

**Governance through Policy Transfer in the
External Relations of the European Union
– The Case of Mercosur –**

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Abstract

The EU is at the forefront of an emerging pattern in international relations, so-called biregionalism. The Union increasingly seeks to establish relations with other world regions while actively promoting the emergence of regional integration projects. The EU's relationship with Mercosur is unique in this regard as it is the only currently existing form of "pure interregionalism" between two customs unions (Aggarwal/Fogarty 2004). As biregional relationships are a relatively new phenomenon in the international system, this paper asks how the EU sets out to structure them. Applying a governance approach to the case study of EU-Mercosur relations, it analyses the extent to which policy transfer is considered a viable strategy by the three main European institutions (Commission, Council and Parliament) in this regard. It draws on the policy transfer framework developed by Dolowitz and Marsh (1996, 2000) to dissect the EU policy-making process to formulate a policy vis-à-vis Mercosur. It asks what the EU is inclined to transfer, what role each of the three European institutions plays in the process and what the reasons and justifications for such a strategy are. It argues that a lot of the concepts used in the formation of these external relations have their origin in internal EU policies and suggests that this strategy can be considered a form of external governance that does not differ fundamentally from governance in the domestic realm. In addition, it posits that the use of policy transfer in the formation of the EU external relations has clear "normative connotations" based on an EU-specific idea of international order (Faust 2005: 54).

Introduction*

Biregional relations are a form of ‘new regionalism’ in a changing global world order (Telò 2001). The European Union (EU) increasingly seeks to establish such relations with other world regions while actively promoting the emergence of regional integration projects (Söderbaum/Stålgren/Langenhove 2005). Mercosur (Common Market of the South) is one of these biregional partners. It was established in 1991 by the four founding countries Brazil, Argentina, Uruguay and Paraguay. Together with the EU, it is the “most ambitious regional integration mechanism in the world” whose intentions go beyond mere economic integration to encompass political objectives as well (Faust 2005: 42). The EU established first contacts with Mercosur shortly after its founding which have since been continuously expanded. Currently, the EU is in the process of negotiating an association agreement with the Southern Cone which would include far-reaching trade liberalisation alongside political dialogue and cooperation in different fields.

As such biregional relations are a “new animal” in the international system (Grabendorff 1999: 106), the EU does not dispose of established instruments to structure them. Furthermore, it can neither draw on the more traditional foreign policy instruments of diplomacy and military strength. In this context, the article asks how the EU sets out to structure such relationships. It analyzes in how far the EU is inclined to use policy transfer as a governance strategy in these relations. The question of where the concepts to structure external relations come from and what they are promises to give us more general insights into the governance of the EU’s external relations in a changing international context. This article will argue that a lot of the concepts used in the formation of the EU’s external relations have their origin in internal EU policies and hence, that policy transfer is a widely used tool to construct them, even though the EU does not hold the formal competences to “formulate and apply border-crossing rules” in Mercosur (Neyer 2002: 14).¹ The article further suggests that this strategy can nevertheless be considered a form of external governance that does not differ fundamentally from governance in the domestic realm.

The article proceeds as follows: the next section briefly sketches the historical development of EU-Mercosur relations. The third section outlines the policy transfer model developed by Dolowitz and Marsh (1996, 2000) and adapts it to account for policy export in the external relations of the EU. The fourth part analyses policy transfer in EU-Mercosur relations along four transfer dimensions and across the three pillars of the biregional relations: trade and economic cooperation, political dialogue and cooperation.² The fifth section analyses the relationship between policy transfer and external governance and asks whether policy transfer is a form of external governance. The conclusion sketches out some lines for further research.

EU-Mercosur Relations in Historical Perspective

The first contacts between the EU and today’s Mercosur member states reach back to the time before the South American integration project was founded. At that time, the interaction was embedded within the European Community’s (EC) relations with the entire Latin America

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¹ In this context, Neyer introduces the issue of power talking about exercising “political *Herrschaft* beyond the nation state” (2002: 14, my italics).

² Besides drawing on strategy documents of the three central EU institutions, the article relies on four interviews conducted between August and September 2004 with civil servants in the Commission (3) and the General Secretariat of the Council (1).

continent. It was at the beginning of the 1980s that the EC appeared on the political stage in the region. Back then, the EC was actively engaged in the San José process working together with Argentina, Brazil, Uruguay and Peru in the Lima Group towards a peaceful solution of the violent conflicts in Central America.³ Hence, since that time the EC interacted on a regular and institutionalized basis with three of the later four founding members of Mercosur.

When Mercosur was founded on 26 March 1991, it was the Commission that took the lead in establishing the first informal contacts (Diedrichs 2003: 117). These contacts led to an Interinstitutional Cooperation Agreement between the Commission and the Group of the Common Market, Mercosur's executive organ, signed in 1992 to support regional integration in the Southern Cone. This incipient interaction pattern was soon supplemented by the signing of the Joint Solemn Declaration in 1994 which laid down the intention to negotiate an interregional political and economic association between the two sides. In 1995, the EU and Mercosur signed a Framework Agreement which sets out the parameters for the negotiations of the Association Agreement presently underway. It entered into force in 1999 and forms the current treaty basis of the biregional relations. The document entails cooperation in various fields including trade, the economy and development and establishes a political dialogue to be conducted independently of the consultations with the Rio Group of which all Mercosur countries are members. In addition, it envisages the conclusion of an interregional association which constitutes a "significant shift in policy" as the association status has formerly only been granted for historical (Lomé Conventions) or political reasons in the direct neighbourhood of the EU (Smith 1998: 161).

