues where formerly it was excluded, the EU is acting as a partner with the United States in dealing with Israeli-Palestinian dispute, Iran and the Broader Middle East.

**The Israeli-Palestinian dispute:** For years, U.S. policy limited EU political involvement in the Israeli-Palestinian conflict, while urging European Commission financial support for the Palestinian Authority. President Bush's decision to reduce the U.S. profile and level of engagement in the Israeli-Palestinian dispute created an opening, for the first time, for European diplomacy.

The EU responded by pressing for the formation of the Quartet, comprised of the United States, the EU, the UN and the Russian Federation, to coordinate Mideast policy. The Quartet was duly established, and in December 2002 it endorsed a road map setting out benchmarks for achieving a permanent two-state solution to the Israeli-Palestinian conflict.<sup>49</sup>

The Europeans were slow to recognize the potential of the changed situation following the erection of an Israeli security fence, the death of Yassir Arafat and Israeli Prime Minister Ariel Sharon's decision to withdraw from Gaza. Eventually, though, they engaged, first as part of the team under James Wolfensohn, the Quartet's special envoy for Gaza disengagement. They subsequently provided monitors at the Gaza border crossing, as well as a mission to help set up sustainable and effective Palestinian policing arrangements.<sup>50</sup>

EU policies have been put to the test by continuing tension involving Gaza, the Lebanese war and subsequent peace. A recent press report about strong European Parliament criticism of Israeli actions in Gaza also quoted an Israeli diplomat as saying that EU member states were increasingly aware that the real danger arose from extremist radical forces in the Middle East, not from Israel.<sup>51</sup> During the war between Israel and Hezbollah, most EU governments were highly critical of Israel. Several now participate in the United Nations Interim Force in Lebanon (UNIFIL) peacekeeping mission. The press has reported both tensions between UNIFIL and Israel, and the rearming of Hezbollah. The performance of UNIFIL, and of the EU troops deployed in it, will have a significant impact on future EU policy.

48 Musu and Wallace, p. 99.

49 "Elements of a performance-based road map to a permanent two-state solution to the Israeli-Palestinian conflict."

50 The Israelis even floated, albeit briefly, the idea of an EU peacekeeping role in Lebanon. See Kubusova.

51 Rettman.

**Iran:** Current EU engagement began in 2002, when at French and German insistence the EU decided to negotiate a trade agreement with Iran. The United States was unenthusiastic but did not oppose this initiative. Rather, it urged the EU to address three additional problems: Iran's support for international terrorism, its efforts to develop weapons of mass destruction and its poor human rights record. The EU decided to adopt this approach. Subsequently, the French, British and Germans (the EU-3), often accompanied by High Representative Javier Solana, took the lead in political negotiations with Iran – a departure from normal EU negotiating procedure. At first cool to the European efforts, by early 2005 the United States openly supported them.

The political negotiations have yielded little. Iran's support for international terrorism continues, as does its hostility toward the state of Israel. Statements by Iranian president Mahmud Ahmadinejad declaring that Israel has no right to exist and that the Holocaust never happened removed any remaining ambiguity on that point. Nor has the EU made progress on human rights issues. Since June 2004, the Iranians have refused to discuss them and, "the human rights situation in Iran has not improved in any significant respect in recent years, and in many respects has worsened."<sup>52</sup>

Some observers are highly critical of the entire exercise. As one noted, "[b]etween 2000 and 2005, Iranian-European Union trade nearly tripled. During the same period, not only did Tehran's application of capital punishment double, but the Iranian government spent several billion dollars on its nuclear program... The erosion of European pressure on Iran coincided not with the empowerment, but rather the demise, of the reform movement."<sup>53</sup>

Most serious was the EU-3's inability to deter the Iranian government from pursuing its uranium enrichment program – admittedly a hard task, as the program turned out to have existed, in secret, for 18 years. The EU-3's impact was mocked by the senior Iranian negotiator, who bragged that Iran had made significant strides toward acquiring nuclear capabilities while duping the Europeans.<sup>54</sup>

While the EU has not achieved any substantive goals in its political talks with Iran, those talks have had some constructive aspects. They have forced the EU-3 as well as the EU as a whole to grapple with problems that previously seemed either remote or subject to exaggeration by the United States. The result has been a shared assessment of the problem, if not agreement on future actions, whether sanctions that might imperil Iranian oil supplies or military measures against Iran.

**The Broader Middle East:** In the past several years, the United States has solicited EU engagement in a new policy promoting democracy in the Broader Middle East

52 "Declaration by the Presidency on behalf of the European Union on Iran Human Rights Dialogue."

53 Rubin.

54 Sherwell.

and North Africa, rather than supporting autocratic or totalitarian regimes. This policy represented a significant departure for the European governments, which like the United States had supported those regimes rather than pushing for political and economic reform.

The EU initially reacted with great skepticism. Europeans argued that the Middle East was unlikely to embrace democracy and that if it did so, the most likely beneficiaries would be Islamic fundamentalists. Moreover, they noted that the EU already has a regional program of economic, political and social cooperation, called the Euro-Mediterranean Partnership, or Barcelona Process, with many of these countries – although it is far less ambitious than the U.S. initiative. Nor were European elites or publics eager to follow the American lead, regardless of the policy. They feared the U.S. preoccupation with “rogue states” and the “clash of civilizations” would draw them involuntarily into a confrontation between the United States and the Muslim world.<sup>55</sup>

Despite these concerns, EU support for greater democratization and freedom in the Broader Middle East is growing. It has a number of programs to support the new government in Iraq, and has been actively engaged in Lebanon. The latter case provides a very positive example of U.S.-EU cooperation to promote greater freedom and government accountability in the region.

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These recent experiences, like those in the Balkans in the past ten years, demonstrate the degree to which the United States and the European Union can work together to solve regional problems. However, Middle East policy faces additional obstacles that in the long run may prove decisive: European fears about energy security; its vulnerability to pressure from radical Islamists, whether resident in Europe or in the Middle East; and intellectual trends in European society and elites, which are reinforced by the first two factors.

European publics and elites are highly suspicious of American motives and policies in the Middle East, and are extremely unwilling to believe anything but the worst. Hatred and distrust of President Bush and opposition to the war in Iraq have fanned these views, but their roots stretch much further back. Many of them could be traced to the conviction, held by virtually all Europeans, that nothing of significance could be achieved anywhere in the Middle East until the Israeli-Palestinian issue was resolved – or, put more bluntly, until the United States forced Israel to make the necessary concessions.

While criticism of U.S. policy is fair and to be expected, it slides into anti-Americanism when it takes on the characteristics of an obsession; i.e., seeing America as the real problem, no matter what the problem is. The illogic of attacking the United States both for doing anything to secure its oil supplies, and for supporting Israel in

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55 Musu and Wallace, p. 111.

the face of Arab ire, is an obvious example. In a conflation of anti-Americanism and anti-Semitism, the United States and Israel are increasingly blamed for conspiring to take over the world – and not just by far-right politicians. In today’s inflamed atmosphere, it is difficult to find any support in European public opinion for current U.S. policy, even though much of it is in fact also EU policy.<sup>56</sup> If the United States were to undertake action, especially military action, against Iran, antagonism would spike even higher.

U.S. options to respond to this problem are fairly limited. The United States must continue its diplomatic and political efforts to find common ground with the EU. Its policies toward the Palestinians, Iran and the need for political change in the Arab world have merit; it needs to keep working to persuade the EU on these points. Over time, this dialogue should have a positive effect beyond government circles. And even if European publics are hostile, U.S. diplomats and policymakers should engage in more public diplomacy. Whether audiences listen or not, the United States should make its case – ducking the debate only makes things worse. This will not happen by itself, but will have to be driven top-down by Washington and the ambassadors at post. Some progress has been made to date, but it is spotty; London and Madrid, for example, are performing well, but other embassies are less active.<sup>57</sup>

## Differing Perspectives on Multilateralism

If the European Union increasingly acts as a partner to the United States with regard to the Middle East, it is more an adversary on certain multilateral issues. From the EU perspective, multilateralism *per se* is a defining aspect of the “moral high ground” of the international community, and “effective multilateralism” is a key goal. Europeans criticize the United States for blocking this goal by acting unilaterally, and by undermining institutions such as the United Nations. U.S. policymakers must face this argument directly, defending the U.S. record while challenging the EU to make multilateral institutions do the jobs for which they were established.

With the end of the Soviet threat, many Europeans, particularly (but not only) on the left, reacted to the emergence of the United States as the “sole remaining super-power” by seeking to counteract or constrain its influence.

European countries accordingly did not embrace various U.S. multilateral initiatives, beginning with the “New World Order” proposed by President George H. W. Bush. Rather, they responded to those proposals “less by outright rejection of U.S. initiatives than by assertive counteractions, the eventual effect of which was to deprive Wash-

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56 At a press conference following the U.S.-EU summit in June 2006, Austrian Chancellor Wolfgang Schuessel characterized the depiction of the United States as the chief threat to world peace as grotesque, reflecting the degree to which the United States and the EU are working together on various strategic problems. See Abramowitz.

57 In London, the ambassador requires his staff to engage in extensive public speaking.

ington of the multilateralist high ground and place it on the unilateralist defensive.”<sup>58</sup> This process occurred through international organizations like the United Nations, as well as through treaties such as those dealing with landmines, climate change or international justice, and became an important focus for common EU foreign policies.

As the European Union relies heavily on international law, its desire to replicate and expand the international legal system is only logical. Moreover, the subject matter at stake, “soft” rather than “hard” policies, is also a natural choice for EU member states. Although the EU is developing the capability to deploy military forces, it remains easier for Europeans to focus on nonmilitary goals:

*Americans tend to support Presidents who take bold military measures... Conversely, proposals for military action divide Europeans, with their different histories of heroic defence of freedom, aggressive war, weakness, collapse and neutrality... The attractive issues to emphasize are therefore those with high positive symbolic value, such as protection of the environment and human rights.*<sup>59</sup>

The EU was aided in its effort to expand reliance on international law by a mechanism that emerged in the 1990s: *ad hoc* coalitions of nongovernmental organizations (NGOs), smaller states and international organizations. These coalitions arose to oppose the policies of established powers, usually the United States. From the Ottawa Convention Banning Landmines and the International Criminal Court to the Kyoto Protocol, Europeans insisted on positions that they knew the United States could not support: “[i]t is part of the agenda of the new diplomacy [of these coalition partners] to attempt to isolate the United States and then to criticize it for its isolation.”<sup>60</sup> By and large, this approach has been quite successful, particularly in Western public opinion.

