

news

A review of Transatlantic Relations

Volume II, Number 4, April 2000

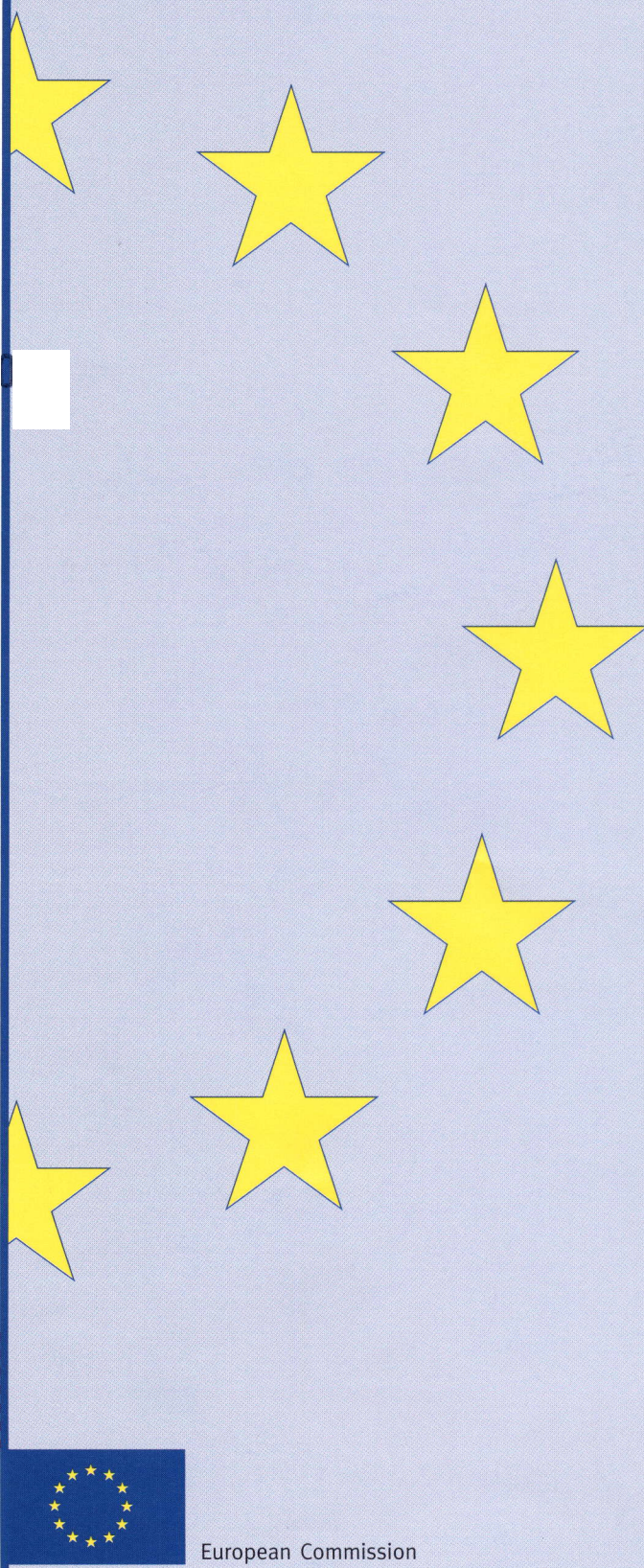
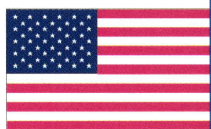
European Security and Defence in the Transatlantic Agenda

Innovation is often met by reactions ranging from scepticism, interrogation to interest, until it is actually put to test allowing for a genuine appraisal of its validity and usefulness. As has happened with most of EU's landmark decisions towards integration and consolidation in the last 40 years, the European Security and Defence Policy (ESDP), in its early stages, has invited a broad set of questions. Doubts and uncertainties are gradually giving way to the appraisal and appreciation process, in line with the determination and relatively quick pace with which EU leaders are laying the foundations of this major endeavour.

Why an ESDP?

Faced by new challenges resulting from the end of the Cold War, as illustrated by the conflicts arising from the disintegration of the former Socialist Federation of Yugoslavia, EU had to take a fresh look at its immediate neighbourhood and reassess its ability to cope with emerging crises. While furthering the scope of economic and financial integration (launch of the Euro), and pursuing its enlargement process, the need of consolidating the ongoing Common Foreign and Security Policy (CFSP) was acutely growing.

The Treaty of Amsterdam, signed Oct. 1997 and entered into force 1st of May 1999, marked our common resolve to reinforce EU's identity and shoulder our responsibilities, by allowing for enhanced means and capacities to implement CFSP, encompassing all questions relating



European Commission

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to the security of the Union, including the progressive framing of a common security and defence policy. It specifies the full range of conflict prevention and crisis management, the so-called "Petersberg Tasks" (humanitarian and rescue tasks, peace-keeping tasks and tasks of combat forces in crisis management, including peacemaking), in which the EU intends to assume its responsibilities.

Among other provisions, the Treaty refers to the integration of the Western European Union in the EU and to the creation of the post of High Representative for the CFSP, entrusted last fall to Javier Solana, former Secretary General of NATO. It also mentions that "the policy of the Union would not prejudice the specific character of the security and defence policy of certain Member-States and would respect the obligations of certain Member-States which see their common

The EU is determined to have an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and then to conduct EU-led military operations.

defence realised in the North Atlantic Treaty Organisation".

The Köln Summit in June 99 has set the guiding principles on strengthening the common European Policy on Security and Defence : The EU will contribute to international peace and stability in accordance with the principles of the UN Charter. The EU is determined to have an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and then to conduct EU-led military operations in response to international crises. The focus of EU efforts would be to ensure that the Union has at its disposal the necessary capabilities (including military capabilities) and appropriate structures for effective decision making in crisis management, without unnecessary duplication. It reaffirmed that NATO remains the foundation of the collective defence of its members.

State of Play (or Where are we now?)

A sustained process of consultation, underlay by a strong political will, allowed for the translation of these principles into a number of operational decisions, agreed upon in the Helsinki Summit, 6 months later :

– set an **ambitious headline goal of creating by 2003 a Rapid Reaction Force** comprising 50,000

to 60,000 persons, capable of being deployed within 60 days, with necessary replacement for a year. EU Defence Ministers examined recently how they will translate in terms of national contributions the enhanced capabilities needed, in terms of command, control, intelligence and logistics. They also considered seriously the budgetary means this commitment will imply.