The negotiations currently underway for the Interregional Association Agreement were officially opened in November 1999 and were supposed to be concluded in October 2004. This goal was not reached, however, due to continuing differences in the trade field. While the chapters on political dialogue, cooperation and the support for regional integration are ready for signature, the agricultural sector on the side of the EU and the service and public procurement sectors on the side of Mercosur are still contested. Once signed, it would be the first treaty ever between two customs unions and a "model ... for a new kind of cooperative relationship ... in a multipolar world" (ESC 2001: 5).

The Policy Transfer Model

In two literature reviews published in *Political Studies* (1996) and *Governance* (2000), Dolowitz and Marsh developed an encompassing policy transfer model drawing together studies on 'policy diffusion' (Walker 1969, Gray 1973), 'policy convergence'⁴ (Bennett 1991), 'lesson-drawing' (Rose 1993) and 'policy learning' (Hall 1993) under a single research framework. All of these models seek to explain how policies cross borders in space and time. They deal with a "process in which knowledge about policies, administrative arrangements, institutions and ideas in one political setting (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting" (Dolowitz/Marsh 2000: 5). This is also the definition Dolowitz and Marsh use for policy transfer.

³ The so-called Lima Group was founded in 1985 as a support organisation for the Contadora Group (Colombia, Mexico, Panama and Venezuela) formed in 1983. Both groups joined forces in the Caraballeda Declaration of 1986 to form the Rio Group with which the EU institutionalized contacts in the Rome Declaration in 1990 (Piening 1997: 123-130; Viñas 1991: 350-52).

⁴ For a good overview of recent developments in the field of policy convergence and its application to the EU see the special issue of the *Journal of European Public Policy* (2005, Vol. 12, No 5).

The policy transfer model is mostly used in comparative public policy studies where it was originally developed (Walker 1969) and has been applied to the EU before. In so doing, however, it primarily concentrates on policy transfer *within* the EU, both between the different EU levels (primarily between the national and supranational level) as well as between member states (Majone 1991, Radaelli 2000, Bomberg/Peterson 2001, Jordan et al. 2003). Even though it is ever more recognized that “[t]he EU seems increasingly eager to export its internal policy models to its external partners” (Steffenson 2002: 1), the phenomenon is seldom explored in a coherent and systematic fashion outside of the EU’s direct neighbourhood (Schimmelfennig/Sedelmeier 2004, Longo 2003).

The policy transfer model is not a full-blown theory, but can rather be described as a “road map’ for exploring different policy making processes” (Steffenson 2002: 2-3). It serves to identify the important variables in the process and allows analysing its characteristics and differences. In this article, I adopt (but regroup) four of the five research questions by Dolowitz and Marsh and adapt them to the peculiarities of the “EU’s own brand of policy transfer” (Bomberg/Peterson 2000: 19) – namely policy export in its external relations. The focus is on EU’s *intentions* to such transfer – the eventual outcomes and hence its *effectiveness* as a governance strategy in EU-Mercosur relations are not considered.⁵ In other words, instead of looking at the process of international negotiations between both sides, I consider the internal EU policy making process aimed at adopting a EU-policy vis-à-vis Mercosur.

What is being transferred? (Transfer objects)

Policy transfer can generally encompass any element that is important in political processes. Dolowitz and Marsh distinguish eight categories of transfer objects: policy goals, policy content, policy instruments, policy programmes, institutions, ideologies, ideas/attitudes and negative lessons. They highlight the distinction between the terms *policy* and *programme*. While the former is a broader statement about the intentions, motives and objectives that policy-makers wish to follow, the latter refers to the specific means to implement the policy. Hence, a policy can encompass various programmes. In regard to the EU’s policy export, negative lessons may be eliminated as they refer to forms of policy import. If the EU changes its policy export intentions because of perceived failure in the past, this may be captured positively by the other categories when the EU adapts policy objects due to internal learning processes.

Who are the agents involved in transfer? (Transfer actors)

In principle, one can distinguish between borrowers and lenders in the policy process. An active role of the lender, however, has long been neglected as the focus has mainly been on (voluntary) policy *import*, so-called ‘lesson drawing’ (Rose 1993). Only recently has more attention been paid to international organisations and non-state actors involved in the transfer of policies, which also brought the lender back into the scientific focus (Stone 2000, 2004). Dolowitz and Marsh identify nine categories of actors including elected officials, political parties, civil servants, pressure groups, policy entrepreneurs and experts, transnational corporations, think tanks, supranational governmental and non-governmental institutions as

⁵ By restricting the analysis to EU *intentions* to policy transfer, I circumvent the problem of many intervening variables when only looking at the outcome of such a process. As the interest is in policy transfer as an EU external governance strategy, the actual success of such transfer would aim at the effectiveness of such a strategy instead of the strategy itself.

well as consultants. The role of different actors in the transfer process and their respective impact on the outcome are heavily contested in the literature (Haas 1992, Robertson 1991, Bomberg/Peterson 2000, Stone 1999, 2000). It is clear, however, that different actors play their role in the process of policy-making and transfer. As this article focuses on policy transfer intentions of the lender, i.e. the policy formulation stage in a process of policy *export*, it will only consider the three most important actors in the EU during that stage: the European Commission, the Council of Ministers and the European Parliament (EP).⁶ This coincides with Dolowitz and Marsh's categories of elected officials (Council), political parties (EP) and civil servants (Commission). Whoever acts as a policy entrepreneur in the institutional interplay within the Union will be considered separately. We should expect the respective policy-making powers to have a significant impact on the role each actor plays in the different fields of the biregional relations.