At the United Nations the EU has, since the early 1990s, slowly consolidated ever larger areas of common policies. U.S. policymakers often failed to notice this trend, occurring as it did primarily in the UN General Assembly. The United States focused instead on the Security Council, where France and the United Kingdom retained their separate votes. In the mid-1990s, economic and environmental issues were subject to EU common policies, while human rights policies were still up to the individual member states. Ten years later, human rights policies also are formulated in common. The EU derived a double benefit from this process: on the one hand, it was more likely to win its point if all member states voted together; on the other, the very process of reaching consensus reinforced CFSP.

Maintaining and expanding the authority of the United Nations remains a key priority for the European Union. It figured prominently in the European Security Strategy as part of the goal of promoting “effective multilateralism.” As the Strategy states:

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58 Van Oudenaren, “Unipolar Versus Unilateral,” p. 6 of electronic version.

59 Keohane, p. 746.

60 Davenport, p. 10.



*We want international organisations, regimes and treaties to be effective in confronting threats to international peace and security, and must therefore be ready to act when their rules are broken.*<sup>61</sup>

Within the EU there are differences as to how effective multilateralism should be pursued. Germans display “an almost uncritical preference for all kinds of multilateralism,”<sup>62</sup> reflecting the fact that their postwar national rehabilitation was achieved through multilateral instruments such as NATO and the EU. The French, for their part, see multilateralism as “the preferred instrument to challenge U.S. predominance, primarily because Paris lacks the means on its own to counterbalance U.S. power.”<sup>63</sup> The British prefer to use multilateralism to influence the United States.<sup>64</sup>

Other member states share these differing approaches. “The German school has many adherents among smaller European states and among socialist and liberal parties in most European states... The British school of thought has many adherents in the Netherlands, Denmark, and Poland, as well as in other Scandinavian and Eastern European states and within most of Europe’s conservative parties.”<sup>65</sup>

These differences suggest that the United States may be able to find common ground if it enters into a dialogue before an internal EU consensus is reached. Even so, however, achieving better U.S.-EU cooperation will not be easy. The United States will measure effective multilateralism by the UN’s ability to reform and its response to Iranian nuclear violations and other threats to peace. While negotiations with Teheran may have helped the EU to focus on these security questions, it will be looking mainly at other issues, from setting a standard of expending 0.7% of GDP (gross domestic product) on official development assistance by 2015 to pursuing environmental goals. Nor will it show much interest in UN reform or the oil-for-food or other scandals. The recent disagreement over how to handle human rights at the UN suggests the distance to be traveled.

The United States traditionally puts relatively little emphasis on multilateral diplomacy in general, or on relations with the United Nations in particular. (In the State Department, the regional bureaus have much more clout than does the Bureau of International Organizations.) The result: U.S. policy is continually on the defensive. To correct this problem, the State Department needs first and foremost a strategy for dealing with the EU at the United Nations and other multilateral institutions.

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61 “A Secure Europe in a Better World: European Security Strategy.”

62 Krause, p. 48.

63 Krause, p. 51.

64 Krause, p. 52.

65 Krause, pp. 52-53.

## Conclusion

The United States already interacts with the EU on most foreign policy issues, but could gain much more by engaging with the Europeans earlier in the EU decision cycle. To do that, it must cultivate a longer-range perspective that accommodates the lengthy gestation periods of EU policies. It cannot simply “discover” an issue shortly before (or after) it lands on the desks of EU foreign ministers. That, in turn, requires sustained senior-level attention, backed by an EU-wide strategy developed in Brussels and Washington, and better use of personnel in European embassies.

Middle East policy presents another type of difficulty. At present, despite historical differences, the United States and the European Union have established good day-to-day cooperation in many key areas. Yet European publics remain deeply suspicious of virtually any American policy or motive.

A third difficulty arises in the multilateral arena, where the EU’s bid for the moral high ground on certain key issues has already made significant inroads at the expense of U.S. prestige and claims to international legitimacy. The United States should find a way either to reach agreement with the EU on common multilateral goals, or to build a viable and persuasive alternative to the EU vision of effective multilateralism.



# Counter-Terrorism: Brussels, Capitals and Publics

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When asked in 2004 to recommend priorities for U.S.-EU relations, the transatlantic business community put enhancing the security of trade and travelers without interrupting commercial flows at the top of the list. Europe is simultaneously the most important commercial partner of the United States and a potential avenue of entry for significant terrorist threats.

Since September 11 both EU counter-terrorism authority and U.S.-EU counter-terrorism cooperation have expanded.<sup>66</sup> As long as illegal immigrants, criminals and terrorists can exploit the lack of internal borders and a single internal EU market, the problems they cause will transcend the ability of individual member states to respond. There must be some type of collective response, and EU structures offer the only real choice. And as the EU role grows, so will U.S. interest in cooperating with it. What the EU does affects not only the scope of authority of member state governments, but counter-terrorist policies in sensitive regions such as Eastern Europe, and the development of international rules and norms.

This growth of an EU role is a complex process that creates special difficulties for outside powers like the United States. When there is a lack of internal EU consensus, U.S.-EU counter-terrorist cooperation is greatly complicated. This is particularly true because this cooperation does not fit into a neat organizational box: for example, law enforcement issues cannot be separated from political issues such as the protection of civil liberties. In such a fluid situation, compartmentalization is a handicap. Instead, the United States must remain flexible, using an interdisciplinary, holistic approach to engage relevant agencies when and as necessary.

Two current cases demonstrate the significance, from the U.S. perspective, of the developing EU role in counter-terrorism. The first concerns a proposed rule to impose limitations on the transfer of personal data in criminal investigations. Unless amended, the rule would greatly damage existing cooperation with European governments. The United States has been frustrated in its efforts to provide input regarding the possible negative implications. The Commission and Council have refused to consult with the United States without first consulting the European Parliament – a step not normally required in such cases.

The second case concerns the sharing of intelligence connected to counter-terrorism (as well as foreign policy). The United States continues to favor its established bilateral intelligence relationships with key European countries, and to balk at sharing intelligence with the EU as a whole. Yet looking only at the risks of wider sharing obscures the benefits of explaining potential threats more fully, thereby laying the groundwork for broader consensus on future counter-terrorist actions.

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<sup>66</sup> See Lebl and Aaron et al.

These and other examples of U.S.-EU counter-terrorism ties, while important, cover just part of the problem. The United States should also seek ways to expand its political dialogue with the European Union on questions related to Islamist terrorism, to build the necessary consensus for effective transatlantic counter-terrorism policies.

## Interpreting and Responding to the EU Role in Counter-Terrorism

Within a week of September 11, 2001, EU leaders committed themselves to closer counter-terrorist cooperation with the United States. While genuinely wishing to help, EU officials also knew that the impetus of September 11 would allow them to “build Europe” as an “area of freedom, security and justice” – a goal that had been languishing for years because of opposition from EU national governments. The leverage derived from closer ties with the United States was a valuable asset.

The draft Constitutional Treaty proposed a series of changes designed to increase the speed at which the EU reaches decisions and its ability to implement them in areas such as law enforcement cooperation, immigration policy and border security. Rather than pursuing the intergovernmental approach, with EU decisions reached on the basis of unanimity, the goal was to transfer much authority for these sectors to the central EU institutions, particularly the Commission.

With the Treaty now in limbo, this transfer of authority will likely be a long-term process, given the resistance from national governments.<sup>67</sup> But the pressures for change are real, and public support for them is growing. For example, according to a recent poll the Dutch, while continuing to oppose the draft Constitutional Treaty, support more EU involvement on anti-terrorism.<sup>68</sup> The evolution is visible in the border security sector. In 2004, member states set up Frontex, an agency charged with coordinating the activities of national border guards. In July 2006, the Commission proposed to expand Frontex’s mandate, giving it a rapid response team of 250-300 border guards to cope with sudden influxes of illegal immigrants, such as those being experienced by the Canary Islands and Malta.<sup>69</sup>

In the new post-September 11 environment, the United States was cautious about forging new relationships with the EU. Worried that such ties might interfere with its valuable bilateral links with national European governments, it wanted to ensure that dealing with the EU brought “value added.” In addition, U.S. officials, reacting to the urgency of the situation as well as to congressional pressure, put a premium on cutting through red tape and finding solutions. They worried that dealing with EU officials in Brussels would be less efficient, if not counterproductive, compared to working with national and local officials in EU member states.

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67 Commission President Jose Manuel Barroso continues to advocate for it but has encountered resistance from member states such as Germany, who accuse him of cherry-picking issues from the draft Treaty, taking some while leaving others.

68 “Dutch open to EU treaty changes from 2008.”

69 Melander.

The first discovery U.S. officials made was that the “EU” consists of both Brussels authorities and national governments – they are organically linked, not separable. It proved impossible to deal only with national capitals, once the question had been raised of whether authority had been transferred to Brussels (even if only partially). The U.S. Customs Service,<sup>70</sup> for example, signed Container Security Agreements with European ports and national governments, only to discover that the Commission also claimed competence. The Commission opposed the U.S. approach, which it felt provided an unfair commercial advantage to those EU ports that signed up vis-à-vis those that did not. A further year of negotiations produced a U.S.-EU agreement covering port security issues. A dispute over the use of personal data on airline passengers for security purposes was even more difficult, as it also engaged the European Parliament and raised public concerns about the protection of personal data.

Simply dealing with Brussels, though, was no solution either. In law enforcement, for example, the central EU agencies have certain policy functions, but the key operational responsibilities and capabilities remain with the national governments. There is, for example, no EU criminal law, no EU prosecutor, no EU police. The U.S. structure is quite different: law enforcement authorities exist at federal, state and local levels, and typically combine operational and policy roles; very few officials are dedicated to working only on policy. Given this asymmetry, U.S. officials often have no choice but to work with national rather than EU counterparts.

In addition to conflicts of authority between EU central institutions and member state authorities, EU counter-terrorist policies are deeply intertwined with policies in other areas: for example, law enforcement issues cannot be separated from regulatory policy, or political issues such as the protection of civil liberties. The question of “competence” is extremely fluid, as demonstrated in May 2006, when the European Court of Justice voided the airline passenger agreement mentioned earlier. It found that, as the substance was essentially law enforcement rather than commerce, the Commission and Council lacked an appropriate legal basis for signing it. The EU has until September 30, 2006 to find a new legal solution.<sup>71</sup> The agreement on port and container security could be revisited in the same fashion. In this uncertain situation, the existing compartmentalization is a handicap. Rather, the United States must remain flexible, relying on an interdisciplinary approach that keeps the relevant agencies ready to engage as needed.

Despite these difficulties, the European Union remains a key partner for the United States in counter-terrorism. Former Secretary of Homeland Security Ridge and Former Attorney General John Ashcroft concluded that senior-level engagement to set policy direction and consult personally with the Europeans was critical. In fact, in his farewell speech, Ridge said that his biggest regret was not having worked more closely with the EU from the start.