- established **new political and military structures** to ensure the necessary political guidance and strategic direction to EU-led operations. Under the supervision of Ministers of Foreign Affairs, assisted by their Defence colleagues on security issues, and to assist HR Solana, 3 permanent bodies have been set up : a Political and Security Committee (PSC, at Ambassador-level), dealing with all aspects of CFSP, including the CESDP. The Military Committee (EMC, delegates of Chiefs of Defence) will provide military advice and make recommendations to the PSC. It will be seconded by the Military Staff (EMS), that will provide military expertise and support to the CESDP, including the conduct of EU-led military crisis management operations. Interim structures for these 3 bodies have already started their work as of 1st of March.
- defined the principles to ensure the **necessary dialogue, consultation and cooperation with NATO and its non-EU Members**, as well as other countries candidates for accession to EU and other prospective partners in EU-led operations. Further work on the modalities for full consultation, cooperation and transparency between the EU and NATO, as well as arrangements with non-EU NATO members, was entrusted to the Portuguese Presidency, while HR Solana was requested to develop informal contacts with the Secretary General of NATO. Portugal, together with HR Solana, are actively leading the debate and running necessary consultations, so that conclusions on both issues could be approved by the June Feira Summit.
- requested the **development of non-military crisis management mechanism** to coordinate and develop both Union and national capabilities, that could respond to requests for operations led by the UN or the OSCE, or be used in autonomous EU actions. The range of civilian means and resources would be mobilised for conflict prevention tasks, such as institution-building, election monitoring, support for democracy, mediation capability..., but also for crisis management and post-conflict situation, in parallel with the military means, for missions such as police deployment, mine clearance, arms control and destruction, rehabilitation... The Commission is actively working on this essential task, notably by contributing to the elaboration of the inventory of available resources and identifying the means adapted to various scenarios. To ensure the quick mobilisation of financial resources, that more than often conditions the effectiveness of a crisis-response action, the Commission is creating a Rapid Reaction cell that could be drawn upon in a matter of days, if not hours. Reflection is also ongoing on the set-up

of Headline Goals matching the military goals, and on the creation of a EU Committee for civilian crisis management to coordinate EU crisis management tools and operations.

ESDP in the Transatlantic Agenda

The schedule of meetings under the New Transatlantic Agenda comprises 2 Summits a year, 2 to 3 Ministerial and a great number of Senior Officials Meetings, in the framework of which all issues of mutual interest are debated. The evolutions that led to the Amsterdam Treaty, as well as the various stages of elaboration of ESDP, have been extensively discussed in this context. True that there have been some difficult debates, but the NTA process, in parallel to the debates held in the NATO context, have cleared many misperceptions of issues at stake or of institutional arrangements, allowing each party to understand and address as far as possible the concerns and expectations of the other.

In the post Cold War international environment, our transatlantic partners will not want to intervene in every regional crisis on the European continent. Nor do I blame them.
(Commissioner Chris Patten)

A central concern in the US was related to the fact that ESDP would compete with NATO. Allow us to quote briefly Commissioner Patten addressing recently EU and NATO Parliamentarians : "I would like to nail one serious but spurious allegation. This is the charge that Europe, by seeking an autonomous capacity to launch military operations for intervention in crises "where NATO as a whole is not engaged" is seeking to rival NATO. Why else would it want a capacity to act alone? The answer is that in the post Cold War international environment, our transatlantic partners will not want to intervene in every regional crisis on the European continent. Nor do I blame them. This is our backyard, not theirs. The pity is that we haven't looked after it rather better."

It should further be stressed that ESDP will not weaken, but on the contrary consolidate NATO. As often stressed by HR Solana and EU leaders, ESDP concerns regional crisis management and not collective defence. NATO will remain the foundation for the collective defence of its Members (Art. 5 of the Washington Treaty). The EU does not intend to duplicate the work of NATO, it intends to strengthen the European pillar of NATO, and thus better share the burden of security and defence. Indeed, the Bosnia and Kosovo crises have revealed the shortcomings of European national and collective capabilities. The ambitious headline goal set for ESDP will in fact serve and complement the NATO / DCI objectives, by contributing to the reshaping of capabilities. Greater mod-

ernisation, professionalisation and interoperability, will reinforce our ability to project and sustain troops at quick notice in crisis situation. This entails budgetary adaptation and strict resource priorities, as well as the necessary rationalisation and consolidation of the European defence industry.

Our transatlantic Dialogue has gone way ahead from concerns expressed at the very early stages of ESDP inception. Initial uncertainties or reservations have given way to strong expressions of support. The NATO Washington Summit of April 1999 greeted the new impetus brought by the European Security and Defence Policy, that would allow for the much-called for strengthening of the European pillar of the NATO Alliance, contributing to its enhanced vitality in the XXIst century. In December last, during the EU/US Summit, President Clinton welcomed and extended its strong support to the conclusions reached at the Helsinki Summit on ESDP. Mrs Albright, taking part in the EU/US Ministerial in Lisbon, 3/3, reiterated "America's strong support, looking forward to a Europe with more modern and flexible forces".

We appreciate this strong support and expect it will grow further for our next steps in building ESDP, for as French Minister for Defence said in Georgetown

During the EU/US Summit, President Clinton welcomed and extended its strong support to the conclusions reached at the Helsinki Summit on ESDP.

University recently : "if ESDP fails, it will be Europe's capacity to act and ensure its own security and to act along with the US as an ally that will be at stake. Our European failure would be our common Atlantic failure. Our European success will be a common Atlantic success, because it will allow us to address, together, the challenges that face us in an increasingly unstable world. There is no other economic and political partner in the world with which you share so many interests and values. The same is true for us. Neither side can –nor should– take the other for granted."

The conclusions from the Helsinki Summit can be found on the internet at:
<http://europa.eu.int/rapid/start/welcome.htm>

US Universities debate on European Security

A panel on 'The New European Security and Defence Policy' took place recently in New York, in the context of the Conference of EU Centres in the US (see article on page 13).