Why and how is a policy transferred? (Transfer reasons and forms)

Dolowitz and Marsh mention various factors that let policy makers engage in policy transfer including external ones that shape the motivations of actors and the context of policy formulation. Among these factors are globalisation, growing interdependence and externalities, technological progress, the fear of competitive disadvantages and the emergence of an international consensus on the 'right solution'. The authors furthermore differentiate between voluntary and involuntary transfer, both of which have different underlying reasons. While voluntary transfer is widely driven by dissatisfaction with the Status Quo, involuntary transfer is – in its extremest form – based on direct imposition.⁷ However, as concrete instances of such transfers may lie somewhere in between these two poles, it is better to conceive of the degree of rationality in the transfer process as a continuum. In the case of EU-Mercosur relations, the transfer falls somewhere in the middle of this spectrum. It is not completely involuntary as both sides entered into the negotiations voluntarily and the EU does not dispose of the formal power to coerce Mercosur into policy transfer without its consent.⁸ On the other side, it is neither completely voluntary, as the EU has more leverage in the process due to power asymmetries (Westphal 2005a, Diedrichs 2003).⁹ The EU may thus be characterized as a 'policy-pusher' in the biregional relations (Dolowitz/Marsh 1996: 348), while the process may generally be referred to as a 'negotiated transfer'.

The question of how policies are transferred refers to the forms of transfer. Dolowitz and Marsh distinguish four such forms that differ according to their similarity with the original: the copy (transfer of the object without changes), emulation (adaptation of the object to the new context), hybrid/synthesis (combination of (elements of) transfer objects from different jurisdictions) and inspiration (transfer of the underlying idea of a transfer object). In the case

⁶ These actors are also chosen for reasons of research practicality: they are the only ones that have published a critical mass of strategy papers or public communications to be analysed.

⁷ Dolowitz and Marsh assert, however, that the "direct imposition of policy transfer by one country on another is rare" (1996: 348), but the conditionality applied by the World Bank or the EU in the enlargement process come close to this modus.

⁸ This is the biggest difference between EU policy transfer to the accession countries compared to partners in other external relations (Schimmelfennig/Sedelmeier 2004; Lavenex 2004)

⁹ This structural power asymmetry between both sides can be attributed to three factors: firstly, the "unequal dependence" on the relationship which leads to a situation in which Mercosur "[is] exposed ... to higher pressure by political rules-setting ... and political preponderance" (Westphal 2005a: 144); secondly, the diverging coherence of both sides in the biregional negotiations (Diedrichs 2003: 201, Nugent 1995); and thirdly the fact that Mercosur is modelled on the EU example which gives the EU leverage through information and experience 'gate keeping'.

of the EU's policy export intentions, forms of transfer refer to the similarity of the intended transfer object in relation with the internal original, i.e. a policy or programme implemented in the EU itself. The transfer form can vary between different transfer processes and is influenced by the actors involved and the organisation of the transfer process.

Policy Transfer in the Relations with Mercosur

This section presents empirical evidence to show that the EU uses policy transfer as a tool to structure its biregional relations with Mercosur. It is arranged along the four research questions outlined above and differentiates – within each section – between the three ‘pillars’ of the biregional relations: trade and economic relations, political dialogue and cooperation.

What is being transferred? (Transfer objects)

In the **trade** field, the EU approach to trade liberalisation with Mercosur swings between harmonisation and mutual recognition of non-tariff barriers to trade.¹⁰ The Commission states that the goal of the EC's trade policy is “[to promote], where feasible, greater harmonisation of standards and regulatory approaches in other markets; [to encourage] our trading partners to adopt or accept the equivalence of standards and technical requirements applicable in the Community” (EC 1996: 5). The ultimate goal behind this approach is similar to the one set out for the accession countries, the only difference being that no formal conditionality can be applied. A civil servant in the Commission confirmed that the EU aims at transferring the most completely possible the EU- trade *acquis* to Mercosur: “EU policy is to spread the European approach” (EC 2000: 20). In order to do so, the EU needs to continuously prepare Mercosur so that “[u]ltimately, the technical regulations, standards and conformity assessment procedures [...] will become, if not harmonised, then at least fully compatible” (EC 1998: Chapter 7.1.2). This involves to large extents the intention to engage in policy export and reflects the own experience of 40 years of internal market regulation.¹¹ The EU supports Mercosur in making its regulatory standards compatible with EU regulations through technical assistance and facilitation measures. Therefore, the EU initiated various projects “to harmonise standardisation and verification practices in the Mercosur region, in line with European [...] rules” (press release 12.03.2004). These programmes include the transfer of testing methods (policy instrument) and calibration bureaus (institutions) (press release 12.03.2004), the development of information and notification systems (policy instruments) as well as certification and accreditation agencies (institutions) and support for the development of a consistent legal and industrial metrology in Mercosur (EC 1996: 30, EC 2000: 21). All of these programmes guaranteed that “[t]he technical norms which were introduced in MERCOSUR area were EU ones” (Westphal 2005a: 173). In preparation for the Association Agreement, the EU is increasingly eager to ‘push’ Mercosur to adopt sectoral policies similar to EU practices. In the field of competition, for instance, the EU aims at “stimulating Mercosur to adopt legislation [...] which is basically inspired by the EU competition policy”

¹⁰ Harmonisation is the more demanding regulatory approach as it involves the export of policy contents, whereas mutual recognition only entails the export of policy goals. However, mutual recognition presupposes a certain degree of compatibility of trade regulations which requires some previous harmonisation, be it through transfer or otherwise. For a good analysis of the policy transfer of mutual recognition agreements in EU-US trade relations see Steffenson 2002. On mutual recognition more generally see Nicolaidis 2001.

¹¹ The EU started out with a harmonisation approach in the regulation of the internal market, but changed that strategy to mutual recognition after the *Cassis de Dijon*-ruling by the European Court of Justice in 1979 because the former approach turned out to be too costly politically and economically.