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70 Now the Bureau of Customs and Border Protection in the Department of Homeland Security.

71 See “EU court annuls data deal with US.” A new agreement was reached in early October.

That cabinet-level focus, though, seems to have waned with the passing of the first Bush administration. The primary vehicles for U.S.-EU policy coordination are informal policy troikas (small groups of relatively senior officials) that meet twice a year to assess progress and provide guidance to informal expert-level groups working on specific issues. In addition, U.S. border and transport security officials and their EU counterparts have set up a high-level U.S.-EU Policy Dialogue to serve as a form of early warning system, in which the two sides exchange information about new policies and technologies.<sup>72</sup> These groups, while effective, do not provide the same level of leadership as before. Another sign of decreased interest has been the extended delay in assigning a senior representative of the Department of Homeland Security to the mission to the EU in Brussels.

## The Principle of Availability

The European Union, in its action plan to combat terrorism, characterizes its cooperation with the United States as excellent.<sup>73</sup> Unfortunately, if one views this cooperation in terms of advancing U.S. interests, there are fewer grounds for optimism. The existing forums advance some policies, but the United States is still behind the curve in responding to complex new issues. Nor is the EU an easy partner with which to negotiate topics subject to draft EU legislation. The U.S. response to the draft Commission “Proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters” of October 2005<sup>74</sup> illustrates both these difficulties.

Starting from the assumption that timely data sharing is essential to enhanced intra-EU law enforcement cooperation, the Commission has proposed, among other initiatives, a system in which such data is transferred quasi-automatically among the EU member states or between the member states and EU central authorities, according to the so-called principle of availability. Under this new system, data controllers will no longer be able to verify individual cases.

Data protection advocates worry that such a system could create situations in which data are either wrongly transferred or in some way misused. To counteract this concern, the Commission proposal cited above increased data protection requirements for use in law enforcement-related transfers.<sup>75</sup> It required a determination of the level of data protection in a third (non-EU) country before personal data could be transmitted, and established rules governing that transfer.

Structurally, the problem of data protection is similar to the problem of food safety covered in the next chapter: there are differing national regimes of data protection,

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72 “U.S.-European Union Cooperating on Combating Terrorism.”

73 “Implementation of the Action Plan to Combat Terrorism,” p. 12, para 31.

74 *Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.*

75 Such protections already exist for data transfers in connection with commercial activity.

some more stringent than others. For the EU to authorize data transmission, it assumes it must bend over backwards to demonstrate its commitment to adequate protection – including placing strict controls on transmission of such data to outsiders like the United States. Widespread European suspicion of American motives, combined with fears about the erosion of civil liberties in the wake of September 11, further complicates the issue.

This most recent Commission proposal is not the first time that data privacy issues have arisen in connection with transatlantic law enforcement cooperation: they were critical aspects of recent U.S.-EU agreements on Europol, extradition, and mutual legal assistance. Up until now, solutions have been found by accepting systems that are generally compatible: that is, they reach the same goal, but by different means or institutional arrangements. This has been a very important compromise, as the European Union and the United States have different data privacy regimes, although the general principle of protecting personal data is well established in both. Each time a new agreement is considered, the subject must be examined anew.<sup>76</sup>

The first challenge for U.S. diplomats in Brussels regarding this data privacy issue was to inform relevant agencies in Washington and get them to focus on the problem. The draft decision had the potential to affect the policy and operations of a number of U.S. federal agencies, among them Justice, State, the CIA, Treasury and DHS. Yet it was not at all clear who in each agency was in charge of determining whether U.S. interests were at risk, and what to do if they were.

After some initial confusion, the U.S. government responded to the EU proposal, making clear its strong objections to provisions that would largely undercut the ability of European governments to share law enforcement information – a key form of counter-terrorist cooperation before and particularly after September 11. The United States then encountered yet another difficulty. The Commission and Council were unwilling to consult with it when they had not yet engaged the European Parliament, an important player on civil liberties issues. Yet once the Commission and Council reach agreement with the Parliament, little to no flexibility remains for negotiations with outsiders. The lack of legitimacy of the Commission and Council, the underlying reason for this unusual degree of constraint, thus becomes a problem for the United States as well.<sup>77</sup>

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76 An independent EU advisory committee in November 2006 found that the Belgian money transfer company SWIFT had violated EU data protection laws, giving the United States intelligence information on financial transfers although it had no proof that the United States offered adequate protection to this confidential personal data. See Spongenberg.

77 U.S. negotiators, for example, while they must respect the basic parameters set by the legislative branch, are not required to consult with the Congress as they develop their negotiating positions.

In the normal course of events, the EU takes about a year to adopt a final decision once the Commission has published a draft. That process could take longer in this case, as it is more difficult to reach consensus at 25 than it was at 15, and the text is controversial. The fate of the draft proposal is uncertain: it may or may not be enacted, with or without important substantive changes. Nevertheless, the EU's influence in data protection may be felt sooner rather than later. The principal funder of Interpol, the EU is pushing for that agency to adopt EU data protection rules. The United States, as a member of Interpol, would then be subject to those rules.

## Intelligence Sharing

The case of the principle of availability shows the difficulty U.S. officials have when they want to deal directly with the EU on a counter-terrorism issue. The question of intelligence sharing, on the other hand, shows the costs that ensue when the United States prefers to avoid the EU. Since September 11, the EU has set up a counter-terrorist institutional structure that includes a situation center, the 24/7 operations center designed to support both ESDP and counter-terrorism goals. In the process, the EU underwent a fundamental transformation, acquiring for the first time the NATO-compatible physical infrastructure and procedures that allow it to handle classified information. It still remains primarily a consumer, rather than a producer, of intelligence, as it does not have its own assets in the field, but rather depends on intelligence from EU member states.

U.S. intelligence officials are understandably reluctant to share their intelligence products with the EU, which means making them available to all 25 member states, as they see in this a risk of losing control.<sup>78</sup> Their preference is either to pass intelligence through NATO to the EU, or to restrict it to long-standing bilateral intelligence partners such as the United Kingdom, France or Germany. The material that has been prepared for specific release to the EU has thus far been at such a low level as to be an embarrassment. The member states with less access are well aware that they are being excluded.

The final effect of this multitiered approach is to undermine the cohesiveness of the EU position, which in counter-terrorism often works against U.S. interests. For example, the EU decision to classify Hamas as a terrorist organization has had a positive effect. It has shaped not only EU policy toward the Middle East conflict, but also the wider EU consensus on what constitutes unacceptable terrorist activity. Today, when Sweden allows Hamas representatives to visit, it is violating established EU policy. Over time, Sweden will find it very difficult to maintain this posture; that would not be true, were it only a question of U.S. disapproval. The list of topics where an EU consensus would advance U.S. interests is long, and should figure more prominently in the discussion of how widely to share U.S. intelligence.

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78 They are also hampered by the lack of bilateral intelligence sharing agreements with some of the member states.



## A Dialogue on Islamist Ideology and Terrorism

Although the United States and the European Union cooperate in areas like law enforcement, financial controls on terrorist funding, or border and transport security, this cooperation has been limited by the extent of EU authority for counter-terrorism policies. It has also been limited by the lack of strategic agreement between the United States and the EU on how to combat terrorism, with the latter refusing to characterize the conflict as a “war,” and by European suspicion of U.S. motives and policies.

Yet the two sides have much in common. Their long, porous borders are difficult to control adequately, and raise similar problems (if with different characteristics) of identifying and interdicting terrorist access and activity. And both are hampered by the lack of a clear response to the intellectual challenge of Islamist fundamentalism. Although such cooperation is constrained by the political undesirability in Europe of being seen working too closely with the United States,<sup>79</sup> the two sides should consult with each other on these problems, which are of mutual interest, and work together when that would be beneficial.

The Madrid and London bombings, as well as the assassination of Dutch filmmaker Van Gogh in the Netherlands, alerted European publics to the danger of allowing Europe to serve as a convenient recruitment, training, and operational center for Islamist terrorists. Yet solving this problem will be difficult, as many European countries already have large, unassimilated and alienated Muslim populations, and their declining indigenous populations will require even more immigrant labor in the future to maintain current social spending.

The EU has approached the problem of domestic terrorism with a strategy for combating radicalization and recruitment, published at the end of 2005.<sup>80</sup> The strategy is an outgrowth of the EU response to the Madrid bombings. It recommends a variety of measures, from enhanced community policing and effective monitoring of the Internet and travel to conflict zones, to limiting the activities of those radicalizing prisons, places of education or religious training and worship. It calls on member states to put in place the right legal framework to prevent individuals from inciting and legitimizing violence.<sup>81</sup>

While this approach falls short of addressing underlying problems such as the *de facto* segregation of Muslim populations, it does contain useful elements. The key will be whether it is followed by more substantive measures. Given the diversity of the specific problems facing different member states, as well as their responses (Islamist

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79 The European Parliament’s reaction to the disclosures of European cooperation in tracking terrorist financing is a case in point.

80 “The European Union Strategy for Combating Radicalization and Recruitment to Terrorism.”

81 “Strategy,” p. 3, para 9.

groups that may be banned in one or more member states can still operate in others), a serious EU intervention could have the effect of strengthening resistance to Islamist terrorism overall.

The EU also pursues political dialogue with third countries and targets technical assistance to them to combat terrorism. It identifies the conditions in other societies which enable radicalization: poor or autocratic governance; rapid but unmanaged modernization; and lack of political and economic prospects, etc.<sup>82</sup> This will likely be an increasingly important contribution that the EU makes to the broader Middle East initiative described in the foreign policy chapter.

The EU faced an early test of its new policies in the controversy over the Danish cartoons of Mohammed. It did not pass with flying colors, nor did the United States. Neither made a clear distinction between the need to respect a religion and the need to oppose violent action in the name of religion. The result has been a clear diminution in the protection of free speech. Had there been a solid transatlantic, trans-European consensus on these issues, the outcome might have been far different.

## Conclusion

Given the scope of these problems, transatlantic counter-terrorism cooperation has much ground yet to cover. The relevance of the U.S.-EU link will depend on how the role of the central authorities evolves within the EU itself. For the foreseeable future, the real work of transatlantic counter-terrorism cooperation will be done mostly in national capitals, reflecting the balance of power and the division of labor between those governments and EU central institutions. That period will be longer rather than shorter if EU integration in these sectors slows as a result of the French and Dutch referenda. But in all likelihood, the next five to ten years will see the emergence of a more formal U.S.-EU relationship supplementing bilateral ties.

In Washington, U.S.-EU ties remain hobbled by the lack of senior-level focus and interagency coordination and flexibility. Further, both sides have a flawed strategy toward Islamic extremism and could benefit from a broader exchange on the subject, although U.S. engagement in practical or high-profile measures will be constrained by European mistrust of American motives and actions.