The panel was chaired by Mr Jonathan Davidson (EU Delegation of the Commission, Washington). MM Brenner (Pittsburgh University), Jentleson (Duke University) and Menon (NY University, EU Centre visiting fellow) participated as panelists in a very lively and most interesting debate. Mr Davidson introduced the subject describing the latest developments in EU Security and Defense Policy. The participants' views, which were very open and frank, ranged from optimistic support to nuanced precaution, and even in some cases to a certain degree of hostility. A participant pointed out that EU defence should remain under NATO veto.

However, it was counter-argued, any 'veto' system is very difficult to imagine, not least because

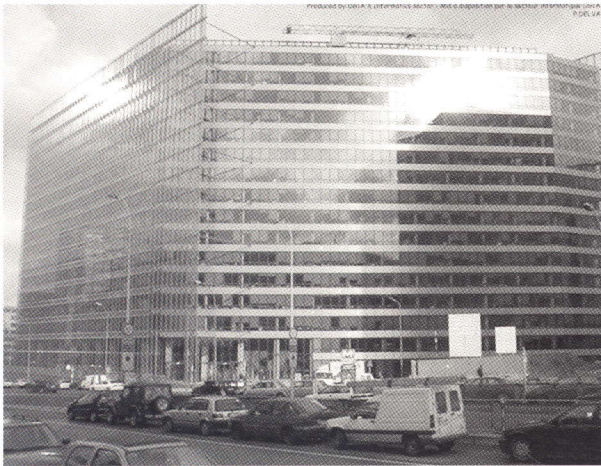
NATO's decision-making is based on unanimity. Besides, even if it was feasible, this system would probably not be desirable. It is clearly in the US interest that the EU is able and willing to share the burden of security matters within its area of responsibilities. Only an equal and reliable partner can ensure real cooperation and coordination. Imagination and forward-looking view are essential to understand the on-going process. It was also stressed that the EU and the US, which are engaged in healthy competition in the commercial field, are not and should not become competitors in the political arena, but equal and reliable partners. This poses a double challenge: for the US, to overcome its traditional ambivalence to EU defense integration; for the EU, to assume its responsibilities and take its own decisions while understanding and respecting the US sensitivities in this area, and to make an effort to explain the process.

Conclusions from the Conference, including from this panel, can be found on the internet at
<http://eucenters.org/>

Welcome to EU-US News, number 4

Many developments have taken place since our last rendez-vous. Shortly after our 3rd issue was published, the European Council met in Helsinki on 10 and 11 December 1999. The achievements of this Council are to be remembered. This event marked a new stage in the enlargement process; as well as in ensuring that the Union itself will have effective, reformed institutions and a competitive, job-generating, sustainable economy.

But maybe even more significant were the decisions on a strengthened common security and defence policy, whose origin can be traced back to the Cologne Summit, to the St Malo French-British declaration,



The US Unit, together with the largest part of the Commission's external services is located at the emblematic 'Charlemagne' building in Brussels.

and to the previous steps in Common Foreign and Security Policy (CFSP). The European Council underlined its determination to develop the Union's ability for military and non-military crisis management. Since understanding and taking forward this process is of paramount importance to consolidate and enhance Transatlantic Relations, we chose to devote our lead article to this very important event.

The New Transatlantic Agenda also yielded important results during this period, in particular at the last Transatlantic Summit of 1999 which took place on 17 December in Washington. The long-awaited change of digit brought significant progress in the Transatlantic Relationship. The EU-US Summit was confirmed as an outstanding opportunity to obtain mutually beneficial results based on the principle of reciprocity. The European Union has become a strong and credible global partner for the US, and this fact will undoubtedly play a positive role in helping to reach our common goals. You will also find information about the Summit and its follow-up in this issue.

As the Helsinki Summit's millennium declaration says, 'we must rejuvenate the idea of a Europe for all, an idea on which each new generation must make its own mark'. This is in line with the vision of Europe that far-sighted Americans shared with their European partners, back in the founding days of EU integration.

A new Director General for the Commission's External Relations

Developments since our previous issue include several important changes in the 'top jobs' at the Commission's External Relations Directorate General. Mr Guy Legras replaced Mr Burghardt as Director-General for DG Relex taking up his new post at the beginning of December 1999. Mr Legras had been until then Director-General for Agriculture – the Commission's largest DG – where he gained substantial experience and expert-

ise in international affairs notably during the Uruguay Round negotiations on agriculture and world trade. In assuming the new position at the helm of DG RELEX Mr Legras returns to his professional origins which were with the Quai d'Orsay the French Foreign Office.

Mr Burghardt was nominated Head of the Commission Delegation in Washington.

The EU-US Summit and beyond

The last EU-US Summit took place in Washington on 17 December 1999 and was characterized by its good atmosphere with the US praising the « exceptionally good record » of EU-US cooperation over the last six months.

The Summit was attended by European Commission's President Romano Prodi, Finish Prime Minister Paavo Lipponen and President Ahtisaari -as President of the European Council-, and US President Bill Clinton, together with other top-level political and administrative officials.

The participants in the Summit managed to agree on several important subjects, which were reflected in the joint statements issued: on South-Eastern Europe, on Chechnya, Northern Europe, on Small arms and light weapons, and also on the WTO.

Concerning trade issues, it was positive that the above mentioned joint statement on the WTO could be reached despite the lack of success of the Seattle meeting. Both sides reiterated in particular their determination to support the current efforts to launch a new round of multilateral negotiations which fully involves the developing countries. On the other hand, there was little movement on the bilateral trade disputes. On biotechnology and concerning the further developments of the Prodi-Clinton initiative, both sides agreed that there should be a two-track approach covering all aspects

of the problem. There was also intensive work on ways to improve the dispute settlement mechanisms. In addition to that, co-operation in Justice affairs was also discussed at the Summit.

The European Commission, the EU Presidency and their US counterparts are now in full preparation for the next Summit which is scheduled to take place in Lisbon on 5 June. The string of meetings (Task Force, Senior Level Group) that precede the summit are in full swing.

Among the major issues for the upcoming Summit, the subjects of data protection and aircraft noise reduction (hushkits) should occupy a prominent place, and may give rise to some significant debate. On the other hand, the looming conflict on meat residues seems to have been disarmed. Both sides are also working hard to get the biotechnology initiative with its Senior level Group and Consultative forum up and running by the time of the summit. A particular effort is currently being done to get concrete results on the EU-US 18 May Understanding (sanctions legislation, including those stemming from the unfortunate Helms-Burton Act).