(EC 2002: 24). And one of the ultimate goals in institutional support for Mercosur is the “creation of Mercosur regulatory bodies” (EC 2002: 29-30).

In the field of **economic relations**, the EU is active in two main fields which both entail (the intention) to policy export: programmes to support the economy and promote investment (AL-INVEST, URB-AL, ATLAS)¹² and advice in the coordination of the national economic policies in Mercosur. Concerning the former, the programmes are modelled after those in the EU’s regional policy containing some of the same characteristic elements: decentralized organization, co-financing by the beneficiary, similar target groups, e.g. SMEs (AL-INVEST) border regions (ATLAS), troubled inner city districts (URB-AL), and the objective to foster networking between the different decentralised actors. While this programme export is a transfer object in itself, it also serves as a framework to export policy goals, contents and instruments. Furthermore, the EU uses programme transfer in those areas that it has recognized as crucial for its own economic development: “[T]he strength of the EU economic model is an important point of comparison in biregional relations” (Grabendorff 1999: 99). Hence, programme export is also used as a ‘vehicle’ for the subtle transfer of a specific economic governance model which reaches far beyond the mere export intention of policy goals. Concerning the second main field in economic relations, the EU intends to establish a regular macroeconomic dialogue similar to the one within the EU which it prepares through technical assistance in the form of “the transfer of experience in regard to the coordination and adoption of decisions” (EC 1995: 132; own translation). Eventually, this should lead to “defining common policies for the four Mercosur countries in fields such as tax policy, public debt, payments policy, price stability” (EC 2002: 44).

The **political dialogue**, the second ‘pillar’ of the biregional relations, is seen as an opportunity to transfer European know-how in the fields of democracy, the rule of law and human rights. This forms a central theme in the strategy documents of all three institutions. The biregional relations are intended to be based on the same principles than the EU itself: “[T]he respect for human rights and democratic principles will constitute an essential element of a new agreement. This principle will be subject to a specific suspension clause in the case of non-compliance” (ES 1995: 107; own translation). Besides this ‘value foundation’ which is neither negotiable nor modifiable, the EU also aims at transferring internal policy priorities through the political dialogue, often without concrete policy contents. Hence, the topics of terrorism, sustainable development, and immigration¹³ are regularly subjects of the political dialogue. In sum, in the political dialogue the EU is mainly interested in the transfer of basic values and principles that are closest to the category of policy goals, but are also connected to ideas and attitudes.

In the third **cooperation** ‘pillar’, which includes areas of mutual interest that go beyond trade and political co-ordination, the EU primarily intends to transfer know-how and programmes. Concerning the former, the Commission saw the main goal of the 1995 Framework Agreement in the “interchange of experience in the field of [regional] integration” (EC 1995: 105; own translation) which is one of the main objectives until today. This transfer of experience was envisaged for the following institutions: the Group of the Common Market and the Trade Commission with the European Commission, Mercosur’s Consultative Economic and Social Forum with the Economic and Social Commission, the Parliamentary Commission with the EP and the Mercosur tribunal with the European Court of Justice.

¹² These programmes are open to all Latin Americana countries, not only to Mercosur member states.

¹³ The Council gave the Commission the task to negotiate a clause in the Association Agreement stipulating that illegal immigrants from Mercosur may be deported back to their countries of origin (Interview European Commission).

Beyond the intention to the export of integration know-how, the EU also aimed at “supporting the elaboration of sectoral policies in fields such as education, health and the development of rural areas, whereby measures to institutionally support and mobilise the knowledge of civil society should have priority” (Council 1995: 1; own translation from German). In regard to this goal, the EU sought to support the definition of a Mercosur energy policy and pushing Mercosur to make environmental protection and sustainable development a cross-section issue in all areas of cooperation (policy goals) which the EU had integrated as such into the Maastricht Treaty only shortly before¹⁴ (EC 1995). Other areas designated for cooperation which include far-reaching policy transfer intentions in view of the Association Agreement include: the mutual participation of scientists in S&T programmes leading to “convergence of S&T policies in the two regions” (EC 2002: 24), the establishment of an university student exchange programme in Mercosur similar to the European ERASMUS programme (EC 2002: 46), the development of a trans-Mercosur traffic network modelled after the Transeuropean Network (Interview European Commission), and a programme to support the information society in Mercosur which corresponds to an EU-internal priority in the framework of the Lisbon strategy. Hence, similar to economic relations, the EU intends to transfer objects it has recognized to be important in its own internal development. All of the programmes in this pillar have since the beginning been subjected to co-financing by the other side: “Financial contributions by the beneficiary must be systematically incorporated into those measures where their financial means allow for it” (EC 1995: 142; own translation). This may be categorized as the intended transfer of a policy instrument borrowed from regional policy.

In sum, the EU intends to transfer all the transfer objects as identified by Dolowitz and Marsh except ideologies. While transfer intentions play a much bigger role (in regard to the diversity as well as quantity of the transfer objects) in the field of trade, economic relations and cooperation, it is mainly restricted to the intended transfer of integration experience, policy goals and ideas in the political dialogue. This may best be explained by the different institutional structures of the EU in these two fields: the Commission as a supranational actor refers much more to internal models (and thus policy transfer) in the structuring of external relations than the Council with its orientation at national interests. Furthermore, political dialogue is a very different form of interaction than the first and third pillars that are essentially based upon programmes and concrete policies. Hence, the political dialogue assumes rather a support function of the other two pillars.

Who are the Agents Involved in the Transfer Process? (Transfer actors)

As noted before, this article focuses on the three most relevant actors in EU-Mercosur policy-making, namely the Commission, Council and the EP. All three institutions voiced intentions to policy transfer and played their role in structuring the biregional relations with Mercosur, albeit to different extents.