To maintain the momentum in counter-terrorism cooperation with the EU, the United States should enhance the coordinating role of the National Security Council and provide more senior-level engagement across the board in Washington. This would allow it to increase its interagency flexibility, break logjams in areas like intelligence sharing, and encourage the EU to consult prior to the issuance of EU legislation.

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82 "Strategy," p. 4, para 12.



# Trade and Regulatory Policy: Organizing for Co-petition

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The economy now forms the bedrock of the transatlantic relationship, especially with the end of the Cold War. The United States and EU together produce the equivalent of 60% of world GDP. Since the fall of the Berlin Wall, the transatlantic trade and investment relationship has surged, with flows now of roughly \$3 trillion per year making it the largest bilateral one in the world. It is expected to keep on growing, providing ever more income and employment on both sides of the Atlantic.<sup>83</sup>

When the EU and the United States agree on international economic issues, they set the global agenda. As a practical matter, if the United States wants to promote free markets around the globe, it needs the support, not the opposition, of the European Union. Economic cooperation underlies most successful transatlantic political and security initiatives as well, whether regarding the Balkans, the Broader Middle East or global standards for shipping containers or air passenger data.

This picture represents an unusual success story, yet the perception of U.S.-EU economic relations among policymakers, legislators and the public is often quite different. Because of the density of the ties and the high stakes involved, transatlantic disputes are serious and high-profile. There are clear elements of competition, as the United States and the EU offer differing approaches with global applications for various economic problems, and the extensive involvement of legislators as well as executive branch officials makes disputes more intractable.

U.S.-EU disputes, which in fact affect only 1% to 2% of total transatlantic trade,<sup>84</sup> embody not only acrimonious competition but also a sense of stalemate. As one recent study stated, “Put very simply, the transatlantic economic agenda has made almost no measurable progress over the past 5 years.”<sup>85</sup> The installation in 2005 of a more liberal European Commission suggested that U.S.-EU cooperation would be easier, but the Commission’s relative weakness has limited its effectiveness.

The United States needs a vision of co-petition – how to compete and cooperate with the EU at the same time – and an approach that integrates the activities of all the U.S. agencies engaged in economic relations with the EU. Senior leadership is needed to set strategic goals for the relationship, and to maintain the balance between competition and cooperation while keeping relations from being framed by the latest dispute.<sup>86</sup>

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83 See Gray and William Cooper.

84 The exception is agricultural trade. The EU has done an excellent job over the years in keeping out U.S. agricultural products (the United States exports less to the EU, with 450 million people, than it does to Canada, with 32 million people).

85 *Review of the Framework*, p. 32.

86 Interview with former senior official.

This chapter will describe the difficulties the United States faces in handling disputes like those concerning food or food safety, and suggest ways to integrate the efforts of the U.S. agencies involved. It will then examine regulatory and standards policy, describing the benefits that can accrue to the United States if it engages at the design phase in the role of problem solver, rather than later as “enforcer” of international laws or agreements.

## Economic Disputes: Ever More EU Linkages

Economic disputes typically receive extensive media coverage and account for much of what many Americans know – and dislike – about the European Union. As one observer puts it, they contribute significantly to a “relationship...marked by profound ambivalence, with every two cooperation steps forward apparently depreciated by one step (or more) back toward rancor.”<sup>87</sup> Periodically, the media warn of a looming “trade war.”

This relatively static picture masks the significant evolution of trade policy over the years. The dismantling of tariffs and subsidies a generation ago has meant that now most trade disputes arise from non-tariff barriers such as domestic regulations or subsidies. It is their domestic dimension that makes so many disputes intractable.

Among the most difficult are those dealing with either food safety or the environment. Indeed, some observers see food as the basis for the new divide in culture and values between Europe and the United States, whether it concerns beef hormones or food that contains or has been produced using genetically modified organisms (GMOs). Certainly, problems involving food safety and quality (see box) have an immediacy for consumers that other questions, such as the environmental hazards posed by electronic waste or chemicals, do not. The psychological and political factors are powerful; one observer talks about the “religious fervor” attached to questions of food safety.<sup>88</sup>

### Food Safety

The weakness of European regulatory agencies is a major source of concern about food safety. Once the EU central institutions have agreed on a new regulation, it is up to the national authorities to implement it. The central authorities have little ability to ensure that implementation is done quickly and properly. In reality, it often takes years and is very uneven. Hence the skepticism of the average EU citizen is perfectly justified, particularly after repeated failures on the part of the authorities regarding problems such as dioxin poisoning and mad cow disease.

Recognizing this problem, the EU in 2004 established the European Food Safety Authority (EFSA) in Parma, Italy. EFSA will provide risk assessments and independent scientific advice, but will not decide which products can enter the European market – that will remain a political decision. Good relationships with its American counterparts, particularly the Food and Drug Administration, may ease future disputes in this sector.

87 Peterson, p. 45.

88 Interview with the author.

As a result, U.S. trade officials have exhausted the standard trade remedies, including recourse to the trade dispute mechanism at the World Trade Organization (WTO), to little avail. EU member states have preferred to accept sanctions on their exports rather than to allow in U.S. beef containing hormones. Even after the United States won its case at the WTO regarding food containing GMOs and obtained the agreement of the European Commission that these imports pose no health or environmental danger, certain member states still refuse to allow them in.

This European boycott of U.S. exports has a significant impact on U.S. interests. U.S. farmers do not find it economical to segregate their genetically modified crops, and so are abandoning them in order to remain internationally competitive. Other countries also refuse to import genetically modified food, for fear that they could contaminate crops destined for export to the European Union. Perhaps the most extreme example of this was Zambia's refusal, in the midst of a famine, to accept emergency food aid from the United States.

Thus, U.S. policy needs to change hearts and minds in Europe – admittedly a very difficult task – not just challenge the EU at the WTO. U.S. trade officials are well aware of this, but require additional resources to make headway in this task. The next section looks at EU institutional structures in more detail to explain what is necessary.

## **The Commission, the Council and the Parliament**

**T**he European Commission in Brussels alone is empowered to negotiate with other countries on behalf of the member states (although significant sectors, such as services, have not been delegated). It also has sole authority to propose EU legislation and regulations, although its proposals must be approved by the Council and, increasingly, the European Parliament.

That said, the Commission's powers are less than they appear. Hopes were high at the start of the first Bush administration, with the appointment of Robert Zoellick as U.S. Trade Representative. Given his close personal relationship with EU Trade Commissioner Pascal Lamy and the experience of both men in international economic issues, the outlook for resolving disputes was better than it had been for years. And in fact, the two worked hard for the next four years to resolve existing cases and prevent new ones. The results, however, were disappointing. While some cases were terminated, others were filed, and intractable problems like the GMOs case persisted.

Nor is it much easier to work trade issues with the Council, where representatives from the member states meet in the 133 Committee (named for the treaty article that authorizes it), comprised of national officials who either reside in Brussels or travel there periodically. They are there to provide guidance to the Commission; if this guidance does not suffice, the Commission turns to more senior national government officials, up to the Council of the European Union (ministers) or the European Council (presi-

dents and prime ministers). Thus, the Commission required approval from the transport ministers for its 2004 aviation agreement with the United States,<sup>89</sup> as well as the agreement of France for any agricultural concessions in the 2005 Doha negotiations.

The Commission in recent years has had less authority than it enjoyed in the 1980s under the powerful President Jacques Delors. More generally, the Commission's fortunes track those of the European Union itself;<sup>90</sup> after the 2005 referenda, Commission President Jose Manuel Barroso has operated in a difficult environment.

If the Commission's fortunes appear to be troubled, that is also true of the 133 Committee, whose meetings have tended toward briefings and informational sessions, rather than policymaking ones. Some see this as part of a general evolution, in which the national governments are more ready to cede authority to the Commission in established areas, and even the larger member states only intervene on issues of significant national interest.

Others suspect that key trade policy players are less willing to put time and effort into the 133 Committee now that it has expanded to 25 members, many of whom are minor actors. They prefer to cut side deals with one or more of the others that are then approved by the 133 Committee. Since the 2004 enlargement, the relatively even split in the 133 Committee between those favoring liberalization and those favoring protection also makes it harder to reach consensus. Some argue that this split has given the Commission more leeway to act; others that it has helped to renationalize trade policy, shifting it back to capitals.

The third institution, the European Parliament, is growing in importance, and is a natural player on issues with a strong domestic component. In the elitist landscape of EU institutions it is the most "democratic," despite low and declining turnout for its elections. Yet it must share legislative powers not only with other EU institutions, but also with the national parliaments in capitals.

Between the Commission, Council and Parliament, EU legislation follows a complex procedure of many twists and turns. Some of these steps, particularly those in which draft legislation and regulations are reviewed by various committees, are far from transparent – the system, known as comitology, includes committees whose membership is secret and other features that favor privileged insiders at the expense of other EU as well as foreign interests.

The general consensus among U.S. officials appears to be that it is no easier to deal with the European Union when it is weak than when it is strong. When internal consensus is weak, the Commission is more likely to take a hard-line position externally. Nor does renationalization of EU decision-making help. The EU may be less likely to take steps aimed at thwarting U.S. policy, but it is also less able to respond to U.S. initiatives, or

89 See Robyn, Reitzes and Moselle, p. 71.

90 Van Oudenaren, *Uniting Europe: European Integration and the Post-Cold War World*, pp. 69-70.

to make difficult decisions on issues such as agricultural subsidies. The United States has more to gain from a Europe that is strong and peaceful, not an EU so defensive that it takes the most hard-line position or so fractured that it takes no position.

## Managing Disputes in Washington and in the Field

While transatlantic economic disputes may capture the headlines, they often do not actually attract much senior-level interest or engagement in Washington. Despite the fact that they touch on sensitive domestic areas, they typically remain in their own channel: "...the trading relationship, and especially bilateral disputes, has increasingly moved into a separate USTR-DG Trade [U.S. Trade Representative and Directorate General for Trade] dialogue, even though the Commissioner for Trade and USTR usually lack the political authority to resolve them."<sup>91</sup>

State, Commerce and Agriculture currently all have mid-level offices dealing with EU affairs. These offices tend to be overwhelmed by paperwork and meetings. They do little but coordinate day-to-day in-house or in the interagency process, and lack the capability or authority to perform the type of coordinated work described above, except on an occasional basis.

Moreover, trade policy *per se* does not even figure in the current list of economic priorities between United States and European Union. This list, adopted at the U.S.-EU summit in June 2005, only talks about trade indirectly: the need for trade security or the need to protect intellectual property rights. The absence of trade policy reflects frustration at the lack of progress in recent years, which led to the decision to pursue instead a "positive economic agenda." It makes sense to seek positive common ground, but trade disputes are not just going to go away.