President Prodi meets Secretary of State Albright

On 10 March, United States Secretary of State Madeleine Albright met Romano Prodi, President of the European Commission. They held a fruitful exchange of views on the most important current issues in Transatlantic Relations. Both leaders began with a discussion of summit themes which gave ideas for future work.

On South East Europe, Mr Prodi emphasized the need to build on the Stability Pact while handing power back to these states to foster a political solution. A brief discussion on MEPP followed. There was also useful discussion on North Korea and Nuclear energy, the accession of China and of Croatia to the WTO and other trade and foreign policy issues. The meet-

ing confirmed the usefulness of continued contact and increased Transatlantic cooperation.



President Prodi receives Ms Albright at his Brussels office. (Source: Audiovisual Library, European Commission)

Kosovo, after one year of hard work

It will soon be a year since Kosovo came under UN administration. The European Union — both its Member States and the European Commission — is playing a leading role in the reconstruction of this region. Within days of the conflict ending, the European Commission had ECHO — the EU's humanitarian agency — back in place to continue humanitarian activities, and it had established a Task Force — later Agency — to deliver assistance for reconstruction.

Much remains to be done...

A year later, the challenge remains formidable for the international community and for all the Kosovo people, working together. Much remains to be done. But it is important, despite the difficulties, to keep a sense of perspective, and to recognise what has been achieved. In March last year, conflict was raging across Kosovo. Since then, nearly a million refugees have returned to their homes, and half a million people who were displaced within Kosovo have done the same. A local administration has been established. From a situation of complete standstill of economic activity, with no accepted currency, no budget and no banks Kosovo now uses a stable currency, a balanced budget, a functioning system of public finances, and a Banking and Payments Authority to allow businesses to prosper. Hospitals and basic health services are now functioning in Kosovo, and nearly all children have been inoculated against childhood diseases. A new independent and multi-ethnic judicial system has been created. A new penal code is now being drafted by Kosovar legal experts.

... but the EU is committed to continue its hard work

The EU is the largest single donor to the region. ECHO has provided shelter to 22,500 families over the winter period. 80 per cent of the KFOR personnel are from EU nations. Over 100 NGOs from EU Member

States are working in Pristina or elsewhere in Kosovo. The European Commissioner for External Relations Chris Patten stressed the signification of the EU effort during his recent visit to South-East Europe, in March 2000.

The figures for the European Union's contribution are impressive and very telling of its commitment to the Western Balkan region as a whole. Since 1991, not counting the monetary aid from member states, the European Union has provided more than 4.5 billion to the region (not including Romania and Bulgaria). Contributions by Member States are estimated to be broadly the same again.

In 1999 the EU provided a total of 505 million for people throughout the region affected by the Kosovo crisis. Up to 360 million will be available for the year 2000. The Commission will return to the budgetary authority to request additional funds for this year if necessary. This money is essential for the reconstruction effort, and laying the foundations for a viable economy is vital for Kosovo's long term future.

The source for this article is at http://europa.eu.int/comm/external_relations/kosovo/memo_00_12.htm. A detailed description of the EU's effort can be found at this internet address; another essential source for information on this subject can be found at the Kosovo reconstruction webpage at <http://www.seerecon.org/Kosovo/Kosovo.htm>

Looking ahead to 2010

Message from Günter BURGHARDT ⁽¹⁾



I am very pleased to be taking up my duties in Washington at the launch of a new century and at a time of real challenge and opportunity in relations between the European Union and the United States. That is why I told President Clinton, when I presented my credentials on February 3, that it is with a sense of excitement and awe that I embark on a mission which

will allow me to continue my long record of professional commitment to European unification and EU/US partnership from this side of the Atlantic.

In particular, I feel very fortunate to arrive in Washington at a time when the European Union agenda for the next 10 years is clearly charted, and indeed the further development of the European constitutional process is already well underway. This important agenda builds on the already high level of integration and cooperation among the 15 members of the European Union and comprises equally important developments for the next decade, such as:

- Preparing the Union internally for the historic prospect of enlargement to no fewer than 13 countries in Central and Southeast Europe;
- Providing massive pre-accession support to enable the candidate countries to assume EU legislation and acquire the administrative capacity to implement it;
- Completing the euro with the introduction of notes and coins in January, 2002;
- Strengthening the security dimension of the Common Foreign and Security Policy through mili-

⁽¹⁾ Dr. Günter Burghardt, former Political Director and Director General for External Relations, is the new Head of Delegation of the European Commission in the United States since 22 January 2000.

- tary and civil capabilities for crisis management in cooperation with NATO;
- Building up the EU's capacity to act against new risks in the area of internal security;
 - Complementing the EU internal market through a network of free trade zones around the European Union, with the aim of creating a greater Euro-mediterranean economic area of around one billion consumers; and
 - Projecting its growing economic and political weight into the international scene and, together with the United States, assuming greater responsibility for strategic relationships such as with Russia and the Middle East, and for the multilateral system through strengthening international governance.

I look forward to helping explain this historic process to our American interlocutors, and trying to enlist their support. Further European integration and enlargement of the European Union are in the interest both of Europe and of America. There is every reason for Washington to continue the stalwart support it has shown for European integration over the past half century. As I told Madeleine Albright, when I had the pleasure of introducing her at the presentation of a Transatlantic leadership award during my first week in Washington, "the United States has a vital interest in supporting the development of a Europe united by the consent of its peoples for the first time in history. We greatly appreciate US support for our complex task of projecting security, stability and prosperity to the European continent as a whole". I also pointed to US skepticism when important developments such as the single market, the single currency and the Common Foreign and Security Policy took and will take shape. In accepting the Institute's award, Secretary Albright, who, like me, was born in Central Europe, said that "leaders of the Trans-Atlantic Community are making progress month by month towards the long-denied dream of a Europe whole and free".

Further European integration and enlargement of the European Union are in the interest both of Europe and of America.

Indeed, as widening and deepening the EU helps to further consolidate democracy and stability on the European continent, the US will increasingly see how much this is in their own long term strategic interests. They will also increasingly see, as European integration advances, that security policy will come to occupy a more prominent position than ever before in their relations with the EU.

This all leads to a fundamental challenge in our relationship. We spend much time and political energy on controversial, short-term, mostly trade-related issues, leaving too little time to concentrate on our overriding common interests and collective responsibilities.

It is time to further develop the concept of a 'partnership of equals'. We must lift our sights to the vision of a new "Transatlantic Agenda 2010".