In the **trade pillar**, it was the Commission who most actively aimed at policy transfer and at structuring the biregional relations by such means. While this might not be completely surprising due to its formal competencies in trade (Meunier/Nicolaidis 2005), it is still remarkable that the Commission initiated practically all measures in this area. Even the

¹⁴ Interestingly, the environmental areas which the EU set as priorities in the biregional relations are widely the same ones than those mentioned in the Maastricht Treaty. For Justice and Home Affairs (JHA), Longo analyses this relationship between internal and external policy priorities under the headline of ‘extension’ which she defines as the “quantity of specific issues involved in the co-operation among those considered relevant for internal JHA co-operation” (2003: 163).

negotiation mandates drawn up by the Council correspond widely with the respective proposals by the Commission (Interview European Commission; see also Diedrichs 2003: 256). This justifies the characterization of the Commission as a policy entrepreneur whose proposals to dominate the internal policy agenda towards Mercosur were widely drawn up around policy export. The Council conceives of its role mostly as supporting the Commission and intervening only when its proposals are completely unacceptable or when it wants to make it aware of specific European interests. The EP constantly supported the economic and trade relations with Mercosur without disposing of formal powers to be able to influence the EU's course of action towards Mercosur. The EP strongly supported or demanded to take into consideration the rights of employees and opted for the inclusion of a wide array of actors into the biregional relations (EP 2001: 2) "...in view of the desire of the Mercosur countries ... to not be excluded from the European market after the preferential free trade agreements" with the MEEC, Turkey and Israel (EP 1995: 3; own translation from German).

The **political dialogue** constituted a domain of the Council where the Commission showed a relative reluctance to actively influence the activities in that pillar. The institutional structure of the political dialogue accounts in part for this difference as it is conducted in the framework of the Common Foreign and Security Policy (CFSP) which is firmly in the hands of the Council. Beyond the 'value clauses' which all three institutions agreed to incorporate into any treaty with Mercosur, the Council also pushed to include other topics mentioned above into a future Association Agreement: "The Council has asked the negotiators to take into account all the different clauses of the political dialogue. Of course the trade people in the Commission don't see non-proliferation [of weapons of mass destruction] as a priority. Or cooperation against terrorism has nothing to do with projects or development or these sorts of things" (Interview General Secretariat of the Council). While the EP is widely excluded from the processes in the framework of CFSP, it pushed for the institutionalization of the abstract principles of democracy, rule of law and human rights and for the participation of other actors in the political dialogue (EP 2001: 2): „[T]he new negotiation mandate [must] provide for concrete measures necessary to secure that the stipulations of the future agreement are really in accord with the mission of the Treaty of the Union, whereby the development and consolidation of democracy and rule of law and the respect for human rights are goals of the CFSP" (EP 2001: 1; own translation from German). Diedrichs therefore refers to the EP as a "cooperative team-mate" (2003: 250).¹⁵

In the **cooperation** pillar, the pattern of actor activity in regard to policy transfer intentions is similar to the one in the trade pillar. In many ways, the Commission independently defines the areas it wants to incorporate in biregional cooperation and develops them by designing programmes and other measures. Hence, also in this field the Commission merits the characterization of policy entrepreneur. As vital national interests are less 'threatened' in biregional cooperation, the Council widely left this field including the fostering of regional integration in Mercosur to the Commission (Interview General Secretariat of the Council). It intervened only rarely to circumscribe the Commission's activities by defining priority areas for cooperation and determining principles for its design (e.g. 'open regionalism', Council 1995: 2). The EP was supportive of the Commission's efforts to foster regional integration in Mercosur, while bringing forward own priorities centred mainly on inclusion and participation as well as social and environmental norms (EP 1995: 4-5). It furthermore opted for an extension of the EU's tool box to foster regional integration: "In the meantime, the EU

¹⁵ It has to be noted that the EP conducts its own 'political dialogue' with regional parliaments in Latin America including Mercosur and fosters close personal ties with politicians and parliamentarians in the region (Westphal 2005b: 390).

must support the regional integration process in Mercosur with all instruments at its disposal – not only through technical assistance” (CEER 1995: 221, own translation).

In sum, all three actors voiced intentions to policy transfer. However, the **Commission** clearly took the most active stance in the first and third pillar of the relations – a finding one of its representatives confirms: “The Commission is the most active part in designing the biregional relations” (Interview European Commission). Diedrichs attributes this to the fact that the Commission – with its 1994 communication – “was the first organ of the EU that presented an elaborated and coherent strategy for Mercosur and thereby positioned itself ahead of other actors” (2003: 123). This is linked to the fact that the very idea of biregional relations originated in and was subsequently primarily driven by the Commission. This holds also true for its intentions to policy transfer which supports the thesis that the ‘first mover’ also has advantages in the formation of the external relations. Considering its formal competences in this field, the Commission might more precisely be described as a “structural first mover” (Héritier 1996: 153).¹⁶ Therefore, the Commission’s role in the first and third pillar is that of a policy entrepreneur as it continuously influenced the political agenda by putting forward its own transfer ideas and transfer innovations, so that the Council never disputed the Commission’s role (Diedrichs 2003: 250).¹⁷ Not only did it carry out external trade and development policy functions in the framework of community competences, but the Commission also elaborated extensive policy concepts for Mercosur that “included CFSP and exhibited firm political traits“ (Diedrichs 2003: 255). According to Diedrichs, it thereby profited from the growing cross pillarization between EC and CFSP issues (Stetter 2004) and the call of Mercosur countries for quick implementation of the framework agreement which allowed the Commission to “develop a profile and (limited) influence beyond formal treaty competences” (2003: 255). This holds true for policy transfer intentions in the third pillar, but not for the political dialogue. Concerning this extension of influence beyond formal treaty competences in the external relations (cf. Cram 1994), the Commission relied on similar means it uses internally: since the beginning, it sought to align different actors with itself as an institution and with specific European policy goals and contents (Tömmel 2003). This began with the signing of the Interinstitutional Cooperation Agreement, continued through time by providing technical assistance in different areas and now also includes the involvement of decentralised actors in the framework of the *Civil Society Dialogue* and other programs that engage civil society actors. These Commission activities hint at ‘new forms of governance’ in the external relations of the EU (see next section).¹⁸