In the field, U.S. officials must strike a balance between working all the bases all the time and letting issues fall between the cracks. On the one hand, there are complaints of insufficient differentiation among the national capitals: the same message is given in both Athens and London (the so-called "shotgun blast" approach), sometimes achieving the opposite of what was intended. On the other hand, Washington sends so many requests for action that smaller posts are overwhelmed and find it difficult to advocate effectively.

Obviously, all embassies need not work on all problems. There is a big difference between what an economic officer can do in a major country and what s/he can do in a country that accounts for only 1% of EU total trade. On the other hand, a member state may have a particular interest in one issue that makes it important despite its small size. Much of the expertise for knowing how to approach the host country lies with the embassies, rather than Washington, so their input is critical.

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91 *Review of the Framework*, p. 23.

Yet the lines of authority between Washington and the field are tangled. For example, State has very little role in economic policy formation in Washington, yet controls many economic positions in European embassies. USTR has staff at the mission to the EU in Brussels, but no one in the bilateral embassies in Europe. Currently, USTR's ties with some embassies work very well and with others barely at all. State Department officers are criticized for showing too little initiative on EU-related issues, a problem that could be reduced by providing them more background and guidance, and setting priorities more clearly.

In addition, upgrading the role of the U.S. mission to the EU in Brussels and enhancing its links, both to embassies in national capitals and to Washington agencies, would improve performance. The mission to the EU can, and does, interact with the other embassies frequently, particularly by keeping them informed to various degrees of events in Brussels. However, it receives relatively little in return – certainly nothing on a regular basis.

As most disputes are domestic in nature, U.S. officials must also interact with consumer groups, business leaders, nongovernmental organizations – in short, the full panoply of stakeholders. In particular, embassy officials will have to engage much more in advocacy work and public diplomacy, as many disputes will only be resolved by changing public attitudes. This approach will require them to deal with the press and do more public outreach. A reorientation of this scope requires sustained pressure from high levels in Washington as well as the full support of ambassadors at post.

## Regulations and Standards: Getting In Early

The EU's political fate may have its ups and downs, but the stream of new EU regulations and standards is fairly constant. U.S. officials increasingly see the development of compatible regulations as the most important long-term issue affecting the transatlantic economic relationship and, beyond it, the global marketplace. To achieve this goal, it is vital that the United States interact with the EU from the very start.

Again, in the regulatory area there is a strong case for cooperation, as both sides of the Atlantic have a strong interest in removing barriers to economic growth. Yet there is also a strong element of competition. The country or entity whose regulations dominate world trade has a distinct advantage, as it can set the standards – a goal the European Union pursues assiduously today.

Moreover, the EU regulatory process is relatively nontransparent, making it difficult for U.S. business to participate in it the way that foreign companies do when U.S. regulations are drawn up. (For example, directives<sup>92</sup> are published in the official journal only after they are finalized.) Furthermore, the EU lags well behind the United

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92 The most common form of EU regulation. Once adopted, the member states must individually pass their own legislation to implement the directive.



States in terms of the impact assessments it performs to determine how a proposed regulation will work in practice. The result, as one observer noticed, is that today it is often less a question of advancing U.S. interests than of simply maintaining them.<sup>93</sup>

In the past, U.S. regulatory officials, legislators and foreign policy experts have failed to appreciate the complexity of the EU regulatory process. This shortcoming created unrealistic expectations and additional difficulties. For example, with regard to European opposition to the import of bioengineered seeds, although the Commission was the biggest ally of the United States and the member states were throwing up the obstacles, there was still a tendency to pound on desks at the Commission. Nor, as the Registration, Evaluation and Authorisation of Chemicals (REACH) directive imposing significant reporting requirements and restrictions on harmful chemicals was being prepared, did many U.S. officials understand the need to weigh in before the text emerged from the Commission. The spring 2006 draft of that directive contains many provisions that would have a deleterious impact on U.S. exporters without yielding significant environmental benefits.<sup>94</sup>

While any draft regulation requires Council and Parliament approval, making improvements at those later stages is extremely difficult. In particular, while Members of Parliament have the power to amend, they have almost no staff of their own and little possibility to acquire expertise in highly technical areas. With over 700 Members of Parliament, and 25 member states represented in the Council, the legislative process is understandably complex. The value of getting in on this process at the ground floor in Brussels and the other national capitals cannot be overstated.

Individual U.S. and EU regulators have always been able to develop good relations in specific sectors when both sides wanted it. Broader transatlantic cooperation on regulatory issues stagnated in recent years, however, due to high-profile disputes on issues such as the application of the precautionary principle (according to which the EU argued that the lack of scientific certainty should not prevent a government from taking measures to protect the environment) versus reliance on science-based determinations to protect against the dangers of new technology. That situation changed markedly when the new Commission, under President Barroso, reaffirmed the need to focus on economic prosperity and indicated an interest in such tools as cost-benefit analysis.

Now individual sectoral exchanges have been supplemented by a broader dialogue on regulatory activity in general. The United States and the EU have established a high-level Regulatory Cooperation Forum to facilitate trade and investment (see box), and a Financial Markets Regulatory Dialogue to promote the convergence of accounting

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93 Interview with the author.

94 That draft is now under revision.

standards, as well as deeper and wider capital markets. With the recent appointment of a very senior U.S. regulatory expert as ambassador to the EU, this dialogue has received additional profile and impetus in Brussels and Washington.

## **2005 Road Map for U.S.-EU Regulatory Cooperation and Transparency Sectoral Activities**

Automobile Safety  
Chemicals  
Consumer Products Safety  
Consumer Protection Enforcement Cooperation  
Cosmetics  
Eco-Design  
Energy Efficiency  
Food Safety  
Information and Communications Technology Standards in Regulations  
Marine Equipment  
Medical Devices  
Nutritional Labeling  
Pharmaceuticals  
Telecommunications and Radio Communications Equipment,  
Electromagnetic Compatibility  
Unfair Commercial Practices

Despite these improvements, transatlantic cooperation is not easy, nor are its benefits clear to all. In Europe serious internal differences persist, for example, in sectors like food safety and services, making it difficult for the EU to cooperate with outside powers like the United States.<sup>95</sup> As one former U.S. official put it, every regulatory agency in the United States has a counterpart in Europe that is in arrested development.<sup>96</sup>

The Commission is trying to improve its ability to enforce its own rulemaking. The internal culture of the Commission does not encourage one Commissioner to probe too deeply into the business of another. In the past, there was no EU equivalent to the Office of Management and Budget (OMB), which is empowered to intervene in the workings of U.S. regulatory agencies. To correct this, Guenter Verheugen, the Vice-President and Commissioner for Enterprise and Industry, has been given enhanced authority, and a new senior position has been established in the office of the Commission's Secretary General.

On the U.S. side, the regulatory dialogue is directly affected by actions taken by the U.S. Congress. Many serious U.S.-EU disputes have arisen from laws with extrater-

95 *Review of the Framework*, p. 28 and footnote 47.

96 Interview with the author.



ritorial impact, such as the 1996 Helms-Burton sanctions legislation aimed at punishing non-U.S. companies investing in Cuba, or the 2002 Sarbanes-Oxley legislation intended to restore investor confidence by improving the accuracy and reliability of corporate disclosure. Europeans today are concerned about potential changes to the rules governing foreign investment following the Dubai Port controversy in the spring of 2006.

The regulatory dialogue must also take into account the varying views of the U.S. business community. A recent survey noted "...considerable enthusiasm for an agreement that would *require* U.S. and European regulators to share upcoming regulations, conduct transatlantic impact assessments, create and use a 'regulatory hotline,' and so on, with the precise legal instrument left open."<sup>97</sup> Large U.S.-based corporations, in particular, strongly support a framework agreement on regulation and investment that would develop a common set of principles for setting regulations.

However, corporations already established in Europe have been less enthusiastic. Typically, they expect their representative in Germany, for example, to deal with German regulations. Rather than U.S.-EU regulatory convergence, they want less regulation and more growth in Europe. And they see a danger in the possibility of international "super regulators" that may *de facto* operate independently of any government authority.

This lack of concern is shaped by the fact that most business is not constrained by regulatory problems: "The overwhelming majority of transatlantic economic exchange is unaffected by regulatory barriers."<sup>98</sup> They are also influenced by the fact that, although European regulations may be more costly, companies operating there do not need to pay health costs or liability insurance. Questions of opportunity cost – lost potential for future growth – appear to be less compelling for these companies.

Differences between U.S. officials and the U.S. business community also exist with regard to the process for developing international norms and standards. Standard-setting in the United States is mostly left to the market, and both business and government believe it should stay that way.

The EU approach is different. Standardization was an important tool in forging the single internal market, as it provided a means by which member states could be persuaded to accept the products from other member states in their markets. The Commission works closely with the key standardization organizations, following an action plan from October 2005 that proposes various standardization projects to support EU goals, whether creating a common European defense market or interoperable electronic road toll systems. A separate section promotes the European standardization system internationally.<sup>99</sup>

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97 *Review of the Framework*, p. 70 (emphasis in original).

98 *Review of the Framework*, p. 27.

99 *Action Plan for European Standardization*.

Currently, the Commission, member states and EU standards-setting organizations have committed or spent more than 315 million euros<sup>100</sup> in technical assistance over the past five years to developing countries designed to encourage the global adoption of EU standards. For example, three European standardization organizations are sending an expert to Beijing for three years to “explore the standardization landscape in China in order to identify new standardization needs and to foster cooperation between Chinese industry and its European counterparts.” The three organizations hope this initiative “may be extended to other regions in the future.”<sup>101</sup>

U.S. businessmen and officials are often unaware of the steps that the European Union has already taken to influence global standards unilaterally. As EU standards become *de facto* global ones, small and medium-sized U.S. companies will find themselves at a distinct disadvantage: participation in setting technical standards will be costlier and more difficult for them than it is today. Overseas or in the United States, they will simply have to use EU standards, from roof shingles to the REACH chemical directive.

## U.S.-EU Regulatory Policy Implementation

In Washington, U.S.-EU regulatory policy oversight is handled by a mid-level official in the Office of Management and Budget (OMB). It is true that, when American and European regulators want to talk to each other, they have no problem in doing so. And it is also true that it may be better if regulatory issues do not receive too much attention – that is often the best way to get business done. But it is nevertheless striking that no senior official in the U.S. government has been engaged on this issue, given its prominence in the transatlantic agenda and its potential economic impact.