To break out of this transatlantic tunnel vision, we need a common project beyond bananas, hushkits and GMOs, a goal that gives expression to the depth and breadth of our common values and interests. I think it is time to further develop the concept of a 'partnership of equals'. We must lift our sights to the vision of a new "Transatlantic Agenda 2010", building on the Transatlantic Declaration of 1990 and the New Transatlantic Agenda of 1995, and work towards a set of mutual commitments embracing the breadth of our economic, political and security relationships.

Meanwhile the transatlantic dialogue on security policy must be conducted as a matter of urgency, and in a constructive way. We should stress what needs to be done, not what we both agree must be avoided. For our part, we must make it clear that the EU's aim is to reinforce the Atlantic Alliance by shouldering more political and security responsibility, not to build up an independent European territorial defense force without the US. This is neither desired nor affordable. It is about a common European security policy to address new risks and challenges, as Bosnia and Kosovo have so abundantly demonstrated. It is about better coordinating the considerable civilian capabilities with an emerging European military capability to deal with Petersburg crisis management tasks. Obviously, Europeans must be prepared and in the position to back up their will with corresponding military and budgetary means. For their part, the Americans must develop more understanding that a greater military contribution by the EU will mean a greater political say.

For the past five years, we have worked successfully under the New Transatlantic Agenda to promote security, stability and economic prosperity throughout the world. We must now begin to look at how the Agenda will function in light of the transformations in Europe.

For the past five years, we have worked successfully under the New Transatlantic Agenda to promote security, stability and economic prosperity throughout the world. We must now begin to look at how the Agenda will function in light of the transformations in Europe for the coming decade. The EU, more than ever, is poised to be an anchor of stability in Europe and an

equal partner of the United States. The Transatlantic Agenda becomes broader with every step the EU takes in its own development.

So as the Commission has embarked on a program of reform and modernisation of its structures, I look for-

ward to working intensively with friends and colleagues on both sides of the Atlantic to ensure that the new agenda we build for our common purposes will appropriately reflect the great changes underway in Europe and the need for a transatlantic governance, a partnership based on reciprocity and equality.

Transatlantic Trade after Seattle

The recent failure to reach agreement on a new WTO Round of trade negotiations at the Seattle Ministerial meeting was very disappointing for both the EU and the US. There is no point dwelling on the past or pointing the finger, but all WTO members need to take full account of the lessons of Seattle and it is now important to find a way forward. In particular, it would be wrong to allow the institution, the WTO, to become a scapegoat for Members' real differences on the substance and the lack of political will to overcome these differences.

Bringing momentum for preparation of a new WTO Round

At the December 1999 EU-US Summit in Washington (1) a joint Statement on the WTO was agreed upon by the two transatlantic partners. It forcefully recalls that "The European Union and the United States consider the multilateral trading system one of world's principal bulwarks of peace, sustainable development, and economic growth; and a primary engine for rising living standards and broad-based prosperity in the future. As we approach the new century, we must ensure that the trading system retains its dynamism and ability to respond to changing needs of an increasingly diverse membership".

One major lesson of Seattle is that the new Round has to be based on a comprehensive agenda, with something for everyone.

In the Statement both the EU and the US reaffirmed their pledged to work together with Director General Mike Moore and other WTO Members to launch an inclusive new Round as soon as possible. Regular contacts between Commissioner Pascal Lamy with Ambassador Charlene Barshefsky and other players are already taking place. Waiting for the outcome of the next US Presidential elections (or political elections in EU Member States) would not be a good reason for ruling out bringing momentum for preparation of a new WTO Round. There is always a reason for sitting

and waiting, but the transatlantic partners should not lose sight of such a key aim. And there is much preparatory work to be done.

Lessons from Seattle

One major lesson of Seattle is that the new Round has to be based on a comprehensive agenda, with something for everyone. Many countries - developed and developing - share this position. This means Rule-making in new areas as well as more traditional Market Access negotiations. A Round focused only on the "built-in" agenda or on market-access issues is not a viable alternative. Investment, competition, trade facilitation, the environment have to be included if the WTO is to stay relevant to economic reality and meet the expectations of civil society. At the same time social and developmental issues related to trade (including core labour standards) should also be addressed in cooperation with other relevant international institutions.

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Seattle also clearly showed the need to look at procedural and institutional aspects of WTO. The EC intends to present some ideas shortly for improvements in working methods which could be undertaken in the very short term. Over the longer term, we need to examine options for broader improvements to the functioning of the WTO. But the objective of "insti-

(1) See http://europa.eu.int/comm/external_relations/us/summit_17_12_99/wto.htm

tutional reform" must not be allowed to detract from the objective of launching a new Round.

The objective of "institutional reform" must not be allowed to detract from the objective of launching a new Round.

In the short run there is an urgent need of measures to restore confidence in the WTO system. First of all, it is necessary to address questions which concern the developing countries, in particular the least developed countries, which are those who feel most frustrated by the failure in Seattle. The EC initiative on duty and quota exemptions for goods from the least developed countries goes in this direction. That should also be accompanied by initiatives on issues such as technical assistance and concrete measures in the field of capacity building, which should aim to improve developing countries' participation in WTO negotiations. A dialogue on issues concerning implementation of existing multilateral trade agreements should also be envisaged, with developed countries willing to show flexibility. Together with short-term improvements to WTO working methods, this would configure a "confidence building package" for restoring developing countries' faith and confidence in the WTO.

Rebuilding confidence in a multilateral context
Improving the institutional functioning of the WTO will help re-build confidence in the institution. In the

short term Members could envisage introducing measures aimed at improving the organisation of ministerial conferences, so as to facilitate the participation of developing countries and promote greater external transparency. The latter could include strengthening WTO dialogue with civil society and better structuring it. More far reaching improvements to the WTO system, in the context of international governance, should be the subject of a longer-term review, possibly within the context of a new round of negotiations, or in parallel with them.

Both transatlantic partners recognise their shared responsibilities to continue this work, but also the need to involve all our WTO partners more directly.

The co-operative relationship between the EU and the US has been crucial to the development of the multilateral trading system over the past 50 years. Both transatlantic partners recognise their shared responsibilities to continue this work, but also the need to involve all our WTO partners more directly. If the EU and the US are to prepare the ground for launching a new Round, there is a need for them to "bridge" their positions with each other and with other partners. That will require a proper handling of the public debate and much political drive.