The role or influence of the **Council** is complementary to that of the Commission. The Council primarily dominated the agenda of the political dialogue. Thus, besides the ‘first mover’ advantage, formal competences also appear to be important. However, while the Council has important formal competences in the formation of external relations at its disposal, the analysis revealed that it assumed a largely reserved role in regard to policy transfer intentions. The Council was most active in those fields that refer to fundamental

¹⁶ Interestingly, in the field where the Commission does not have the formal competences to be a ‘structural first mover’ (the political dialogue), it is not very active in regard to policy transfer intentions. However, a civil servant from the Council Secretariat hints at the fact that the Commission has a structural advantage in comparison to the Council in all areas of the biregional relations because it negotiates international treaties on behalf of the Union which allows it to act as an ‘information gate keeper’.

¹⁷ Diedrichs largely attributes this to the fact that the Commission “when confronting crucial moments in the negotiations knew how to maintain its coherence and capacity to act – even despite internal resistance” (2003: 254). This confirms Nugent’s finding of the ‘relative cohesion’ of the Commission (1995: 605).

¹⁸ Tömmel notes in this context that the setting-up of a “structured interaction” is an important element of these new forms of governance. Besides state actors, it increasingly involves active networking by the Commission to bring together non-state actors as well (2003: 139).

transfer objects and basic goals of the Union. It thereby often set the limits for more concrete policy transfer intentions of the Commission and assumed an important support and control function. The **EP** continuously supported the policy transfer intentions of the Commission. However, despite its relative lack of formal competences, it was able to emphasize an independent focus as a “commentator and agenda-setter” (Westphal 2005b: 391): besides the already described involvement of decentralized actors, the EP constantly demanded the strengthening of social and political values in the biregional relations.¹⁹

Why and how is a policy transferred? (Transfer reasons and forms)

Some of the more general reasons or external factors mentioned by Dolowitz and Marsh play a role in regard to policy transfer intentions in the EU context. The increasing process of globalisation as a more general factor and the fear of competitive disadvantages especially in regard to the US are often mentioned by EU institutions and different authors as influential reasons to engage in biregional relations with Mercosur (Müller-Brandeck-Bocquet 2000, Diedrichs 2003, CEER 1995, ESC 2001). However, they do not explain why actors aim at structuring those biregional relations through policy transfer.

Concerning the first pillar, the EU aims at the transfer of internal norms and standards for economic reasons “in view of the economies of scale it brings to producers, the potential access to multiple markets on the strength of a single product assessment and the likelihood of regional structures using international standards and practices” (EC 1996: 16). These reasons are based on own experiences with the internal market and external trade relations: “When conceived in a spirit of openness, regional integration – as European experience attests – is accompanied by growth in international trade” (EC 1994: 3).²⁰ Positive own experiences then justify policy transfer as a feasible strategy: “The coherence of regulations and of standards can be achieved through harmonisation, which has already proved its usefulness in the context of the EU internal market” (EC 2000: 10). The ultimate goal of the EU’s transfer intentions in the trade pillar is to “promote [...] acceptance of the Community’s regulatory approach” (EC 1996: 4). These motives have to do with the increasing process of globalisation and enhanced international competitiveness which Westphal describes as the aim to “simultaneously promote and export the European structural model of the internal market with its current drive to keep alive basic principles of the so-called “Rheinischer Kapitalismus”... [which is] an attempt to protect the European labour market by increasing the standards in other world regions” (2005a: 172). Or, if seen in the context of international competition with the US over more uniform rules for the world economy, policy transfer of trade rules serves to gain leverage in the WTO (Faust 2005: 54).

Concerning political dialogue, reasons for policy export are linked to the EU’s interest in fostering certain ideas: “Politically, it [EU] has an interest in the consolidation of democratic systems [and] shared values” (EC 1994: 4). This is linked to a belief in the superiority of a certain global world order which is based on the values the EU tries to foster in Mercosur: “We have a model of external relations which is away from the classical 19th century model. It’s based on the rule of law. We believe that regional integration is a new model of international relations by which at least within the region countries decide to organize their

¹⁹ Smith therefore calls the EP a ‘norm entrepreneur’, i.e. “an individual or organization that sets out to change the behaviour of others” (Florini cited in Smith 1998: 259).

²⁰ A civil servant from the Commission explained the development of the macroeconomic dialogue with Mercosur in a similar vein arguing that Mercosur has the same problem with sharp macroeconomic fluctuations and divergent policies in the different member states today that the EU had in the 1980s, so the EU ‘has some experience about this problem’.

relationship through the rule of law ... So basically, instead of killing one another in the plains of Waterloo, people are actually negotiating with one another” (Interview European Commission). The reasons for policy transfer in the cooperation pillar centre on the conviction that the EU’s own model of regional integration can serve as a model for Mercosur and that Mercosur has repeatedly stressed its intention to profit from the EU’s own experience (EC 1995: 112). In sum, policy transfer is pursued for different kinds of reasons that encompass blunt self-interest, liberal internationalist ideas of a ‘just’ world order and the constructivist reasoning of the perception of oneself as a role model.