OMB’s role could be enhanced if a senior individual, whether in the National Security Council or elsewhere, were charged with coordinating the regulatory dialogue. “The key element is that regulatory agencies should be required to report to the White House on their efforts to cooperate with their EU counterparts.”<sup>102</sup> That senior individual could function as the personal representative of top political leaders “to ensure that progress on the economic agenda does not fall victim to simple inertia.”<sup>103</sup> S/he could also help to focus the attention of the U.S. Congress on these issues.

Such an arrangement would leverage progress, as well as keep up momentum. OMB, the U.S. mission to the EU, and senior regulatory officials have responded quickly to the improved atmosphere in Brussels, providing substance to a broader dialogue on general principles of effective regulation. If the Commission emerges as a more engaged and committed partner, this would provide more substance to the dialogue. The key, however, will be to sustain this process – not have it fall victim to political or personnel changes on either side.

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100 Informal estimate from May 2006.

101 “Seconded European Standardization Expert in China.”

102 *Review of the Framework*, p. 72.

103 *Review of the Framework*, p. 7.

Senior-level coordination could also improve interagency responses to potential problems. The mission to the EU in Brussels can often provide early warning of future regulatory problems, yet finds it difficult to get Washington agencies to respond. This is not surprising, given that the difficulty will typically not materialize for several years (or more). Direct White House engagement to help OMB mobilize the inter-agency process would definitely help.

If the response in Washington is poorly coordinated, so is action in Europe. While the Commission plays a very important role in drawing up regulations, the member states have input into the process. Yet the embassies in national capitals are rarely drawn systematically into the response to proposed regulation. For example, the REACH chemical directive was handled primarily by EU environmental officials and experts; ideally, the United States would have canvassed industrial ministries and interests in key EU member states to identify common concerns and advocate for them in Brussels. That happened, but only in piecemeal fashion.

## **Conclusion**

The changes proposed above, from providing senior-level management to establishing a more coherent and effective organization on the ground in Europe, will help the United States to pursue trade and regulatory policies with elements of both competition and cooperation.

U.S. policy should aim to manage existing economic disputes, while reducing the potential for such problems in future. To succeed at this, it will have to reach out to non-governmental as well as governmental players and engage in a public discussion of U.S. interests and the reasons behind them. If it succeeds in this transformation, it will be on a firmer basis to advocate for U.S. policy goals.



# Recommendations

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## Introduction

As the preceding discussion demonstrates, the United States interacts with the European Union across an extremely broad spectrum of issues, from revising the transatlantic security and defense architecture to focusing the U.S. business community on the global reach of EU standards. Virtually every federal department or agency already sees its work affected by what the European Union does; this influence is not likely to diminish in the future.

Effective interaction requires a greater degree of interagency coordination than has been the case. It also requires more flexibility to navigate through the complex EU environment, where most issues are intertwined and arrangements for sharing sovereignty are fluid. Effectively advancing U.S. interests also requires closer cooperation and teamwork between the U.S. mission to the EU in Brussels and the 25 (and soon to be more) embassies in member state capitals. All these changes, in turn, require more senior-level attention to EU issues.

This chapter proposes organizational changes to support this enhanced approach. They fall into seven categories: improved interagency coordination, senior-level engagement, State Department reorganization, reorganization in Europe, enhanced EU expertise, long-term planning and more focused public diplomacy.

### Improved interagency coordination

- **Recommendation 1:** The National Security Council should create a senior-level position responsible for all aspects of EU policy, political and economic. This position should be separate from the one dealing with NATO.

In defense and security, trade, regulatory and counter-terrorism policy, there is a clear need for greater interagency coordination and/or deeper engagement of the White House to steer the interagency process on EU issues. That can best be accomplished by creating a senior slot at the National Security Council (NSC) to handle EU affairs.

The NSC is the ideal place to pull in expertise from various agencies to address a cross-cutting issue, which EU issues often are. Several years ago, the State Department called a meeting to discuss relations with the EU. Some 60 people showed up, from many different Federal agencies, a measure both of the importance of the issue and the perceived need for greater guidance. That number would probably be even larger today.

Today, the NSC senior director for European affairs covers NATO and bilateral relations, as well as the European Union. EU issues are for the most part handled by a

subordinate. Separating these responsibilities would improve the ability of the White House and the U.S. government as a whole to track and understand what the EU is doing in security and defense. It would also help to resolve difficulties like those in sharing intelligence.

The White House has traditionally avoided direct involvement in U.S.-EU trade disputes, but should reconsider this position, given the increased importance of the EU, and the way in which trade disputes color the broader relationship. The same should be done for regulatory issues with the EU, given their increasing prominence in U.S.-EU relations.

One alternative would be to address economic issues at a senior level in the National Economic Council (NEC). Separating political and security issues from economic and regulatory ones is a practical solution, given the scope of issues; it would have the disadvantage, though, of perpetuating compartmentalization. That drawback would not exist if all EU issues are kept together.

The proposed senior director for EU affairs should not attempt to control U.S.-EU relations, as they are far too broad for that and a single person will never know the whole picture. S/he should instead focus on ensuring that all departments or regulatory agencies likely to be affected by a given EU initiative engage in a timely fashion, and that the U.S. government as a whole is better prepared to deal with the EU. S/he should also be a key point of contact for the U.S. mission in Brussels, providing direction and support to interagency coordination in the field.

### Senior-level engagement

- **Recommendation 2:** The State Department and other federal agencies should create positions, at the Assistant Secretary level or above, to manage EU policy. These senior officials should not be in charge of “coordinating policy” but should have real authority.
- **Recommendation 3:** EU expertise must also be developed below the senior-most levels, whether in agencies such as the Federal Bureau of Investigation and U.S. Immigration and Customs Enforcement, or in bureaus within Departments.

At present, no federal agency has a single individual overseeing U.S.-EU relations. Instead, senior officials engage piecemeal, according to the specific issue in question.

- Primary responsibility at the State Department resides with the principal deputy assistant secretary in the Bureau of European and Eurasian Affairs who is responsible for NATO, the EU, and a portion of the offices for countries that belong to the EU. The remaining country offices fall under other deputy assistant secretaries.

- The U.S. Trade Representative (USTR) has a number of senior-level officers, assistant U.S. trade representatives, who work on EU affairs. While there appears to be fairly good coordination among them, in part due to USTR's relatively small size, no single senior person is in charge overall of EU policy.
- The departments of Commerce, Agriculture, Justice, Homeland Security and Treasury have no single person at a senior level to oversee EU policy. This lack is particularly significant in agencies charged with homeland security and counter-terrorism. While senior officials at Commerce and Agriculture have for years dealt with the EU and so have knowledge and experience to draw on, that is much less the case for agencies whose work was considered primarily domestic until just a few years ago.
- The Department of Defense deals almost exclusively with NATO and with European nations on a bilateral (defense to defense) basis and only focuses on the EU regarding specific issues.

Having a single senior official in charge of EU affairs in these departments (with the exception of the Defense Department) is essential for several reasons.

First, it would help each department to identify the key issues that it wanted to pursue with the EU, setting priorities in what can be a very crowded field.

Second, having easily identified points of contact at the policymaking level would build the interagency flexibility needed to cope with a Europe often in flux.

Third, this enhanced perspective would reduce the element of surprise with regard to long-term EU initiatives. Without focused senior-level direction, such issues are easily ignored in the press of current business – they simply “slip between the cracks.” This is particularly critical when EU actions can force the United States to change its legislation or policies. Senior-level leadership and oversight would create more opportunities to influence and shape EU proposals, and to encourage the EU to consult and negotiate in advance of legislative decisions.

Fourth, better senior-level engagement in the economic agencies would attract and sustain more private-sector engagement on critical EU issues, particularly those involving regulations and standards. The involvement of the business community has gone up and down in recent years, with the declines often linked to a perceived lack of official U.S. interest.

As a rule, this senior-level focus is a necessary but not sufficient condition of success. Each department or agency will require EU expertise below the senior-most levels – the senior officials cannot do it on their own. Nor will an office of EU affairs be enough; officials in a surprising variety of places throughout the U.S. government need to know how to work with the EU. This expertise is growing, but needs to be much more widespread.



The proposed senior positions must have real authority: control over personnel and resources; they cannot just be “special coordinators.” There are too many countries, too many issues, too many players. Simple coordination will only mean mountains of paperwork or busy work.

### State Department reorganization

- **Recommendation 4:** The State Department should establish a new Under Secretary position for dealing with the EU, and combine that function with the post of Ambassador to the EU in Brussels.
- **Recommendation 5:** To support this senior-level official, the State Department should establish a Bureau for European Union Affairs. This bureau would share authority with a Bureau for European Bilateral and NATO Affairs.

To look at how senior-level direction would work in practice, this study will examine the particular case of the State Department. State plays a critical role in developing U.S. policy toward the EU: by overseeing political relations, it helps to determine the context in which the other agencies operate. It also plays a key role in interagency coordination. Overseas, its ambassadors in Europe have the responsibility to ensure that all agencies and departments represented in their embassies operate in a coordinated fashion. Finally, the State Department has a substantial number of diplomats assigned to European embassies.

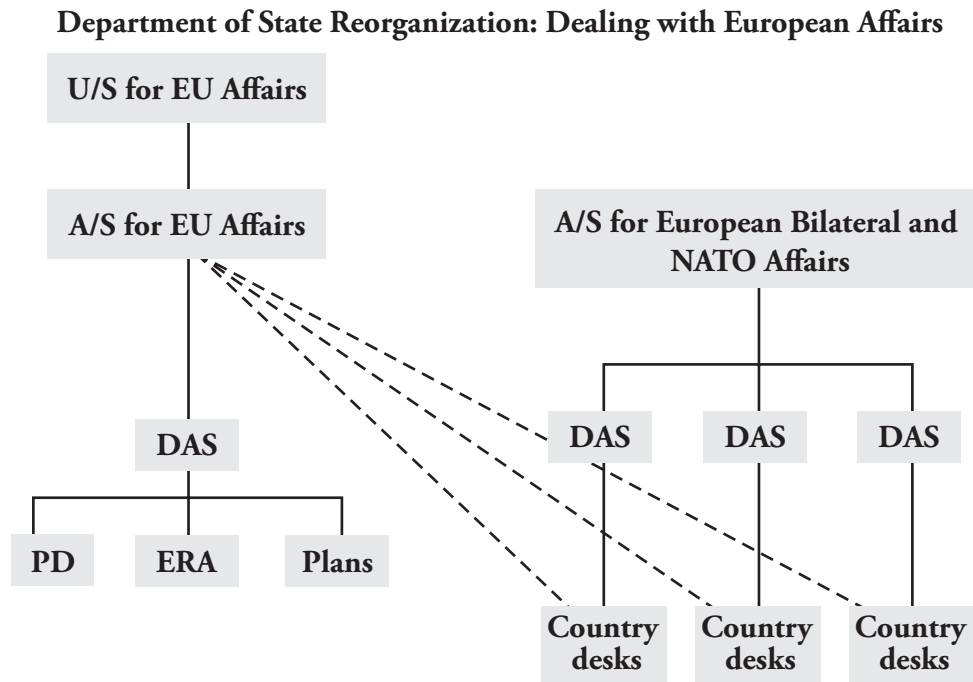
Since relations with the European Union cover not only affairs in Europe but a constantly expanding list of global issues, it would be appropriate to put responsibility for EU policy either at the level of Deputy Secretary (immediately below the Secretary) or Under Secretary, rather than to put it in a regional unit. As all the existing positions at those levels have extensive portfolios, and therefore could not focus only on the EU, the best solution would be to create a new Under Secretary position.