WTO condemns US tax subsidies to promote exports

On 24 February 2000 the WTO Appellate Body put an end to a long standing dispute between the EU and the US on the US "Foreign Sales Corporations" ("FSC") tax scheme by declaring the FSC an illegal export subsidy for industrial and agricultural products.

A New Ruling for an Old Dispute

This is an old dispute that relates back to the seventies when the predecessor of the FSC, the so-called "Domestic International Sales Corporations" ("DISC"), was condemned as an export subsidy by a GATT panel eventually adopted in 1981. The DISC was introduced at a time of increasing trade deficit in order to promote US exports under what was called the "Deficit Reduction Act of 1971". It was in 1984 that the US decided to replace the DISC by the FSC, a scheme designed to be functionally equivalent to DISC while being easier to defend under the GATT, according to the US administration.

The EC contested the legality of the FSC scheme since its adoption. However, the matter was not further pursued due to the opening of the Uruguay Round trade negotiations in 1985. In 1997 the EC tried to pursue the matter bilaterally with the US but without success. The EC then launched a WTO dispute settlement procedure against the FSC scheme.

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What is an FSC ?

An FSC is a shell company of an American corporation, typically established in a tax haven (more than 90% are in the Virgin Islands, Barbados and Guam), whose sole purpose is to serve as a vehicle for US exports and in this way exempt substantial amounts of due taxes.

US law imposes certain criteria that need to be complied with in order to create an FSC and benefit from the FSC scheme. In theory, these criteria aim at ensuring that the FSC materially participates in the export transaction. However, in practice these requirements can be formally complied with easily and FSCs function as mere mailbox facilities that simply receive and sent out faxes and correspondence while all other aspects of the export transaction are carried out by the US parent company.

Furthermore, in order to benefit from the special tax treatment the FSC has to export **US property**, which is defined as products manufactured or grown in the US with no more than 50% of their fair market value attributable to imports.

As part of the income of the FSC is exempted from taxation, the bigger the income that can be allocated to the FSC the bigger the tax saving. This is why the FSC scheme also provides for **unique and special rules** on transfer pricing which help companies to increase the amount of income allocated to the FSC and consequently reduce the amount of tax to be paid.

US exporters that artificially decide to channel their exports through FSCs instead of selling directly will reduce their tax bills between 15% and 30% and increase their profits between 5% to 10%.

Beneficiaries of the FSC

Any industrial, agricultural or mining product can be exported through an FSC without any quantitative limitation. Therefore, any US company being able to save in taxes more than the cost of establishing and managing the FSC (i.e. around \$2000 annually) will use an FSC. That is why it is difficult to find any average US exporter than does not benefit from the FSC.

The FSC benefits are therefore spread over a wide range of US exporting companies and according to the US Treasury's own estimations included in the Fiscal year 2001 Budget proposal, the revenue forgone by the FSC scheme (i.e. the taxes that US companies should have paid but have not) in 1999 amounted to US\$ 3500 million. Taking into account that the FSC scheme has been in place since 1985, it is easy to understand the magnitude of subsidisation being granted to US companies. The increase of US exports due to the FSC has resulted in a corresponding reduction of sales of their main competitors, EU companies.

Tax policy justifications for the FSC.

The US justifies the existence of the FSC scheme on the need for the US to emulate the effects of "territori-

al" tax systems (used by some EU Members) that do not tax economic activities outside its frontiers while the US has a "world-wide" tax system that taxes US companies on their global income. By doing this, the FSC is allegedly re-establishing the "level playing field" on which EU and US companies compete in international markets.

However, the choice of a particular tax system is a sovereign decision of the country concerned, as it has also been recognised by the Appellate Body in its FSC report. WTO members are free to decide on the tax system they wish, and to tax or not to tax certain categories of income, as long as in doing so they do not breach their WTO obligations. Therefore, any alleged disadvantage caused by the US tax system to US companies is a self-inflicted problem but does not entitle a country to give WTO prohibited subsidies in order to remedy this situation.

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Even more, it is not true that European companies pay less taxes than US companies. The amount of taxes paid will depend on the income tax rate applied in the country where the income is generated. Sometimes this is higher and sometimes lower than that of the US. Furthermore, all EU member states have legislation to avoid that companies escape taxation by establishing operations in tax havens.

In addition, the US has a sophisticated system of double taxation avoidance based on "tax credits" for taxes paid in third countries, that are deducted from the US tax bill, and by a multitude of bilateral tax agreements which reduce the situations in which double taxation occurs. In any event, if the real concern of the US for enacting the FSC had been to avoid double taxation of US companies, it would have never allowed the possibility for FSCs to be established in tax havens, where more than 90% of the FSCs are. Furthermore, it is difficult to understand why the use of FSC is limited to the export of "US property". Are US corporations that export products with a value added in the US of less than 50% not also suffering from alleged double taxation?

Another argument constantly repeated by defenders of FSC is that the FSC tax exemptions help offset the advantage enjoyed by Community companies that are exempted from VAT on export transactions. However, sales taxes levied by US states are not collected on US exports either. This is in line with the logic behind consumption or sales taxes which are charged on all products, independent of their origin, when sold on the domestic market of the country in question and not when exported. This principle has been recognised since the creation of the GATT. Therefore, the pur-

The US has until 1 October 2000, a date suggested to the WTO Panel by the US itself, to comply with its international obligations and bring its legislation in conformity with the WTO.

chaser of a US product will pay the same VAT as the purchaser of an EU product when consumed in the same EU country. Similarly, purchasers of US and EU products will pay the same sales tax when consumed in the same US state. It is therefore hard to argue that exempting VAT on exports gives EU companies any

competitive advantage while the similar US tax is also not collected on exports and when both products are taxed in the same way when sold in a particular market.

Implications of this WTO decision

The conclusions of the Appellate Body are final. The US has until 1 October 2000, a date suggested to the WTO Panel by the US itself, to comply with its international obligations and bring its legislation in conformity with the WTO. In case of failure to do so, the Dispute Settlement Understanding entitles the EU to exercise its WTO rights to obtain compensation or to suspend concessions.

Biotechnology: beyond the headlines

Biotechnology remains high on the political agenda on both sides of the Atlantic. Not least because it is a matter of concern to a wide-range of sectors of society from big business through to the individual consumer seeking a clear choice at the supermarket shelf.