The empirical analysis allows no general statement about the forms of transfer. It suggests, however, that all transfer forms take their part in the EU’s intentions to policy transfer with the hybrid/synthesis mainly important in the export of programmes. The emphasis of Commission communications and the interview partners on the fact that the EU does not want to impose its own model hints at the inspiration as the primary form of transfer. They argue that Mercosur would have to decide independently which models best serve his interests and needs while being able to rely on EU experience and support: “EC wishes to be at its side with a supportive co-operation strategy” (EC 2002: 4). However, other parts of the communications and some of the transfer objects already implemented speak a different language: there, the copy seems to be the most widely used form of the original transfer intentions. That emulation does not play a prominent role in the EU’s transfer intentions may be explained by the fact that the adaptation to different policy contexts is not expressed in strategy documents; it evolves during the implementation process of a policy.

Furthermore, the empirical data suggests an interesting link between the form of policy transfer and the degree of coerciveness: the more coercive the policy transfer intention of the EU, the more likely it is that the copy is the preferred form of transfer. In other words, the lower the degree of coerciveness, the more the transfer form moves into the direction of inspiration, i.e. the further it moves away from the original. This connection implies that the form of policy transfer permits conclusions about the degree of coerciveness as well as the other way around. The explanation for this phenomenon seems obvious: while the lender, for reasons of transfer costs and experience, has an interest in a transfer of objects as close as possible to the copy (e.g. his own original), the borrower is mostly concerned with the smooth functioning of the transfer object in his own context which requires adaptations to the new environment.

Policy Transfer as a Form of ‘External Governance’?

Various authors have pointed out that the European integration process not only feeds back into the political systems of the member states – a phenomenon that has been termed ‘Europeanization’ (Green Cowles et al. 2001, Featherstone/Radaelli 2003) –, but that its repercussions reach beyond the EU itself because of a “spillover effect of its own internal policies” (Nicolaidis/Lacroix 2002: 148; see also Kux/Sverdrup 2000, Lavenex 2004). Hence, Europeanization also has an ‘external dimension’ which affects third countries (Lavenex/Uçarer 2004). However, this external dimension is more than some unintended spillover or diffusion of European models, but – as the analysis has shown – rather bears witness to the EU’s active promotion of the externalization of its own governance model. This phenomenon has in the EuroMed context been called ‘Europeanization without Europe’ (Escribano 2005). The policy transfer of internally created rules appears to be the easiest and most convenient way to enhance the problem-solving capacity of the EU’s domestic policies by extending its reach beyond the EU’s borders. Hence, in the EU context there is a close

linkage between the concepts of policy transfer, ‘Europeanization’ and the externalization of the European model. We may conceptualize the relationship between the three as follows: Policy transfer is one of the instruments used by the EU to externalize its governance models in order to ‘Europeanize’ third countries or regions, in this case Mercosur. In this context, the EU’s propensity to policy transfer may be characterized as a “strategic attempt to gain control over policy developments through external governance” (Lavenex 2004: 693).

Generally, governance encompasses two dimensions: an internal one which is mainly about the *creation* of rules and their implementation within a political system, and an external one which refers to the *transfer* of given EU rules and their adoption by non-member states (Schimmelfennig/Sedelmeier 2004: 661). Applied to this case study, EU intentions to policy transfer encompass both, the direct transfer of EU rules to Mercosur (external dimension) and the intention to ‘push’ Mercosur to adopt own rules along the lines of or inspired by EU rules (internal dimension). Although all EU rules will have to be adopted by Mercosur through a regular internal policy-making process, these two dimensions are analytically distinct: the EU tries both to *exercise* external governance (transfer of rules, esp. trade field) and *influence* ‘internal’ governance (creation of rules, e.g. macroeconomic policy, tax policy, environmental policy) in its favour. Nevertheless, the agreements with Mercosur serve as “instruments of governance and tools through which the EU contributes to the regulation of the Southern Cone” (Grugel 2002: 6). This reasoning may be linked to the forms of transfer the EU envisages which in turn supports the hypothesis formulated above about the association between forms of transfer and the degree of coerciveness: while the first three transfer forms copy, emulation and hybrid/synthesis are closely related with the transfer of rules through external governance, inspiration points more into the direction of influencing internal governance. This double-track strategy serves two distinct aims: external governance seeks to “bind third countries to the pursuit of internal policy goals” (Lavenex 2004: 702) while influencing internal governance is about “[creating] an international environment that is as similar as possible to or at least compatible with the European multi-level system” (Wagner/Schimmelfennig/Knodt 2004: 152). In order to attain this goal, the EU has continuously intended – besides exporting concrete transfer objects like institutions and programmes – to transfer certain basic principles or convictions such as participation and inclusion, democracy, the rule of law, human and social rights, environmental protection and sustainable development. These principles serve as the amalgam linking all transfer objects together to form a coherent context of meaning. The working group of the Mercosur-Chaire at the Sciences Po Institute explains this EU course of action as follows: “The EU has ‘delegitimised’ nationalism and power politics among its membership, and is driven to shape world politics along the same lines. Built on a multilateral model which it tends to project on the wider international scene, the EU is ill at ease with either a unipolar or a multipolar system heavily reliant on military power. Therefore it propounds a system based on universally accepted norms and rules – a multilateral system – that emphasizes the protection of fundamental rights and freedoms over the sovereign rights of states” (WGEUM 2003: 11).