However, such a position, while prestigious, would lack direct control over the resources and large number of personnel that work on EU-related issues. In the State Department, the unit that controls those resources is typically a bureau, the next step down, headed by an Assistant Secretary.

The best way to achieve the two requirements (a senior official with global capabilities and a bureau with regional assets) would be to combine the proposed post of Under Secretary for EU affairs with the existing one of Ambassador to the EU, and create a new Bureau of European Union Affairs, headed by an Assistant Secretary, in Washington. This approach would parallel, to some degree, the relationship between the U.S. ambassador to the United Nations, who has cabinet or sub-cabinet rank, and the Assistant Secretary for International Organization Affairs, the head of the bureau responsible for UN affairs.

The Under Secretary would provide overall U.S. policy direction toward the European Union. While s/he would interact directly with the National Security Council or other departments as necessary, much of the domestic coordination would be performed by the Assistant Secretary.

**Chart 1**



The Assistant Secretary for EU Affairs would be tasked with coordination of EU policy within State, as well as coordination with other agencies, and would be an important counterpart to the senior director at the NSC. His/her unique focus on EU issues would facilitate better setting of priorities and long-term planning, as well as more in-depth treatment of various issues. This new bureau would include a Deputy Assistant Secretary (DAS), the existing Office of European Union and Regional Affairs (ERA) and two additional offices, one for public diplomacy (PD) and the other for planning. (See Chart 1.) In recognition of the fact that many EU issues involve other regional or global issues, ERA’s staff could be expanded to include, for example, a “Middle East watcher” position staffed by the Bureau for Near Eastern Affairs.

The proposed Bureau of European Union Affairs would operate in parallel with a new Bureau for European Bilateral and NATO Affairs responsible for the non-EU-related functions of the existing Bureau of European and Eurasian Affairs. The Bilateral and NATO Affairs bureau would retain the country desks (the offices in the bureau that handle bilateral issues) for EU member states, as well as ones for Switzerland, Iceland and Norway, countries that do not belong to the EU.<sup>104</sup> It would retain the

104 Among other advantages, leaving the country desks in the proposed Bilateral Affairs bureau would avoid the need to reorganize every time a new country joined the EU.

office dealing with NATO and the OSCE (Organization for Security and Cooperation in Europe). The country desks, however, would report to the Assistant Secretary for EU Affairs for the EU-related portion of their work, and personnel evaluations would reflect that fact.

This configuration would best reflect today's reality in Europe, where the EU is the central political institution, yet the member states enjoy considerable autonomy and maintain their own ties to the United States. It would enhance State's understanding of those areas where EU activities diverge from historical patterns. In particular, it would correct the current situation in which EU policy is obscured by the heavy focus on NATO and key allies.<sup>105</sup>

The division of responsibilities between the two bureaus would reflect that in the EU, where "competences" are usually delineated in writing. Those "competences" can and do change over time. When sovereignty is transferred to Brussels (or if it ever were given back to the member states), the two bureaus would have to adjust their portfolios accordingly.

The most difficult challenge would be to reconcile the fact that, while an Assistant Secretary of a geographical bureau typically has sole authority over the country desks, in this case it would be shared. However, in practice, such a situation is hardly unprecedented in the State Department. In many cases, individuals or offices serve more than one senior official, usually informally, and resolve any conflicts on a case-by-case basis.

### **EU and NATO Policy**

This paper argues that the U.S. government in general, and the State Department in particular, currently give too much preference to NATO, leaving a large blind spot where the EU is concerned. For that reason, it proposes to separate the units handling EU and NATO policy.

There are two arguments in favor of keeping NATO and EU policy together. First, as described in the defense chapter, NATO-EU relations are poor. Separating the two, if it led to increased bureaucratic conflict, would make things worse. It is not clear, though, that the new organization would in fact produce that outcome. Furthermore, one source of NATO-EU tensions is a European perception that the United States does not take the EU seriously. That perception might be reduced if EU affairs enjoyed a higher profile in U.S. policy.

105 The other main office handling NATO and EU military affairs is the Office of European and NATO Policy in the Office of the Secretary of Defense (OSD). While there are DoD representatives in Brussels hosted by USEU to work EU defense and security issues, they are subordinate to U.S. Mission NATO. OSD should consider establishing an OSD Policy representative at USEU as well.

The second argument is that, since both NATO and the EU are developing global roles, they should be kept together, under the aegis of the new Under Secretary or in some other manner. Yet, beyond having an overlapping membership, a growing global role, and some overlapping functions in the defense sector, the two organizations are very different creatures. The vast majority of EU issues have nothing to do with NATO, and would not benefit from being kept together.

## Reorganization in Europe

- **Recommendation 6:** The Under Secretary for EU Affairs/U.S. ambassador to the EU should have authority over other European posts where EU policy is concerned, and the role of the U.S. mission to the EU should be enhanced.

The Under Secretary and Assistant Secretary for EU Affairs, in formulating and implementing policy, should also have the authority to direct European embassies when EU issues are involved. This authority should be reflected in a broader role for USEU, the U.S. mission to the EU in Brussels.

**Policy Formulation.** Substantial portions of EU policy are already developed informally at USEU, given its small size and the high quality of the interagency team there. Senior representatives from a wide range of federal agencies work on the USEU staff: the list includes the Departments of Commerce, Agriculture and Justice, USTR, USAID and the Customs Service, as well as unfilled posts for the Departments of Homeland Security and Treasury. (The lack of resident senior officials from those agencies has been a significant handicap.)<sup>106</sup> Often interagency coordination occurs better and faster at USEU than in Washington, although compartmentalization remains a significant problem.

USEU's interagency coordinating role would benefit from a close link between the mission and the proposed senior NSC position. The goal here is a system in which all concerned federal agencies engage closely in the work in Brussels – a valuable asset, particularly in the economic and homeland security/counter-terrorism areas. Any such system, of course, would profit from enhanced senior-level leadership in each agency.

Additionally, the Under Secretary should engage the ambassadors and embassies in national capitals much more intensively than is now the case. (See Chart 2.) Today, those ambassadors are well aware that key policy decisions are made in Brussels, rather than in the capitals to which they are accredited. In a sense, they believe they have responsibility and authority for managing important issues that in reality they lack.

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106 The Treasury representative has now been identified.

This reorganization would correct that problem, giving the ambassadors in European countries and their DCMs (deputy chiefs of mission) an organic attachment to all aspects of U.S. policy that affect their host country. It would have a similar impact on their staffs, whether it is a question of defense, foreign, trade, regulatory or counter-terrorist issues. Bilateral embassies engage on EU issues now, but in a relatively haphazard fashion. They would be much more effective if they worked together in an intensive, focused manner. (See appendix for additional suggestions.)

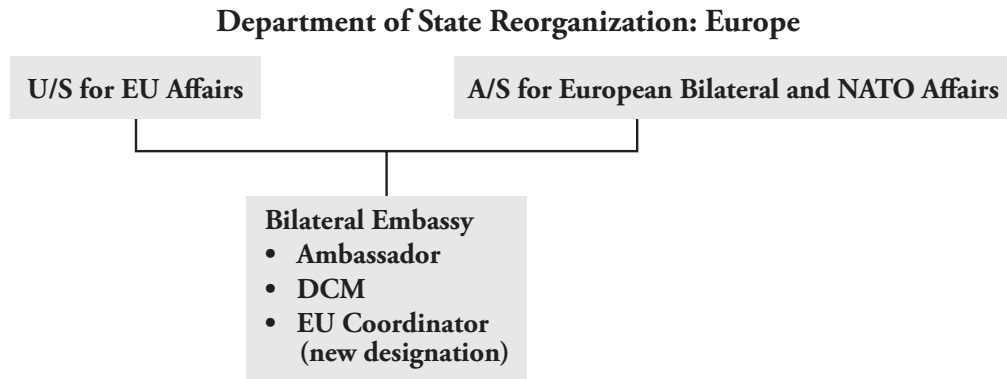
**Policy Implementation.** Closer ties between the NSC, USEU and the member state embassies would greatly improve the ability of the United States to execute policies, overcoming the shortcomings described in the case studies. At present USEU is a relatively small mission with no authority over the U.S. embassies in national capitals throughout Europe. Its interaction with these other embassies is sporadic and limited in nature. EU institutions have close links with member state governments and a degree of authority over them; as a practical matter, the relationship between USEU and the other European embassies should mirror that situation.

An EU-wide integrated approach would make better use of existing personnel. For example, most of the economic officers in Europe belong to the State Department, yet State in Washington has very little involvement in EU economic issues. The officers at post often work directly with other agencies, particularly USTR, but as described in the trade policy section, with spotty results.

To advance this process, the national embassies might want to designate a new position, that of EU coordinator. Again, the U.S.-EU relationship is far too large to be controlled by a single individual; the purpose would be to facilitate ties with USEU and Washington agencies, while giving attention to priority concerns.

Closer ties between USEU and other European posts would also facilitate greater flexibility in personnel and resources. The locus of EU decision-making varies over time, as can be seen by the relative fortunes of the Commission and the trade policy 133 Committee, or the ups and downs of the U.S.-EU passenger name recognition agreement. When a more permanent pattern emerges, U.S. staffing should reflect it.

Chart 2



There are, of course, many issues that remain purely or primarily bilateral, and U.S. policy should reflect that fact. Nor would all embassies be equally engaged in all EU issues. Some EU member states are big players on a few issues, yet have relatively little to say on many other issues of direct interest to the United States. Other member states are important players across the board. An EU Under Secretary should have the flexibility to engage personnel and resources as required across this spectrum – and again, personnel evaluations at post should reflect these realities.

### Enhanced EU expertise

- **Recommendation 7:** Officials in the relevant U.S. government agencies should be encouraged to develop expertise on the EU.