The use of modern biotechnology both in the food chain and in medicine raises a whole range of issues at the interface of scientific progress and societal concerns. It touches upon difficult ethical considerations such as the question of the patenting of life; on consumer choice and information; on so far unanswered scientific questions about the potential long-term environmental effects both positive and negative. So at the same time as consumers continue to seek better information and more transparent regulation of genetically engineered food, the recent development by a group of scientists supported by EC research funds of a so-called "golden rice" (enriched with Vitamin A) illustrates the potential of GM products of the future.

Conscious of the need for an informed public debate on the wider role of biotechnology in the twenty-first century, Commission President Prodi proposed to President Clinton in October last year that the EU and US Administrations look at establishing a group of eminent people from various walks of life to look at these questions from the transatlantic dimension in a new and fresh way.

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At the EU-US Summit in December we agreed to set up a Consultative Forum to do just that. We are now in the processes of finalising details of who will take part in the Forum and which specific questions it should focus its efforts on. We hope to bring together scientific expertise in various fields, as well as representatives of consumer and environmental interests, business and others such as experts on ethics. The Forum will be asked to report and make general recommendations to Summit leaders later this year.

European Food Authority on its way

The establishment of a new European Food Authority has been provided for in the European Commission White Paper on Food Safety. The independent Authority, which could be in place by 2002, will provide an effective instrument in achieving the changes required to protect public health and maintain consumer confidence. It would be entrusted with providing scientific advice, communicating with consumers on food safety and health issues as well as net-

working with national agencies and scientific bodies. The Commission has also issued a Communication on the Precautionary Principle, which sets out the guidelines for the management of risk associated with adverse effects to the environment, human, animal or plant health. Both communications are being regarded as a matter of priority by the European Council. Progress will be reviewed next Summer at the Feira Council.

Education and outreach: EU Centres gather in New York

In the previous issue of the EU-US Newsletter we reported on the progress of the 'European Centres in the US' programme. The implementation of the project during its first year was very successful; all the Centres fulfilled or even surpassed their initial objectives. The applications for year two were also considered to be in line with the programme's requirements for high quality and comprehensiveness. The project has thus reached the mid-term of its 3-year period.

The Commission considered, however, that it would be necessary and useful to reinforce certain aspects which were not addressed by all the individual applications, in particular with a view on the Centres' future after the completion of the project. The means that was proposed was a two-day conference. This event was the subject of intensive preparatory work, and it finally took place on the 9th and 10th of February 2000 in New York. The Conference of EU Centres was followed by the annual Director's meeting organized by ECSA.

The objectives of the Conference were twofold: consolidating the project, and increasing its visibility. Internally, it was focused on studying the prospects for sustainability after year 3 and exploring alternative funding possibilities, fostering the interaction of the Centres with foundations and other funding entities, and enhancing cooperation, especially concerning the Centres' outreach efforts. In addition to that, a large part of the event was focused on increasing the programme's visibility and outreach, through several sessions and panels on topics of general interest. The titles of the sessions, which covered a very wide range of areas, included: 'The European Union and International Education in the United States'; 'The WTO after the Battle in Seattle: EU and US Perspectives'; 'The New European Security and Defence Policy'; 'Prospects for European Integration in the 21st Century'; and the imaginative 'DNA and the NTA: Biotechnology in a Transatlantic Context'.

More than 150 people participated in the event at its various sessions. The keynote speech, 'EU Agenda for 2010: Priorities and Implications for the U.S.' was

A large part of the event was focused on increasing the programme's visibility and outreach.

delivered by EU Ambassador Mr Gunther Burghardt. In his speech, Mr Burghardt examined the progress achieved by the EU in the major political areas. On European Security and Defence, he made a vigorous defense of the latest initiatives, clarifying however that the goal is not to create a European Army. He stated that 'NATO should be europeanized and not viceversa'. The EU Security dimension is, he explained, going to strengthen the relationship. Mr Burghardt reminded that the EU remains strongly opposed to unilateralism (such as there is in some provisions in the Helms-Burton Act). On enlargement, he stressed that this was a 'moral obligation' beyond any practical problems that it may create in the short-medium term. He also reminded the European effort in Kosovo, giving detailed figures on the EU's impressive contribution.

Overall, the Conference was very successful. The objectives were fulfilled, in particular concerning visibility, interaction and cooperation. The Centres' representatives and the other participants delivered concrete contributions which will surely enhance the success of the project. One weak point remains, and it was clearly identified as such at the Conference: the need to ensure sustainability after the third year of the project.

Abstracts from the Conference, together with a great deal of information on the EU Centres project, can be found on the internet at www.eucenters.org

EU Centres' Directors meet to perfect the project

In the wake of the Conference of EU Centres, the Centres' Directors met in New York on 11 February 2000. The gathering, organized by ECSA, was also attended by Commission representatives, both from the EU Washington Delegation and from headquarters.

The meeting proved to be a very positive and fruitful exchange of ideas on the Centres' achievements, possible improvements, visibility of the project, sustainability and procedural matters. The atmosphere was very cooperative, and concrete follow-up actions were agreed. In general, participants agreed that the network seemed to be on the right track to yield good results, and that its role was becoming increasingly important.



Source: EPC

Hushkits again

Shorts

The European Union's Regulation to limit aircraft noise will come into effect in the coming months. The US administration, which calls the law discriminatory, has not managed up to now to accept any compromise short of withdrawal or indefinite suspension of the 'hushkits' legislation. The EU has shown a great deal of flexibility, going as far as to accept the principle of suspension if the US gave guarantees that it was serious about agreeing to new international norms. Unfortunately, this compromise was not accepted by the US either.

The proposed EU legislation aims to prevent an increase in the number of planes which are judged too noisy, whatever their national flag or origin, flying over densely populated areas within European territory.

The EU is faced with the responsibility of protecting its citizens from environmental hazard from unacceptably high levels of aircraft noise. It must be remembered that the proposed EU legislation aims to prevent an increase in the number of planes which are judged too noisy, whatever their national flag or origin, flying over densely populated areas within European territory.

But, as EU Transport Commissioner Loyola de Palacio stated at the European Parliament, 'Industry is putting ferocious pressure on the U.S. administration'. The US has now tabled a complaint within the International Civil Aviation Organisation (ICAO).