While the external dimension of governance is generally about the transfer of given EU rules, the concept can further be differentiated according to the policy goals that are being pursued through it. External governance can serve both internal and foreign policy goals (Lavenex 2004: 681): policy transfer in the fields of trade, environmental and social policy serves to increase the efficiency and problem-solving capacity of internal EU policies, while transfer intentions in the political dialogue and cooperation field rather serve foreign policy goals such as “shaping a corresponding environment” similar to the EU’s own system (Westphal 2005a: 185) or promote trade as well as equal social and economic development (Söderbaum/Stålgren/Langenhove 2005: 370). It should be noted, however, that both policy

goals are closely connected. Hence, the EU's form of external governance reaches further than the mere "extension of the legal boundary of authority beyond institutional integration" (Lavenex 2004: 691), which aims primarily at the stabilization of "borders and the commercial policy in which it operates" (Forster 2000: 789). The EU aims at propelling a "global cooperation culture"²¹ (Bodemer 2002: 108) with a "distinct ethical dimension" (Smith 2001: 202).²² In this context, policy transfer constitutes an important element in an "attempt to tackle interdependencies through the external projection of internal solutions" (Lavenex 2004: 703) or – more broadly speaking – the projection of an internal concept of legitimate order²³ (Jachtenfuchs 2001, Nicolaidis/Lacroix 2002) which "is closely connected to the EU's normative ideas of how a new world order should be constructed" (Faust 2005: 43).

This model of European external governance rests mainly on traditional forms of governance, so-called 'old governance' characterized by hierarchical patterns of command and control. However, it increasingly encompasses forms of 'new' or 'network governance' (Eising/Kohler-Koch 1999; see also Peters 2000). Similar to distributive policies within the EU, the Union does "not directly intervene into the social sphere [...] of third countries", but aims at "activating [and propelling networking among] decentralised governance agents and the use of their action resources in order to realize European policy goals" (Tömmel 2003: 137). Without "the attempt to bind third countries to the pursuit of internal policy goals and thereby benefit from the latter's [and decentralized actors'] political and problem-solving resources" (Lavenex 2004: 702), effective governance in the international arena seems to be largely out of reach. Hence, while the EU puts forward normative justifications for policy transfer in the direction of "a benevolent projection of acquired civilian virtues" (Ibid.: 693) or "externalizing a certain European tradition of justice" (Nicolaidis/Lacroix 2002: 137), external governance is essentially about effective problem-solving (and the pursuit of sheer self-interest) in an increasingly interdependent international context. From a normative point of view, however, it remains to be seen "whether the EU can escape the adjacent risk of (even benign) imperialism" which stays 'in the air' ever since the 19th century when Europe seeks to transfer its model to other places of the world and power asymmetries are at play (Meunier/Nicolaidis 2005: 266).

Conclusion and Outlook

The empirical analysis revealed two main findings: firstly, the transfer objects are represented with different quantities in the three pillars of the biregional relations and secondly, policy transfer intentions of the EU are distributed unevenly over the pillars. Concerning policy transfer, this hints at a pattern of "policy patchwork" (Héritier 1996: 149) rather than a coherent "policy transfer strategy" (Dolowitz 2003: 104). The only exception is the systematic and continuous transfer of European knowledge and experience in the field of regional integration. These findings formed the background for the more general argument that emerging patterns of biregional relations between the EU and other regional groupings are

²¹ This argument is supported by the fact that the EU prefers 'positive conditionality' or 'critical dialogue' to 'negative conditionality' aimed at punishment in the case of non-compliance when sponsoring human rights (Smith 1998: 265). In this context, Schimmelfennig and Sedelmeier speak of a "strategy of reinforcement by reward" (2004: 3).

²² For a critical evaluation of the EU's ambitions in this regard see Nicolaidis/Lacroix 2002.

²³ For the external human rights and democracy policy of the EU, for instance, Smith states that "the EU is [...] at the front of efforts to make it illegitimate to violate human rights and conduct undemocratic politics" (1998: 274).

accompanied by the upsurge of distinct patterns of governance in which policy transfer plays an important role, as demonstrated by the EU-Mercosur case.

Although not subject of this article, the results also have repercussions for the debate in international relations about the EU as an international actor. The governance structures of biregional relations seem to strengthen the EU's role as a 'civilian power' in the international realm (Grugel 2002). A next step would be to analyse in how far the findings of this article are transferable to other biregional relations of the EU. Thus, further comparative studies on other biregional relations are necessary to gain more insights into the logic and mechanisms of this relatively new form of international relations and find more explanatory factors that account for differences and similarities in such relations. This article has left some interesting questions unanswered: What does the end result of the EU's transfer intentions look like? Is policy transfer effectively implemented in Mercosur? How does the other side react to the policy transfer intentions of the EU? What contextual factors influence the success or failure of policy transfer? What role does power play in the actual transfer and subsequent implementation process? What about the issue of legitimacy of the EU's approach?

Preliminary research has shown some interesting starting points for the theoretical linking between the policy transfer framework and concepts of 'external governance' or governance more generally. So far, policy export has primarily been analysed in the direct neighbourhood of the EU, especially towards the new accession countries (Schimmelfennig/Sedelmeier 2004 and 2005, Lavenex 2004). However, little research has been done on EU policy export worldwide, and no consistent and systematic linking between the concepts of policy transfer and 'external governance' takes place beyond the EU's direct neighbourhood. This analysis has nevertheless shown that they would be compatible through their claims to overarch different subfields of the discipline and their dealing with "forms, outcomes, problems and development paths" of policy processes (Jachtenfuchs 2001: 256). Such a connection promises that individual elements of the policy process identified through the policy transfer framework could be analysed in regard to their efficacy and legitimacy, the latter constituting an element that is often criticised for being widely neglected by the governance approach (Ibid.: 258). We could then try to answer questions such as: What role does policy transfer play in 'external governance' more generally? And what implications does this have for different aspects of 'global governance', e.g. its legitimacy?

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