Raising the profile of EU issues should also help to remedy current shortcomings in U.S. government expertise. The foreign affairs agencies that deal extensively with the EU need to develop a cadre of experts who understand its institutional and political intricacies. This is a long-term goal, but an essential one. The State Department, for example, could build expertise by boosting professional training and interrelated career assignments (for example, serving at a member state embassy as well as at USEU), and by making EU expertise a positive element in promotions.<sup>107</sup>

The ambassadors to European posts, who are primarily political appointees, also need such expertise – and will need it even more if these recommendations are adopted. Its value has been demonstrated by the current USEU ambassador, C. Boyden Gray, who came to the post with considerable EU-related background. Without similar credentials, it takes much longer to get up to speed, and embassies lose the benefit of their most valuable asset during that time.

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107 Former USEU Ambassador Rockwell Schnabel has set up an annual award program to encourage the development of EU expertise.

## Long-term planning

- **Recommendation 8:** Officials at the National Security Council, the State Department and elsewhere should incorporate systematic long-term planning into their formulation of EU policy.

If senior officials focus on the EU, they will of necessity pay more attention to its long-term trends, as they will be more conscious of the EU's elaborate, multiyear decision-making and the potential for this decision-making to reinforce or constrain future U.S. policy choices. In recognition of this, Chart 1 includes a planning unit in the proposed State Department Bureau of EU affairs. Such a unit could be quite useful, particularly if combined with other planning mechanisms at State, the NSC or other federal agencies.

The Office of Management and Budget since the mid-1990s has been implementing legislation to improve the formal, multiyear planning and budgeting process of the U.S. government. In an annual iterative process, embassies generate a Mission Program Plan based on guidance provided by Washington. In turn, each State Department bureau produces its Bureau Program Plan; for the geographical bureaus, these are based in part on the Mission Program Plans. The Bureau Program Plans are reviewed for approval either by the Secretary or another very senior official.<sup>108</sup>

The current framework of priorities does not highlight issues connected to the European Union; rather, they are buried in and among many other issues. However, the Bureau of Resource Management has recently developed new software that could extract EU-specific information from the annual planning documents mentioned above.

In addition, a related initiative called Project Horizon has brought together senior U.S. executives from global affairs agencies and the National Security Council to conduct long-term, interagency strategic planning. Its first results are due to be presented in summer 2006. If this project is retained, it would provide an excellent framework for "big picture forecasting," as its scenarios already contain alternative models for future EU trends. State Department participation now comes from the Bureau of Resource Management; it is not clear how much attention Project Horizon has received from the Bureau of European and Eurasian Affairs or other geographic bureaus.

## More focused public diplomacy

- **Recommendation 9:** The National Security Council, State Department and other agencies should develop a public diplomacy strategy tailored to the EU environment.

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108 These exercises produce a number of documents: a Department of State Performance and Accountability Report; and a joint State-USAID Performance Summary and Strategic Plan. See bibliography for recent samples.



The proposed reorganization will provide the State Department and other agencies with a better platform for developing and implementing their public diplomacy initiatives. The new Bureau of EU Affairs should have its own public diplomacy office to develop strategies for the EU as a whole, and USEU should become a regional public diplomacy center.

The priority should be public outreach to explain U.S. motives and actions, particularly in the Middle East and the areas affecting counter-terrorism policy. While recognizing that European perceptions are unlikely to improve soon, this initiative should target those audiences that are willing to listen and important to engage. It should also ensure that the London and Madrid public diplomacy initiatives are duplicated by all EU missions, and explore exchange programs with such key groups as national officials specializing in EU affairs.



# Appendix

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The proposed reorganization in Europe would also offer some additional benefits. Beyond the four or five key priorities in U.S.-EU relations, there are a very large number of secondary, yet important issues. Sometimes a member state is particularly interested in one of these topics. For example, Belgium has a unique interest in the Congo, for obvious reasons. The Czech Republic has taken a high profile on Cuban human rights issues, while Poland and Lithuania have been very active on issues involving Ukraine.

With senior authority linking policy to staffing, individual bilateral embassies could serve as focal points for specific issues. Embassy Brussels could take the lead on issues involving Congo, Embassy Prague on Cuba, and Embassies Warsaw and/or Vilnius on Ukraine. This would relieve the workload at the USEU mission in Brussels, while improving U.S. access to foreign officials, as well as private sector or nongovernmental organizations most directly engaged on these issues. To some degree, this already happens informally, depending on the initiative taken at post. The system would work much better, however, if it were deliberately and systematically developed.

Similar arrangements could also apply to the work of EU agencies outside Brussels and to non-EU organizations closely linked to the EU. For example, Embassy Warsaw could follow the activities of Frontex, the new border agency, and the consulate in Strasbourg those of the Council of Europe, where the United States has observer status.

This proposed organization would facilitate changes to staffing in the bilateral embassies to reflect their role in promoting policies involving the EU. Staffing patterns in recent years have been highly uneven. In Prague, for example, the combined political/economic section has had one economic officer. The rest are political officers who work independently; they do not provide backup for the economic officer. The reverse is true in Vienna. There, the lone political officer has not been backed up by the economic officers. Yet there is no logic to explain why political issues are so much more important than economic issues in Prague, while the reverse exists in Vienna.

State Department positions in Europe will be under pressure in the future, given growing needs elsewhere in the world. The proposed system would make maximum use of available positions.

# Interview List

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David Armitage, Bureau of Intelligence and Research, Department of State  
Anne Barbaro, former Minister-Counselor for Public Affairs, USEU  
Jonathan Bensky, Minister-Counselor for Commercial Affairs, USEU  
Peter Chase, Director, Office of European Union and Regional Affairs,  
Department of State  
Sandra Clark, Economic Counselor, Embassy London  
Scévole de Cazotte, Senior Policy Director, European Affairs,  
U.S. Chamber of Commerce  
Desmond Dinan, Jean Monnet Professor, George Mason University  
Shaun Donnelly, former Principal Deputy Assistant Secretary, Bureau of Economic  
and Business Affairs, Department of State, now Assistant U.S. Trade  
Representative, Europe and the Mediterranean  
Stuart Eizenstat, former USEU Ambassador and former Deputy Secretary of  
Treasury, former Under Secretary of State for Economic, Business and  
Agricultural Affairs, and former Under Secretary of Commerce for  
International Trade  
Albert Fairchild, Bureau of Resource Management, Department of State  
Richard Falkenrath, former Deputy Homeland Security Advisor, NSC  
Robert Faucher, Deputy Director, Office of European Union and Regional Affairs,  
Department of State, former Political Officer, USEU  
Charles Ford, former Minister-Counselor for Commercial Affairs, USEU,  
now Ambassador to Honduras  
James Foster, former Deputy Chief of Mission, USEU  
Norval Francis, Minister-Counselor for Agricultural Affairs, USEU  
Judy Garber, former Counselor for Economic Affairs, Embassy Madrid  
David Gompert, Rand Corporation  
John Graham, former Administrator of the Office of Information and Regulatory  
Affairs, OMB, now Dean of the Pardee RAND Graduate School  
C. Boyden Gray, Ambassador to the EU  
Daniel Hamilton, former Deputy Assistant Secretary, Bureau of European Affairs,  
Department of State, now Director, Center for Transatlantic Relations,  
Johns Hopkins University  
John Heffern, former Political Advisor, U.S. Mission to NATO  
Clarence Juhl, Deputy Defense Advisor, U.S. Mission to NATO  
John Koenig, Deputy U.S. Permanent Representative, U.S. Mission to NATO  
Charles Kupchan, Council on Foreign Relations  
Jeff Lang, former Deputy U.S. Trade Representative  
Carl Lankowski, Coordinator for European Area Studies, Foreign Service Institute,  
Department of State  
Patricia Lerner, Counselor, U.S. Agency for International Development, USEU  
Lee Litzenberger, former Deputy Minister-Counselor for Political Affairs, USEU

Rudolf Lohmeyer, Bureau of Resource Management, Department of State  
Gwen B. Lyle, Standards Attache, USEU  
J. Sherwood McGinnis, Political Advisor, U.S. Mission to NATO  
P. Mike McKinley, Deputy Chief of Mission, USEU  
Leo Michel, Institute for National Strategic Studies, former Director,  
NATO Policy, OSD  
Stephanie Miley, Deputy Director, Office of European Union and Regional Affairs,  
Department of State  
Bowman Miller, former Office Director for European Analysis, Bureau of  
Intelligence and Research, Department of State  
David Nelson, former Minister-Counselor for Economic Affairs, Embassy Berlin  
Tom Niles, former Assistant Secretary for Europe and former Ambassador to the EU  
Catherine A. Novelli, former Assistant U.S. Trade Representative, Europe and  
the Mediterranean  
Robert Pearson, former Director General of the Foreign Service  
William Pope, former Counter-Terrorism Coordinator, State Department  
Mark Richard, Senior Counsel, USEU  
Tom Ridge, former Secretary of Homeland Security  
Mike Ryan, Defense Advisor, USEU  
Sue Saarnio, former Deputy Director, Office of European Union and Regional  
Affairs, Department of State  
John Sammis, Minister-Counselor for Economic Affairs, USEU  
Rockwell Schnabel, former Ambassador to the EU  
Kyle Scott, former Minister-Counselor for Political Affairs, USEU  
Charles Skinner, Deputy Minister-Counselor for Political Affairs, Embassy London  
Paula Stern, Chairwoman, The Stern Group  
Bruce Swartz, Deputy Assistant Attorney General, Department of Justice  
Mark Tokola, Minister-Counselor for Economic Affairs, Embassy London,  
former Economic Counselor, Embassy The Hague  
John Van Oudenaren, Chief, European Division, Library of Congress  
Karen Volker, former Deputy Director, Office of European Union and Regional  
Affairs, Department of State  
Thomas Weston, former Deputy Chief of Mission, USEU, former Deputy Assistant  
Secretary, Bureau of European and European Community Affairs,  
Department of State  
Dan Wicks, Policy Planning, Department of State  
Chris Wilson, USTR Representative, USEU  
Larry Wohlers, Minister-Counselor for Political Affairs, USEU

## **European Officials**

Telmo Baltazar, European Delegation to the United States

Andrés Bassols, External Relations Directorate, European Commission

Sarah Beaver, Director-General, International Security Policy,  
UK Ministry of Defence

Sir Jeremy Blackham, former UK Ministry of Defence Official

Pierre Defraigne, Director, Eur-Ifri in Brussels (former Deputy Director-General,  
Trade, at European Commission)

Gilles de Kerchove, Director, Council Secretariat

Gijs de Vries, Counter-Terrorism Coordinator, Council Secretariat

Franz Josef Kuglitsch, Austrian Ambassador, Political and Security Committee

Leonard Schiavo, Chief of Staff to Javier Solana

William Shapcott, Director of Situation Centre, Council Secretariat

Teemu Tanner, Finnish Ambassador, Political and Security Committee

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