However, the EU remains committed to work for an amicable solution. Notably, it has proposed a compromise under which the Directive would take effect as scheduled for European carriers on the 4th of May, but parts of it affecting non-EU countries would be suspended. In exchange, the US would have to suspend their ICAO complaint. Both the EU and the United States would have to adopt a joint declaration to cooperate in ICAO on drafting new, tougher aircraft noise regulations. If the US shows similar flexibility and goodwill to reach an agreement, the 'hushkits' dispute will hopefully be soon a thing of the past.



TABD holds outreach meeting

Shorts

On 30 March the Transatlantic Business dialogue (TABD) held its traditional biannual Outreach Meeting. Almost 200 companies, business organisations, NGOs and representatives of the other transatlantic dialogues participated.

TABD reported on the outcome of last year's CEO conference in Berlin, presented its priorities for the year 2000 (globalization, new WTO Round, Early Warning, digital economy and the inclusion of SMEs in the process), and set out the agenda for this year

leading up to the CEO conference in Cincinnati 16-18 November.

The Commission representatives gave its views on recent EU-US relations development, current implementation of the TABD recommendations to the governments and participated together with the TABD representatives in a panel discussion and questions and answers session.

Next outreach meeting will take place in the autumn.

A transatlantic perspective of Internet

Keep an eye on...

The Transatlantic Information Exchange System (TIES) network will hold its third annual workshop on 6-7 April 2000 in Paris. The workshop will focus on a central issue of concern to the Internet community, civil society and transatlantic relations: 'Is the Internet Civil Society's best friend? A transatlantic perspective'. Internet offers a huge range of new opportunities, but it also poses a series of important challenges to the civil society across the Atlantic. The policy stances of the EU and the US are directly affected by this debate.

Participants will include governmental and non-governmental organisations and institutions, academic bodies, internet companies and other. This clearly promises to be a fascinating debate, and likely to provide useful conclusions to the players concerned. TIES is supported by the European Commission within the framework of the New Transatlantic Agenda. More information about TIES can be found in previous issues of this Newsletter and also on their website at <http://tiesweb.org/>

Governor Ryan of Illinois recently introduced a moratorium on all pending executions in that state. The decision was hailed by the EU, which is working towards universal abolition of the death penalty and considers the introduction of moratoria as a first step towards that aim.

The underlying motivation for Governor Ryan to take this step is the risk of sentencing innocent individuals to death: investigations showed that 13 innocent people had been sentenced to death in that state.

In an EU memorandum on the historic, social, legal and humanitarian background which led the EU to abolish the death penalty in Europe, it is formulated as follows: 'the irreversible nature of capital punishment has (also) to be taken into account. Even highly advanced legal systems, which rest upon the principle of the rule of law, including the principle of due process, are not immune to miscarriages of justice'.

The EU and the US have an open dialogue on the issue. The US indicates that legislation on capital punishment is not contrary to international law. The Supreme Court considered the reinstatement of such legislation by constituent states not to be contrary to the US constitution. The EU claims that international legal standards in any case prohibit executions of persons who were less than 18 years old when committing the crime or who suffer from mental disorder. The EU

has also intervened to the US Government in cases of lack of consular notification to EU citizens suspected of having committed a 'capital' crime. The possibility of due process, procedural guarantees against discriminatory application of the death penalty and competent legal defence are other areas of concern to the EU.

Yes, although the EU respects other views and realizes the huge difference between extra-judicial, summary executions, and a system based on the rule of law, it takes the view that respect for human life and dignity should prevent public authorities to take life.

Independent experts and recognized Human Rights organisations have rejected the idea that death penalty could be a deterrent to violent crime. In Europe, where the death penalty has not been used for nearly twenty years, there has been no significant increases in violent criminality. Studies have showed that the correlation between death penalty and a low crime rate is non-existent.

In a recent declaration by the Portuguese Presidency, the EU has expressed that '*abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights*'. There are encouraging signs in the US showing increased debate on this subject. EU-US Dialogue remains an essential tool to achieve positive results in line with this spirit.

Election time : luck and votes

The last word

Anyone having read *Primary Colours* must be delighted to follow the current primary elections in the US. Candidates have read that book, I am sure. Or maybe it is still enough with *Il Principe* to enlighten them. Anyway, and despite the elimination of some candidacies after the SuperTuesday, the process remains greatly interesting -and sometimes very amusing.

In fact, election time is a wonderful period for those of us blessed—or cursed- with a taste for surrealistic humour. Take, for example, the US Federal Election Commission website. With a practical sense which is to be praised, the zealous officials in charge of its contents try to convince the readers that a single vote can make the difference. And they give several examples, among which this pearl:

'In 1994, Republican Randall Luthi and Independent Larry Call tied for the seat in the Wyoming House of Representatives from the Jackson Hole area, with 1,941 votes each. A recount produced the same result. Mr. Luthi was finally declared the winner when, in a drawing before the State Canvassing Board, a PingPong ball bearing his name was pulled from the cowboy hat of Democratic Governor Mike Sullivan.'

Fair enough. Note the remarkable precision of the paragraph, which stresses the fact that the ball was not pulled from any hat but from the governor's cow-

boy hat. Talk about stereotypes. But isn't it true that this sounds better than simply saying: 'the governor pulled the ball from his hat'? You see that the thing was fair, it was a good-old cowboy hat, he's one of our local guys. Surely, Mr Call took the defeat in a sportive manner - and Mr Luthi must have framed the lucky ball.

Now, let us try to figure out how a similar problem would have been solved here in Europe. We bet that candidates would refuse to participate in any drawing. Maybe the final solution would be to build an additional seat. Don't laugh: after all, this is how the problem of having several candidacies for the EP's location was solved - building sites in every candidate city.

Still, the drawing system has its advantages. In fact, some would recommend this procedure be extended to all major decisions. Say that a convict is judged. If half of the jury decides he is to be executed (provided that you are in a country which allows for that) but the other half opposes, you do not need to search for unanimity nor to go into complicate legal battles any more. You just draw a ball, toss a coin. No need to slow down the executions' pace. And the same may apply to policy decisions, international agreements, military actions. Pity that the procedure is not applied yet.

Or is it?

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Your comments, questions and other input are most welcome.
To let us know what you think of EU-US News, or to ask us to add
someone to our mailing list, please contact us, preferably by e-mail.

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